

# CHALLENGES OF DEMOCRATIZATION

Immersion in Somaliland Elections  
Experience: The Role of the Independent  
Scholars Group [ISG]



**COMPILED AND EDITED BY  
DR. MOHAMED FADAL.**

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**Social  
Research &  
Development  
Institute**

**CHALLENGES OF DEMOCRATIZATION**

**Immersion in Somaliland Election Experience: The role of the Independent  
Scholars Group**

**The Voices of the Civil Society: Objective analysis and Recommendations**

Compiled and Edited by Dr. Mohamed Fadal

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## Introduction

### The Independent Scholar's Group: the Voice of the Civil Society

The ISG known as the “Aqoonyahanka Madaxabanaan” appeared in Somaliland at an opportune moment to fill a gap in the role of the organized civil society, the intellectuals and other professional elite in actively the political development processes of the country. The name, both its English and Somali versions, for some people sounded pretentious: “scholars” and “aqoonyahan”, and raised questions as to who qualified the members to acquire such lofty titles. There is logic in such questioning, but the fact of the matter is, the name was never debated and the group were more into addressing the issues at hand then taking time to find a name for their voluntary association. I take responsibility when judging the choice of the name and I took it for lack of a better one. A more important question though is why the need for the Group to come together and at that particular time?

### The Context

By early 2008, the Somaliland state building and democratization process was showing serious cracks resulting from a situation where space for cooperation among the national leadership of both the ruling and opposition circles shrank to a minimum and each was spewing venom into the national development arena. This situation itself was a product of series of events and actions dating from the circumstances surrounding the first presidential election.

First, the fallout from the 2003 Presidential election in which a difference of 80 votes determined the UDUB candidate to become the President. Silanyo, the opposition contender, grudgingly conceded as a result of intense public pressure and allegedly against the mainstream views of his KULMIYE party. In this circumstance, there was a widespread expectation from the new President to form a coalition government, to diffuse the tension and also to reciprocate the gracious act from his opponent and to continue the culture of compromise and consensus building which so far worked for Somaliland; that though, has never materialized. Despite the obvious sacrifice from the opposition, the new regime acquired a besieged attitude and has abandoned any pretence of cooperation with the opposition, which led to a standoff situation between opposing and circles. This situation further led to the inevitable stalling of the democratization process.

Secondly, the fallout from the Parliamentary election of 2005 in which the ruling party won the majority of seats but was outmanoeuvred by the opposition to win the leadership of House of Representatives. The Speaker position was taken by the smaller UCID party and the two deputies' positions were taken by Kulmiye. They were elected in a session where the total UDUB membership walked out in a futile attempt to stall the election process. A violent show down between the opposition and the ruling party was averted when this time President Rayale has to grudgingly accept the outcome as a result of intense public pressure.

Thirdly, the fallout from the extension of the term of House of Elders in 2006 for four more years, in which the Executive, the Supreme Court and the members of Guurti colluded in a secret move, which stunned the country. The opposition parties vowed to derecognize the House of Elders membership and to challenge their legitimacy. But as time passed, the situation normalized

somewhat, especially when the opposition succeeded to divide the Guurti vote, in a bid to block the 2nd extension attempt sought by President from 6th March 2009.

Fourthly, the fallout from the disagreement over the selection of the members of the new National Electoral Commission (NEC), when the five-year term of the fist Group expired, which required the cooperation of the Executive, the House of Representatives and the opposition parties. The opposition parties did not like the fact that out of the seven members of the NEC, five are to be appointed by the Presidency and its ally the House of Elders. The resultant deadlock subsequently consumed much of the opposing leadership circles capacities for compromise. This then translated itself into missed deadlines and a series of postponements of the Local Council and Presidential elections, extension of presidential and the Local Council terms of offices and ultimately a situation of leadership failure and looming implosion of the Somaliland state .

The incumbent government was expected to implement the national democratization agenda during its five-year term to, reach the following milestones in that order:

1. To hold the parliamentary election
2. To constitute the next National Electoral Commission
3. To organize a voter registration exercise as required by the electoral law
4. To hold Local Council elections
5. To hold Presidential elections

This was a tall order of which the Government succeeded to attain only the first milestone. However, it slipped to reach the next four milestones, which resulted in the rest of its political agenda items to crash into each other. This further created a situation of alarm and insecurity within the Somaliland society, often symbolized by the distress calls coming from the international Somaliland diapsora fora including the Somaliland Forum and SOPRI. The latter dispatched a mission to mediate the national leadership and to mitigate the debilitating regression happening to Somaliland state building and democratization aspirations. The Mission formed of respected and high profile members of national diaspora, put out a report which was quite a sobering read and pointing to the dangers of possible implosion resulting from the accumulated burden of unattended national agendas.

By the beginning of 2008, all the remaining deadlines were missed. The Presidential and Local Council terms of office which were extended before are expiring again. The extension of expiring presidential term became the latest battle ground between the two opposing blocks in the Somaliland political arena: the Opposition parties and the House of Representatives on one side and the Executive and the House of Elders on the other side. Loud voices coming from the opposition asserted that on expiration date of the President's term on March 13th, 2008, the President should vacate office and a caretaker government be formed until the election, whereas the President and his team were confident to get their extension and were less compromising than the first extension.

Furthermore, the opposition was losing faith that President Rayale's Government will ever hold a Presidential election; that opened the door for them to contemplate a non-election means of unseating the President. The opposition has always a possibility of impeachment in its sleeve,

banking on its dominant role in the House of Representatives. But the President and his clique prepared their counteraction by securing the Guurti vote reinforced with unaccounted vote-buying money at their disposal. In nutshell the national political arena became a bull-fight ring between the opposing groups and which exacerbated public disillusion with the political process and hence discrediting of the society's democratic aspirations. In such situations, usually the Somali society retreats into the clan shell, where suspicion breeds and there is also the possibility of the situation snowballing inter-clan conflicts.

The Independent Scholars Group step into the Political Arena:

The ISG came about at that critical juncture of Somaliland political development. It seized the moment to represent the voice of sanity and the silent majority. The civil society was by and large a spectator in the national political arena. The public could not make any sense of the bickering of the national elite and hence to describe it coined the word "yooyootan" - a game boys play to test their opponents' endurance before getting angry when insults are hurled against his closest family members.

The Primary objective of bringing the ISG together was to find a space for the civil society and other non-partisan professionally equipped members of the society and who are predominantly engaged in the civil society organizations but also to a certain extent in the legislature and business community. The aim is to apply knowledge and professional standards to make objective analysis of the issue at hand and to build scenarios of approach to address them and to come up with reasonable recommendations. Its membership is open-ended, but revolved comfortably in those days around fifteen regular participants. It is open for the diapsora, although it is mainly a voluntary group of local professionals who are aptly characterised in the following statement, which is regularly included in each of its papers along with their names and titles: "The Somaliland Independent Scholar's Group (ISG) members are all long-term participants of Somaliland rebuilding and democratization process, who are considered to be highly competent to provide an objective analysis and strategies to address the issues at hand." The ISG built a culture of total transparency about its membership, its aims and the positions it takes in its analysis and recommendations to address burning political issues.

What did the ISG achieve so far? It carved a space for the professional class and civil society to apply knowledge and skill into finding solutions for the multi-layered challenges facing the Somaliland political process. By acquiring space, they can influence the national agendas and trends of development. Perhaps more importantly it inspired the younger professionals showing that Somaliland political development is not a monopoly of the current politicians and that they have the opportunity to jump on the bandwagon to put their agendas and ambitions into play. The ISG believes that its efforts contributed to diffuse the tension and distrust between opposing camps in the political arena and therefore, to facilitate the democratic process to succeed and to make Somaliland a better place for its citizens to live. It injected fresh ideas and offered alternative approaches to the otherwise entrenched positions of the opposing political elite.

When the ISG came into the scene, there was confusion due to the backlog of issues which missed their scheduled dates to be tackled and therefore created a sense of public helplessness against mounting political and institutional difficulties faced by the infant Somaliland state. Both the local

and international actors were equally confused and the whole political agenda looked like a ping pong game with the players hitting the ball in all directions and the people the audience looking from side to the other. What ISG succeeded was for the first time to put out in the media an objective and focussed analysis and recommendations of the situation and confronted the key frontline players to act rationally; they were mainly the Government and two opposition political parties. Both circles became hostile to the ISG in the first instant; while the Government hid its suspicion, the opposition parties, especially Kulmiye party became violently hostile to it, so much so that a key member of the group from Kulmiye party had to quit. Eventually, all these actors realized that this is a different kind of a group which in reality had no personal agendas or allegiances other than advancing the democratic process and mitigating the mistrust among key players which obstructed any progress in the national elections agenda.

The ISG became a very important source of objective analysis and recommendations for the international community. In the years 2008-20011, Somaliland, for all intents and purposes, was becoming an insistent source of worry and concern for its international friends. The senseless bickering of the political elite exasperated them, especially at a time when the rest of Somali territories were being over-run by extremist groups. It seemed sometimes that Somaliland leaders were bent to throw over the board the stability and gains in democratization they established after so much effort; and all this due to the personal egos and reckless ambitions of some politicians. The ISG website became a source of reliable information for the researchers, academicians and development and political actors alike.

Furthermore, when the ISG came into the scene, the civil society was practically under siege by the Government, especially after the Shuronet confrontation and its subsequent closure by the authorities. The ISG played a very important role to coalesce the efforts of the civil society in the democratization and state building process. It became a rallying point for the civil and as a result made its voice heard, and widened its role and space in the governance of the country and especially in advancing the democratization and state building processes.

How does the ISG operate? The Group met in the first few months at hotel rooms and occasionally at the APD hall but was eventually settled to be hosted by SORADI and Its Director continued to be its convenor. He circulates an email to the Group to build an agenda for the next meeting in which he proposes a date, a venue and some preliminary ideas for agenda. Often when the meeting convenes the Group agree on a collective agenda and start animated discussion delving into burning issues. The convenor took notes and prepared a draft report in English and circulated it within two to three days. Then after several rounds of draft report being circulated and revised, the final consensus version is then translated into Somali by Abdi Ahmed Nur (Gurey). The two language versions are released at the same time to the local media, key stakeholders and to international partners. When Dr. Fadal is not around Haroun H Ahmed Qulumbe stepped into the convenor and report writing task. There has never happened dissent among the group on any position taken or on a published report.

Dr. Mohamed Fadal; the ISG Coordinator

10 December, 2012

## CHAPTER ONE: POLITICAL BRINKMANSHIP

### Paper one: the Forthcoming Somaliland Presidential Election: Challenges and Opportunities

#### **Introduction**

On 14th of March 2008, a group of 8 Somaliland scholars held their first meeting at Ambassador Hotel to discuss the complex issues and circumstances surrounding the upcoming presidential elections of Somaliland.<sup>1</sup> A burning issue which the Group had to address in their first meeting was how to move forward the process of holding the second presidential election in Somaliland. In their discussion, the Group identified the following three sub-issues:

1. Clean the Voter Registration results and come up with a final voter list.
2. Identify existing hurdles which need to be addressed to hold the election
3. Explore possible options to move forward.

The Group recognized the successful completion of the Registration process as an important achievement for Somaliland. It was a logistical nightmare and a daring undertaking in the prevailing circumstances of the region, but was completed successfully and with minimum damage to personnel and property. This effort has demonstrated the human resource potential of Somaliland: A young generation of men and women, under the age of thirty and all home-educated<sup>2</sup>, who are on a par with their global compatriots to manage a state of the art biometric technology. They demonstrated their preparedness to take responsibility of the valuable high tech equipment to be used in the registration process, and to travel far and wide to all corners of Somaliland to collect data from cities, from nomadic hamlets, and from fisher communities and often where there is not the comfort of life, which they are accustomed to.

The Group also recognized the power of mobilization undertaken by the Somaliland people to register for the upcoming elections, which was a clear demonstration of their commitment to the democratic processes and their desire to be registered citizens of their young nation. It has also shown that the Somaliland people and state are worthy of international communities' unwavering support and to remain to be reliable partners.

The group further recognizes the unfortunate widespread multiple registration that took place, which was tantamount to a person stealing from his/her own pocket. It was an act of registration fraud for which there was no single authority or group to blame, but has been aided and abetted by all stakeholders. The Biometric system was chosen in the first place, for the purpose of eliminating multiple voting. The introduction of the Automated Fingerprint Identification System (AFIS) and the

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<sup>1</sup>The meeting was sponsored by SORADI and was moderated and its report compiled by *Dr. Mohamed Fadal*.

<sup>2</sup>University student were deployed to conduct the voter registration in all regions of Somaliland.

Facial Recognition System (FRS) were expected to produce clean lists for every polling station and within a reasonable timeframe. But fulfilment of those expectations looks to be up in the air now.

The group has also discussed the recent complaint of the opposition parties that the National Election Commission has uploaded the data into the Server without their presence. We are convinced that it has been an honest mistake, done because of the pressure of the situation, especially regarding the delayed return of the technicians<sup>3</sup>, and had no intention of malice. The political parties are now engaged in the process and have realized that any discrepancy in the uploaded data could easily be verified.

The question now is , having succeeded to implement the Voter Registration requirement, how can to proceed with the task of holding a successful, free, fair and peaceful Presidential Election in the shortest possible time?

In June 2008, the three political parties and the National Electoral Commission have signed together an agreement, which paved the way for an election date to be set and for the expiring term of the President and the Vice-President to be extended. The greatest hurdle at the time, which necessitated the agreement to extend the president's term of office, was the need to complete the Voter Registration process before the election takes place. Valuable time has already been lost as a result of the stakeholders' disagreement on the selection of a team of Election Commissioners. Today, both conditions are fulfilled, so what are the hurdles now that need to be overcome to hold the Presidential Election? The group identified two types of hurdles to overcome in order to hold the forthcoming Presidential Election of Somaliland:

**1. Technical Hurdles: the operational logistical requirements of the election process:** a) Completion of the AFIS/FRS process in order to get clean final voter registration lists; b) Designing and procuring the ballot papers and other voting accessories; c) starting the recruitment process for the personnel who will handle the election operations and to train them to do their job honestly and efficiently; d) developing a comprehensive and effective civic education programme, with especial focus on the expected final outcome numbers for different regions from the AFIS/FRS system, which may be different from the earlier numbers circulating among the communities.

Without this operational technical aspect of the election process moving, every day that passes pushes the election date further away. There is an urgent need to expedite the technical preparations of the election process.

**2. The Political Hurdles: the expiring extension time of the President and Vice-President on 6 April, 2009<sup>4</sup>**

To hold elections, the President and Vice-presidents' office holders should have one-month after the election date to transfer power. Today, without going into detail of why it happened, the fact of the

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<sup>3</sup>Indian technicians who were managing the Voter Registration database system were evacuated to Nairobi after the suicide bombing by extremist from Somalia which targeted the Presidential Palace, the UNDP compound and the Ethiopian Government Liaison office in Hargeisa. A total of 28 people die in these synchronized terrorist acts.

<sup>4</sup>The Presidential election due on May 2007 could not be held mainly because of lacking Voter Registration and delayed constitution of an Electoral Commission. As a result, the House of Elders extended the term of office of the President and V-President for 2 years.

matter is that the extension time expires on 6 April, 2009. Considering the requirement of the election logistics, 29 March (date agreed on June 2008 Code of Conduct) is out of the question and the 31st May 2009, recently identified by the Electoral Commission, could itself lose its validity as a realistic election date, in the logistical point of view, if immediate action is not taken to start the technical preparations. Therefore, the question is how the setting of the shortest possible viable election date is reconciled with the one month transfer of power requirements of the constitution?

The Group analysed the different options floated by different stakeholders and to address the above hurdles to identify the best way to proceed in the prevailing circumstances.

**Back to Drawing Board:** Strong voices from the opposition side stated that by 6 April, the two Houses of Parliament, jointly with representatives from the three political parties should deliberate on the situation. In the discussion the following facts were brought out regarding this stand:

a. While it may have some appeal to engage the legislature, it is considered to have many uncertainties: it is not an easy matter to get a quick solution from such a large gathering of the two Houses of Parliament and political party representatives. It may lead to a long period of deliberations and could become a cause of continuing uncertainty to the population. Furthermore engaging the legislature in such a contentious issue will destroy its internal unity and will contribute to further weakening of a key democratic institution in these difficult times.

b. It is not clear, what is the task that the legislative members will be asked to fulfil. Is it to appoint an interim president, to set an election date, to adjust the mandate of the president and Vice-president or to reform the constitution to adjust election requirements? Who will set the agenda?

Therefore, the Group views such an option as one with many unanswered questions and which may lead to a situation whose outcome is not clear.

**Hands-off Approach:** The hands-off attitude of the President, which states: a) It is solely the mandate of the Electoral Commission to set the election date and, b) It is the mandate of only the House of Elders to extend the mandate of the President and Vice.-President. Therefore, the opposition parties have no business in these matters. While the Group recognizes the mandates of these national offices, they also take into consideration the unusual circumstances developed from the missed deadlines of the election. Their view is that the President should take a more proactive approach in fostering dialogue to solve the problems surrounding the elections his expiring term of office, in cooperation with other key stakeholders.

**The Consensus Voices:** There are enough precedents and ample experience in building consensus to overcome the hurdles facing Somaliland at this juncture of its democratization process. If we can muster the will for all key stakeholders to cooperate, the present hurdles are technically easier than the ones already crossed<sup>5</sup>. Therefore, it is this Group's position that all key stakeholders should come back to the consensus and collaborative approach. The National Electoral Commission, UDUB, KULMIYE and UCID should come together on the negotiating table and agree on a date for a

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<sup>5</sup>Some of the landmark democratization steps which Somaliland successfully accomplished include: the Referendum to adopt the Constitution, and peaceful elections of the Local Councils, the President and Vice-president and the House of Representatives.

successful free, fair and peaceful election, while keeping in mind the constitutional requirements of the election. The need for extension could only be a technicality to serve the holding of the elections. The end goal and the ultimate desire of the people are a successful and peaceful Election. The Somaliland Scholars' Group believes that this is the best possible option.

#### **IV. General Recommendations**

**Towards the Leaders:** Somaliland people and their leaders need to appreciate their achievements in their state-building and democratization efforts, realize the long way they come so far, and recognize their latest success story, the Voter Registration. The only way a democratic society changes its Executive and Legislative office-holders is only through elections. Somaliland is lucky to have the competent democratic institutions, the laws, the experience, the international support and the unwavering commitment of its own people. Let us go on with the election and spare the people of unnecessary worries.

**Towards the Political Parties and NEC:** They must come together as soon as possible to: a) get the technical aspect of the election process moving without further delay, b) agree on the Election Date, c) revive the consensus solution to extend the expiring extension date of the President and Vice-President's offices, if required for setting the election date, and through the agreement of all key stakeholders, d) agree on to fulfil any unfinished components of earlier codes.

**Towards Peaceful election:** We need to learn from the experience of the neighbouring regional countries on election violence and how the media was used<sup>6</sup>. We have also to remember that Somaliland is a respected member of the international community, where tolerance for political violence is no longer an option. Key Stakeholders need to engage and inform the traditional leaders that the AFIS/FRS system is managed by a neutral body of technicians mainly international and in cleaning it from the incidence of fraudulent multiple individual entries, it will no doubt produce different results from the figures now held by different regions and communities<sup>7</sup>.

## **Paper two: Implementation and Beyond the Mediation Committee's Recommendations**

### **I. Introduction**

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<sup>6</sup>Both Ethiopia and Kenya were engulfed in post-election violence in 2005 and 2007 respectively.

<sup>7</sup> During the registration process different sub-clans compiled their own figures which may differ from what the final clean lists may show.

On 10<sup>th</sup> of May 2009, a group of 12 Somaliland scholars met at Ambassador Hotel to discuss the implementation of the Mediation Committee's Recommendations released on 29<sup>th</sup> April, 2009<sup>8</sup>. The Committee comprising of members from the civil society organizations and general Somaliland civic community, stepped in to ward of a clash between opposing political groups on the issue of extending again the presidential term of office, after the first extension expired last month, on April 6, 2009. The committee submitted its recommendations to the opposing parties on 29 April, 2009.

## II. Expectations from the Recommendations

The Somaliland Independent Scholar's Group commends the Mediation Committee's efforts and achievements in an otherwise very challenging undertaking. The Group also commends the President and the two Chairmen of the opposition political parties, who heeded the public demand, which included a call from this Group, to sit together and discuss their political differences.

The Group sees the Mediation Committee's Recommendations as a reasonable framework for all actors to work together to hold the upcoming Somaliland Presidential Election within the set timelines. Among all Somalilanders and their international friends, the Mediation Committee's efforts generated intense interest. The expectations from the Committee's efforts could be condensed into three main outcomes:

### 1. **Dab-damis** (fire-fighting)- diffusing the rising political tension:

The first expectation and probably the most important one is characterised by this group as "Dabdamis". The Mediation Committee has achieved an astounding success in this respect. The growing tensions within the Somaliland society, resulting from the ensuing political conflict, have been diffused. It is now fair to say that, there is a better possibility for key political actors to continue dialogue among themselves.

2. **Trust Building**- build trust among key stakeholders: The immediate product of any agreement is to trust one's opponent to be able to fulfil what is agreed upon and therefore to move forward from the earlier position of opposing parties and to develop together a more cooperative climate. This agreement between the three political parties has to serve that purpose. The Somaliland Independent Scholar's Group, the Mediation Committee and many other already active sectors of the society are definitely prepared to take their part to facilitate the agreement and to ensure its full implementation. However, despite the fact that the general climate has improved, so far we have yet to see appreciable improvement in the trust levels between the political leaders and their close circles.

3. **Signed Agreement** - produce working strategy document or a Code of Conduct as a signed binding agreement to address the election problems facing Somaliland. The Group believes that, what is produced by the Mediation Committee is a set of recommendations, not enough in itself to be treated as an agreement. It is necessary to take the second step to transform the recommendations into an agreement, to develop it into a Code of Conduct signed by the three negotiating leaders. Although the President had expressed his acceptance verbally, there is definitely a need for a

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<sup>8</sup>This meeting was sponsored by SORADI and was moderated and its report compiled by Dr Mohamed Fadal.

“written signed document(s)” to implement it as a binding Code of Conduct<sup>9</sup>, to build trust among the key stakeholders, to share it with our international partners, and to keep it in our archives for our children and for future generations and above all for history to judge us.

### **III. Implementation of the Committee’s Recommendations**

The Group have decided to concentrate on three priority issues addressed in the Mediation Committee’s Recommendations, to analyse and to develop a strategy for an implementation framework; these are: 1. “No more extension issue”, 2. the “National Electoral Commission issue” and 3. The “Equitable distribution of public resources for the National Political Parties”.

#### **The Extensions Issue:**

The Group concurs with the Mediation Committee on their position of “No more Extensions”; we take it further to say that “no more extensions ever, unless strictly qualifying for an undisputed “Force Majeure” Situation, which has to also be strictly defined by further legislation. The Group identifies on the basis of Somaliland’s experience two possible categories of extension causes a) Extension resulting from failure to hold elections on time, and b) Extension resulting from a “Force Majeure” situation. The extensions undertaken so far, since 2006 could be categorized as failure to hold elections (with perhaps some reasonable allowance of a Force Majeure situation for the 29.10.09 terrorist Hargeisa bombings). Before 2006, extensions may have given us a reprieve to bridge selection processes for key institutions, because of lack stability and also absence of required institutions and legal regime. However, after that, the negative impact of extensions outweighs their benefits to the Somaliland development and especially its democratization processes. If extensions are continued as part of our culture of governance, then we are rewarding failure and we are removing the motivation of the incumbent to work hard and to strive to be re-elected. In the same token, at the international community level, extensions are perceived as Somaliland’s inability for good governance, which is a failure from our side and failure is not rewarded by the international community. Therefore, the practice of “extensions” is depleting the credibility and friendship capital, which the Somaliland people have earned and accumulated over the years through hard work since 1991.

Despite the fact that, enough damage has been done already, we still have the capability to recover from it, if we focus our efforts to solve the problem in the longer-term perspective. To tackle the legal controversy, we will need a heavy dose of goodwill and trust among our political leaders, including not only the party Chairmen, but also the leadership of the legislative Houses. A lasting solution could easily come from passing a legislation based on a consensus agreement and goodwill from the above leaders. We urge the legislative houses and the President of Somaliland to fulfil their legislative and executive responsibilities towards the Somaliland people to settle this issue before the 27 September 2009 Election date. With this legislation we can remove the perpetual state of constitutional crisis we have been experiencing since 2006 and unleash tremendous energies and desire from the people to move forward with the otherwise stalling state building and democratization efforts.

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<sup>9</sup> A Code of Conduct was signed on 11 July, 2009

### **The National Electoral Commission.**

The NEC has a critical role to play in the advancement of democracy in Somaliland. The first NEC is recognized to have fulfilled its responsibilities towards this goal in an exemplary manner in difficult circumstances. Its members deserve to be recognized by the people as well as the national leadership for their service to the nation. The present NEC has a difficult task facing it, but what seems to be even more difficult for its members is to prepare and organize itself to face up to the challenge.

The Independent Scholar's Group had a lengthy debate on the National Electoral Commission issue as an important article in the Mediation Committee's Recommendations. The thrust of the discussion was on the merits and demerits of taking the longer-term view or otherwise to address the NEC issue head-on to seek a lasting solution by completely revamping it now. However, the general consensus was that our present circumstance, which is dictated by repeated postponements of the elections, would not permit us to risk a situation that can lead to any further delay of the election from the set date of 27th September 2009. Therefore the Group has adopted following standpoints:

First: Opting to changing the entire NEC membership is a risky route to take. The time we have until the September 2009 election is about only three months. Therefore, our choices are definitely limited, except to continue with the present group. Opting for a new group, they will need time to learn about the job. This, therefore, leads us look for other options.

Secondly: The best option now is to strengthen with more members if possible and to create adequate support systems to fill the gaps in their present capacities. There are now several supporting mechanisms available for them. On the other hand some of their management and logistical responsibilities can be outsourced to other professional entities. Furthermore, members from the first NEC, who are not involved in political parties, could also be engaged to support the present NEC.

Thirdly: The Group believes that most of their problems are self-generated. Therefore, without them recognizing the gravity of their situation and the need to put their house in order, the above measures may not have the desired effect. It is not only Somaliland people who are concerned about the situation, but also the international community, which is supporting us and which expects us to learn from the regional post-election destabilization experiences, especially from Kenya.

### **The Server and the Final Voter List<sup>10</sup>:**

The server issue seems to be the wild card in the whole Somaliland election debate. In our last position paper issued on 19 March 2009, the Group not only supported the process, but also acknowledged the role Somalilanders have played in complicating the work of the server as an important factor in delaying the process of getting quick and reliable results from the biometric system. Subsequent developments have since eased the pressure on the server system to produce immediate results, especially postponement of the election date until 27 September, 2009.

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<sup>10</sup>The Server is meant to be the database of the Biometric and AFIS Voter Registration System.

The Independent Scholar's Group is asking itself, why couldn't the companies and agencies responsible for the SERVER process provide a reasonable but firm target completion date as well as an estimate of what percentage of the its work has been accomplished, to help all concerned plan their election strategies? Two Presidential candidates are on the record to have expressed their unease over the server process. This Group still recognizes that tremendous financial and human resources have been expended on the Voter Registration Process from the international community as well as from the Somaliland people and still believe that its intentions were right and that the resources were spent on the right cause. However, it is incumbent upon the contractors and supervising agencies to provide the necessary information and answer to the questions raised; after that, it is up to the Somaliland leaders, institutions and people to decide whether the expected outputs can be useful for their forthcoming Presidential Election.

The Group does not deny that some information may have already been provided by the concerned agencies; however, what we are saying is that there is not enough information available in the public domain and therefore, speculation is rife, especially when national leaders express their uncertainties about the usefulness of the server operations and products to the election. Whatever the outcome, this has been a profound undertaking by the Somaliland state and people with the support of the international Community to effect a fundamental change in the way we process our elections and towards the attainment of our free and fair elections goals.

Finally, the Group raised the need for the national concerned institutions to look ahead and start discussing the future custody of the database and the standardization of the registration process to accommodate new entrants into the voter registration lists.

### **Promotion of Free and Fair Elections: Use of Public Media Outlets and Property**

The Somaliland Independent Scholar's Group is committed to promote holding fair, free and peaceful elections in Somaliland. The equitable use of public resources is an important pillar of the free and free election principles. Public resources are bought, built and run with tax-payers money and not with any political group's resources. Therefore, by law, these resources should be used and accessed equitably by all political candidates and parties. Since the President and both Chairmen of the opposition parties accepted the Mediation Committee Recommendations in principle, The National Electoral Commission should lead a process of discussions among the parties to sign a Code of Conduct through their good offices as a guiding framework for the "Free, Fair and Peaceful" election process. Some of the key issues, which the Code of Conduct will address include:

#### **i. Formation of an Integrity Committee**

The formation of a National Integrity Committee to take full responsibility and have clear mandate to ensure that all public owned resources are accessed equitably by all political parties and their candidates. This is to ensure that the candidates and their parties have full and unhindered opportunity to pass their messages to the voters and to share equitably the available public resources. This Committee, while independent in its mandate will closely work with NEC, the three political parties, and other election stakeholders.

#### **ii. Equitable Sharing of Public Media Broadcasting and Coverage Access**

- Establish a monitoring framework for all three political candidates and their parties to have equal air-time access to Radio Hargeisa and the Somaliland National TV and Equal coverage from Maandeeq Newspaper.
- Strengthen the legal framework through the promulgation of a Political Broadcasting and Media Coverage Law, which establishes the legal and regulatory aspect of this issue.

### **iii. Physical Properties and Executive Authority Issues**

- For all concerned to refrain from use of Government Transport, buildings and any other physical and financial facilities not permitted by law.
- State executive officials' powers and work-time are all publicly owned. All civil servants are barred by law from engaging in partisan political activities. That does not of course bar them from casting their vote for the candidate of their choice.

The Group urges the international community not to confine its monitoring support to the campaign and election days, but to extend it to the ongoing process of ensuring development of free, fair and peaceful election culture. We urge all key actors to contribute to efforts designed to raise public awareness including all government employees on the legal and moral obligation of all citizens to uphold the principle of "Free, Fair and Peaceful" Election. The group recognizes that elections are the sole right of the Somaliland people to change or reinstate their leadership and that all elections have to be held on time.

The national media should play its role in promoting the development of free and fair and peaceful election culture through its self-regulation mechanism. All Media Outlets are expected to sign and abide by an updated Somaliland Press Code of Conduct.

Finally, it is incumbent upon all sectors of the Somaliland society to appreciate their achievements in building their state, embarking on a democratic path and enjoying the fruits of the peace, stability and progressive they worked so hard for and indeed for the 18<sup>th</sup> year running.

## **Paper three: Somaliland and Donor Cooperation: A Fruitful Partnership for Democratization**

### **I. Introduction**

On 17<sup>th</sup> of June 2009, a group of 12 Somaliland scholars met at Imperial Hotel to discuss the Pre-Conditions set by the Donors for Somaliland Political Parties to fulfil for the Presidential elections to take place on time and be free, fair and peaceful<sup>11</sup>.

### **II. The Donor Conditions and Somaliland Presidential Elections**

Somaliland has forged for the last decade a strong partnership with donor and other international community members to cooperate on the democratization process which Somaliland has successfully embarked upon. Occasional disagreements have only pushed the process forward. In

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<sup>11</sup>The meeting was sponsored by SORADI and was moderated and its report compiled by Dr Mohamed Fadal.

fact, in this partnership, the Donors have demonstrated a remarkable unity of purpose to help Somaliland overcome the difficulties of the present transitional period of democratization, especially to provide financial and technical support to hold free and fair and peaceful elections.

Sometimes, to push the process forward, the Donor community sets guidelines and issues measured conditions to push the election process forward. Some of these conditions may look hard to fulfil from the Somaliland stakeholders perspective, but in fact, what makes them hard is nothing else, but the lack of will from the stakeholders to compromise. The conditions are all promoting dialogue and building of consensus, a culture we take pride in, to facilitate the progress of the election process,. We know that the Donors are not partial to any party. They are neutral and their conditions are also neutral.

As long as these conditions are neutral, are moving us closer towards holding the presidential election and are pushing the stakeholders to build consensus and to compromise, then there is no justification from our side not to fulfil them.

One of the current Donors conditions is for the key stakeholders to

*Endorse Parameters of the Voter Registration Process so that final Lists are produced.* The ISG supports that demand and urges the Political Parties to endorse the process. In the same spirit, the ISG also urges the international agencies handling the SERVER including, Interpeace, to give a clear date of publishing the Final Voter Registration List and to clearly demonstrate that the process of issuing the Final Voter List will not be cause for the presidential election to miss its set deadline again.

*The Main Points of Current Pre-conditions set by the Donors, which were published on 27 May, 2009, are*

1. *The signing of a Code of Conduct by the three party leaders, which has following key provisions:*
  - *Harmonization of the electoral laws applicable to the presidential election with the voter registration laws and through the Code of Conduct to address and resolve any other gaps and contradictions in the legal framework.*
  - *Appointment of an Integrity Committee to oversee fair and equitable use of state resources and resolve conflict.*
  - *Endorsing Voter Registration process and the Final Voter List as discussed above.*
2. *Depositing of government election budget commitment of 25% of the total.*

All the above conditions are addressing steps required for the upcoming presidential election to be held on time and for it to be a Free, Fair and Peaceful election.

### **III. The Status of NEC**

It is common knowledge that the recent discussions by the political parties on the status of the National Electoral Commission and the allegations of corruption labelled against it have raised questions on its professional competence to lead the complex and politically charged upcoming Somaliland Presidential Election. Similarly, its neutral status and its financial and operational accountabilities are also in question.

The Somaliland Independent Scholar's Group was on the record twice to address the status of NEC as a critical issue in the forthcoming Somaliland Presidential election process. In both occasions, in consideration of the time constraint and the difficulty of attaining a consensus among political parties, the ISG recommended to focus more on building robust support around NEC, instead of attempting to change its membership status. Today, the membership change agenda has gathered moment and has overtaken other options. Therefore, if we want to take the membership change route, the ISG sees two main approaches open to us: a) to apply existing laws; b) to go the traditional way of Xeer-jajab (literally translated as fragmented law).

### **1. Option One: The Legal Route**

There is a clear legal route to take: to apply Article 13(2) of the Electoral Law No 20/2001 which states: *“When it is suspected that the matters set out above have happened<sup>12</sup>, the President shall appoint an investigation committee which shall report on the issues so that he can reach a decision thereof”*.

The Group recommends that a committee be established, and urges that its composition be well-thought of and that it given clear terms of reference and mandate, which may include looking into:

1. The competence levels of NEC members to be able to manage the complex logistical and administrative undertaking that is required in the forthcoming presidential election
2. The allegations of corruption, financial mismanagement of individual members and staff and lack of procedures within the organization.
3. Institutional spirit and cohesion of present NEC to be able to act neutral and to shoulder the responsibility of counting, compiling and announcing presidential election results as one voice and one institution.

#### **To learn from our experience:**

1. It is important to set a time-limit for the Committee to complete its work and in accordance with its Terms of Reference.
2. When the Committee delivers its recommendations, it is also important to share them with all political parties and the two Houses of Parliament and to immediately set a consensus process in motion, which includes a strict timetable set to expedite the appointment of the new entrants.
3. To have an exit strategy if any source drags its feet in delivering a credible member.

### **2. Option two: The Xeer-jajab (Fragmented Law route)**

In this approach, there are four possible options that could be gleaned from the recent discussions of the political parties focusing on changing some Commissioners: These were not official propositions from any party, but were floated informally in the media.

1. Replace them all and recruit seven new Commissioners. The Group views this option as impractical if we want to learn from our experience.

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<sup>12</sup>Conditions for dismissal of a Commissioner.

2. Add four new Commissioners to increase their number to 11 Commissioners. There is some credence in this proposition if the purpose is to accommodate the absent constituencies such as women and other marginalized groups. If the choice is going to come from the same sources then increasing the number would not add value to the democratization process. In any case, this option will need to change the law, which specifies the number of Commissioners (Article 11-1 of the Electoral Law). The Group also considers this option impractical keeping in mind the time we have and the hurdles needed to overcome to change the law.
3. There are other options depending on the number of commissioners changed. There arises from there several options depending on the combinations of the old and the new commissioner, such as: (5 old + 2 new);(4 old + 3 new); (3 old + 4 new).

The ISG considers options of at least 3 + 4 old and new combinations as viable of the many Xeer-jajab options on the table. To attain this, there is a need for extra efforts to build consensus among key stakeholders. The expectation here is to get the best attainable combination to improve the quality of NEC. In this formula option, since there are more new members, they are expected to bring in critical mass of new ideas and expertise to change the quality of NEC's performance, its credibility and the way it operates now.

However, if we have to choose between Option One and Option Two, the ISG recommends the Option One (the legal approach). With this option, the recommendation of the Investigation Committee will provide the criteria to base dismissal of any of the current Commissioners. Then through consensus the new Commissioners will be appointed to replace them. It will add an extra value to the process, if the number replaced becomes four, then the resultant (3 old + 4 new) formula may give us an ideal combination of the two options. The result combines the legal route, which is to apply the due process with the Xeer-jajab route, which accommodates our established consensus building culture.

The new members are selected with professional diversification and clear criteria of proven records of outstanding performances in mind. They may include competent senior management level experts, senior legal background persons, senior banking and financial management expertise among other professions. The integrity of the new members should be established beyond doubt. Until the appointments of all new members are approved by the Parliament, the old members of the sitting NEC will continue their mandate as Commissioners.

Finally, the Somaliland Independent Scholars Group reminds all three political parties, and other key stakeholders that only three months are remaining from the day the election is planned to take place and the election process work-plan is still very crowded with so many unaccomplished activities: the ballot papers and other voting materials are to be procured, the election personnel are to be recruited, the Civic Education is yet to be assigned and implemented, and so many other logistical activities, which are also pending. The Stakeholders need to be aware of the heavy responsibility entrusted to them by the Somaliland citizens, who are not prepared to fathom the consequence of missing the next election deadline.

## Paper Four: What Would a Further Delay in the Presidential Election Mean to Somaliland?

### I. Introduction

On 17<sup>th</sup> of July 2009, a group of 12 Somaliland scholars met at Haraf Restaurant to discuss the question: What would a further delay in the Presidential Election mean to Somaliland?<sup>13</sup>

### II. Taking Stock of Our Progress

We need to remind ourselves that the Somaliland Presidential Elections were supposed to take place on May 2008. We are around 14 months off course. This creates an air of uncertainty hanging over Somaliland development, especially over investment opportunities and international partnership, both of which expect to deal with a government, which has clear mandate from the electorate. In spite of the above difficulties, we still need to minimize the damage and not to lose sight of our main goal to hold free, fair and peace elections and preferably on scheduled date of 27 September 2009. If, however, for reasons to be discussed below the elections could not be held on time, we should also acknowledge that, we tried hard and that it is because of primarily lack of enough time to complete crucial requirements, and to some extent lack of political will from our side to take some hard decision on time.

We are learning that successful elections require tremendous amounts of work, national cohesion and effective cooperation among key stakeholders; but above all else also allocation of adequate resources both human and financial. We achieved most of the groundwork preparation for holding free, fair and peaceful elections:

1. We accomplished the most difficult task of registering our voters, despite the technical difficulties we still need to overcome to make the results useful.
2. We managed two extensions of the President and Vice-President's (P&VP) terms of office. These were serious challenges, but we successfully overcame them, albeit temporarily.
3. The political parties have agreed on and signed together a comprehensive election Code of Conduct designed not only to boost trust among key stakeholders but also to compensate for the lack of adequate legal regime to cover various aspects of the election process. ([http://www.somalilandlaw.com/Electoral\\_Code\\_of\\_Conduct\\_2009.pdf](http://www.somalilandlaw.com/Electoral_Code_of_Conduct_2009.pdf))
4. We allocated our share (25%) of the election budget. We should remember that most post-conflict countries receive financial support to hold their early elections from the international Donors, which helps them to stand on their feet.

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<sup>13</sup>The meeting was sponsored by SORADI and was moderated and its report compiled by Dr Mohamed Fadal.

### **III. What are the outstanding issues, which can delay the Presidential Elections on 27th September, 2009?**

**Each one of the following three outstanding issues can cause the election to be delayed:**

#### **1. The NEC Impasse is not solved and hence donor money is not released**

The Donor's demand is to reform NEC in order for them to make the money available. Three basic questions need to be asked here: 1) Do we need the money? 2). Can we reform NEC? And 3) are the above actions necessary for the holding of free, fair and peaceful election? The ISG answers all of them in the affirmative.

The Somaliland political circles have been on the record so many times to have expressed doubts on the competence, neutrality and financial transparency of some Commissioners. Our media conveyed the public uncertainty of whether the present NEC is up to task of holding a successful election. At one point, a member of the Cabinet has raised the alarm that "These seven men in the Commission will cause us to fight among ourselves". The Donors are not only cognisant of this public concern, but have also observed the performance of many Commissioners more closely during the Voter Registration process. Therefore, they have come to the conclusion that with such a sensitive undertaking as the presidential election, there has to be a more competent NEC in place, which has also the trust of all parties. The Group sees it as a sound decision and in the interest of the Somaliland people.

The Independent Scholar's Group has discussed the impasse on NEC reform during their last meeting and noted the following key points:

- a. The Commission membership is an honorary position and not a career employment won through competition and therefore the credibility and trust towards the individual member is paramount. If a Commissioner loses the trust of one of the key stakeholders, it should be incumbent upon such a Commissioner to resign honourably and in good faith, before his name and that of the institution are tarnished. If some of the Commissioners are publicly accused of improprieties, and do not resign in good faith to also have a chance clear their name, the national leadership should apply the appropriate laws such as Article 13 of the Election Law. In this backdrop, the ISG commends UCID Parties' role in the affair and regrets the way both political parties, Kulmiye and UDUB handled the affair.
- b. The Group further noted that the lack of political will from the side of the leaders to take immediate action on the matter, is not only eating away the preparation time of the election, but also is not solving the impasse in any way and hence the growing question whether the election could hold on the scheduled date of 27 September 2009. The ISG ultimately looks to the Honourable President of Somaliland Republic to take action to save the election date and to spare the people from the predictable consequences of delayed elections.

#### **2. The Final Voter List not available**

The Server is trying to make sense of the “garbage we put in it”. It is a technical matter, and with time and perseverance, we believe the problem could be solved. Voter Registration is a very important achievement of our democratization process as well as the realization of our aspiration to hold the freest, fairest and most peaceful presidential election in the region. It is an important pillar of our efforts to build sustainable peace and justice in this country. The Voter Registration process should not be viewed as a one-off task. On the contrary, we are getting a data base, personal identification cards and a dynamic system of citizens’ continued registration, which we can build on and improve for many years to come. We are confident that, there will be a Final Voter Registration List produced for this election. However, we should remember it is not the only factor on the table that can delay the election.

### **3. The Election Preparation Time Squandered**

Our main enemy here is time. Stakeholders can discuss and dialogue as long as they please; they can dodge the decision to reform NEC as long as they want; but they have to always remember that the clock is ticking. The preparation time needed for the election, according to NEC, is minimum 2.5 months or 75 days. Every day which passes, starting from 15 July, is chipping away days from the planned time before the election date. Therefore, if the key stakeholders do not finish their negotiations soon and agree on a new election date, there is not going to be much time left in the time-account and therefore, we will need to buy more time. and cross to the year 2010. If, however, the stakeholders reach an agreement on key issues within the first two weeks of August, 2009, then we need to buy only four weeks.

### **IV. Possible Scenarios, if the 27 September Election Date is missed?**

If the above deadline is missed, the most critical challenge to face is to address the expiring term of the President and Vice-President, which was extended until 29 October, 2009. The Group identified in their last discussion three scenarios to address the P&VP- term expiry issue:

#### **1. The Further Extension Scenario**

If the key stakeholders start to proactively put the issue of an inevitable delay on the table and start negotiating for the closest date possible for elections to be held, then the scenario of short-term extension of the P&VP terms shall be an attractive one. If within the first two weeks of August, this process is agreed upon, then the new election date could be set to a maximum of within two months after September. The opposition parties, to go along with this, will need to take into consideration the following factors:

- i. The NEC issue is resolved and therefore the Donor money is released.
- ii. The election date is set to be within the next two months after 27 September, 2009.
- iii. Be appreciative that the stakeholders have already overcome so many hurdles together through consensus. They achieved tangible results and through that recovered some of the sapping confidence of the public.

The ISG considers this as the best case scenario, if factors (i) and (ii) are achieved.

## **2. The Care-taker Government Scenario**

If factors (i) and (ii) are not achieved then, the next best scenario on the table becomes, to form a Care-taker Government, which leads the country to hold the Presidential Elections. How such a Care-taker Government will look like should come out from wider consultations.

## **3. The Worst Case Scenario: The Year 2010**

In the year 2010, the election of the House of Representatives is going to be due and the Guurti's four year controversial extension is coming to an end. The Local Council elections are already overdue for three years. If the Presidential election is pushed towards the year 2010, we will have four due elections in our hands and all the good and the ugly that go with them. Is this an opportunity for Somaliland or a catastrophe? Whatever it is, we need to make a very serious thinking of where all this is leading us. We also need to reflect and learn from our past, both far and near.

## **V. Conclusion**

The Independent Scholar's Group urges the Executive Branch, the two Houses of Parliament, the national Political Parties and the National Electoral Commission to act proactively and start preparing for the possibility of elections not holding on the 27<sup>th</sup> September, 2009. It is incumbent upon the leadership of these national institutions to appoint a National Commission to investigate the humiliating failures, which Somaliland has suffered in preparing for this election; to find out what went wrong, who is accountable for it and how to learn from it. They have to remember that there is a multitude of young, male and female aspiring future politicians in the society, who want their future to be secured and not squandered by the present generation of leaders. Furthermore, the above leaders should realize that they are not accountable only to the Somaliland people, but also to the peace-loving world community.

## **Paper Five: A call for Dialogue: NEC Inflames Political Situation by Sidestepping Voter Registration Results to hold presidential election**

### **I. Introduction**

On 5<sup>th</sup> of August 2009, a group of 12 Somaliland scholars met at Ambassador Hotel to discuss the implications of the new developments on the election process, resulting from the Declaration of NEC Chairman to hold election without the available Voter Registration results.<sup>14</sup>

### **II. The Current Situation**

The Somaliland people are commended by the international community and their neighbours for their steadfastness to uphold peace and their unwavering aspiration for a responsible system of governance based on justice and democracy. It must, however, be recognized that today the Somaliland people face overwhelming challenges in their daily lives. Many of the Somaliland regions are experiencing a scorching drought, which is driving their citizens to flock into the cities in

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<sup>14</sup>The meeting was sponsored by SORADI and was moderated and its report compiled by Dr Mohamed Fadal.

destitution; The Somaliland people are lacking recognition to be members of world citizens and their youth are dying in the seas and deserts fleeing in desperation from growing hopelessness; the Somaliland people are worried of growing threats to their peace and stability. Is it fair to add another home-grown problem to their suffering? Is it fair to derail their chance to exercise their right to choose their President and Vice-president in a free, fair and peaceful election?

The Independent Scholar's Group's answer to the above questions is "no, it is not fair". Free, fair and peaceful elections can be easily held and without the need to manufacture unwarranted complications.

The Group regrets to say that the present National Electoral Commission has failed its primary objective of neutrality and consensus building. Organizing and managing free and fair elections held on time in every five years is a responsibility under the law entrusted to NEC by the Somaliland people. Creating a neutral ground for all stakeholders in the election, especially the three competing candidates and their supporters is a responsibility entrusted to them under the law by the Somaliland people. Interacting with the Executive Branch as an independent entity and providing it with objective and truthful information and assessments is a responsibility entrusted to it by the Somaliland people. Advancing the electoral process, ie organizing a Voter Registration, to build a solid base for free and fair election is a responsibility entrusted to it by the Somaliland people. The present National Electoral Commission and especially its present leadership have failed to fulfil all the above responsibilities. The Group considers the Declaration of the Chairman of the Electoral Commission to annul the Voter Registration was not driven by a national interest and a duty to uphold the principle of holding free, fair and peaceful election, but rather by a vendetta against an individual foreign technical expert and an attempt to mask the Commission's failure to fulfil its wider responsibilities<sup>15</sup>.

We are convinced that the Somaliland people has gone through enough debate about the need for voter registration, has enacted enough laws to implement it, has gotten enough international support to achieve that goal and has spent enough energy and resources to realize it and own it. There is a result, however imperfect it may be, which needs to be used to avoid the carnage such of which some of the neighbouring countries experienced as a result of botched elections.

The Independent Scholar's Group believe that the result from a unilateral election by the ruling party – UDUB and a boycott from the two opposition parties KULMIYE and UCID will lead us to an unknown path and may generate uncontrollable forces and circumstances. Let us stick with what the Somaliland people know best and which has served them so far so well – Dialogue and Consensus building.

The Independent Scholar's Group considers the involvement of the international community in the Somaliland election as crucial. Elections today serve in the world for two main purposes: a) for people of a certain country to exercise their right to elect their leaders and b) for the other world community to determine how legitimacy is earned by its leaders and how they treat their own people and uphold their rights. For Somaliland, the donor community representatives play the role of

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<sup>15</sup>The NEC Chairman blamed Robin Zamora for problems of Voter Registration and hence was declared a Persona Non-Grata and expelled from the country.

ambassadors for other nations and its key links to the world community from which we demand recognition. Isolating ourselves has no place in the aspiration of the Somaliland people to become a respected and a recognized member of the world community.

The Group does not see any value for an election which is not free and fair and not held on a level playing field for all candidates and all voters. We believe only free and fair election can be peaceful and can lead to a better governed and prosperous Somaliland.

### **III. Urgent Action**

Therefore, the Independent Scholars Group:

- Urges the National Electoral Commission to salvage the Somaliland Presidential Election, the regime of election laws, Code of Conducts and consensus agreements accomplished in the last 18 months as a result of the concerted efforts of all sectors of Somaliland society. To be able to do that, the Commission has to fulfil its responsibility of building consensus and trust among key stakeholders.
- Urges all key stakeholders to refrain from unilateral actions, which could deny the Somaliland citizens their right to a free, fair and peaceful election held on a level playing field for all candidates and voters.
- Urges the leaders of the three political parties, who also happen to be the three presidential candidates, to come together and chart a new roadmap for holding free, fair and peaceful elections and in the shortest possible time.
- Urges the Legislative Houses to act proactively to steer the process of holding free, fair and peaceful elections back on course and in accordance with the constitution and the laws of the country.
- Urges the good intentioned citizens, who have no stakes to grind other than the common and the national interest, to come forward and bring the key stakeholders to sit together and solve the current election crisis.

## **Paper Six: Political Brinkmanship: A Close Call for Somaliland (President's Move Generates an Explosive Political Situation)**

### **I. Introduction**

On 13th of September 2009, the ISG members met to discuss the implications of recent confrontations in Somaliland involving the President and his party (UDUB) on one side and the two opposition parties (Kulmiye and UCID) on the other side. The new confrontation is about the control and influence of the Houses of Parliament, the drastic action from the President to use the police force to close the House of Representatives premises, which triggered a bloody demonstration in which several civilians were killed and many others wounded.<sup>16</sup>

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<sup>16</sup>The meeting was sponsored by SORADI and was moderated and its report compiled by Dr Mohamed Fadal.

## **II. Back to Basics and Principles**

The Constitution provides for three parallel branches of Somaliland Government all independent from each other - the Legislative, the Executive and the Judiciary. Each branch of the Government has its duties clearly cut out for it in the constitution. These national bodies are expected to work together in harmony to be able to realize the aspirations of the Somaliland people. The Executive Branch has definitely overstepped its duties when it recently interfered with the operations of the Houses of Parliament. The Police action to close the premises of the Parliament contradicts the above constitutional provisions. The police are expected to live by and uphold the rule of law and not to undermine it.

It is constitutional for people to demonstrate openly and to bring across their messages to their leaders. However, it is not constitutional to destroy property, to stone the police forces and to use firearms. Peaceful demonstrations enrich democracy, where boards, microphones and speech platforms are the means of rallying people to express their messages. It is also not constitutional for the police to shoot unarmed rallying civilians and to cause fatal deaths and injuries.

The election is the right of the people to choose its leaders. To deny the people to exercise their right to vote, to delay it intentionally and to mismanagement it will definitely put in question the legitimacy of any regime in power.

## **III. Taking Stock of the Present Situation**

The present uprising was not unexpected, but what was uncertain was what will provide the spark that will trigger it? The use of the National Police Force to close down the Parliament House and its operations became a very potent spark. It blew off the lid from the growing frustration of both the people and the opposition parties with the present government's intransigence.

Why the House of Representatives has all of a sudden become the centre of controversy after being sidelined for so long from the negotiations concerning the presidential election process? The Presidium of the House of Representatives (Shir Guddoon) comprises of three members from the opposition parties (the Speaker is from UCID and his two Deputies are both from Kulmiye). UDUB still feels that it has been robbed of its right to hold the Speaker position as the largest single party in the Parliament. Despite these internal contradictions and the lingering grievance of UDUB, the House of Representatives of Somaliland was run and worked remarkably smoothly since it was first convened in October 2005. The collective efforts of Somaliland people and its international partners to resolve the conflict between competing political parties through consensus also helped the House to stay calm.

However, the situation changed when the President recently declared to hold the election without registration and his party (UDUB) launched its election campaign without resolving the outstanding issues. This move depleted the last drop of goodwill and hope by the opposition for free and fair elections. As expected, they would try every trick in the book to counter that move. Then, the Parliament became the battle ground of the opposition and the ruling party. The wheels of an impeachment motion against the President started to roll by the opposition and the ruling party countered it with a motion aiming at unseating the Speaker of the House. In this context, though, a question could be raised, why the impeachment now, if the President's term is expiring within the

next two months? But again another question could be raised, why the disproportional reaction from the President to come down to the level of closing down the whole Houses of Parliament? Furthermore, an even deeper question could be asked, where would such a behaviour of tit-for-tat lead Somaliland? It could lead to a much worse situation, where there will be no winners and losers among the competing parties, and everything which Somalilanders have worked so hard for will be lost. A glaring example of what could happen is provided by what is happening in the neighbouring Somalia.

#### **IV. The Way Forward**

##### **Priority Election Issue:**

It is now clear that the election is not happening on 27 September, 2009, despite the efforts, energies, resources and goodwill expended on setting that date. Free and fair elections are a necessary step in building a democratic, peaceful and prosperous society. Therefore, there is a need to set another date. There is also need to address the connected issue of the expiring term of the President and his Vice-president.

There are also other critical issues to address. First, reforming the National Electoral Commission became a priority issue; the opposition parties and most other local and external actors do not consider it as a neutral body. Secondly, the negotiations on the controversy over the Voter Registration results need to be finalized. Thirdly, securing funds for the election is also a pending issue. Fourthly, to factor in the fact that all other Somaliland elections will also be due in the same year - 2010.

##### **On Ongoing Mediation Efforts**

There is now a situation of minimum trust among key stakeholders and a shrinking space for constructive dialogue. For the first time ever the negotiations among competing Somaliland groups are becoming internationalized<sup>17</sup>, although, Somaliland earned its credibility and stability from its capacity to settle its contractions internally. Therefore, the internal reconciliation and mediation mechanism should take the lead of bringing the key stakeholders together and should not wait for the external mediation outcomes. The international system should refrain from involving directly in the negotiations, but should provide support to the internal mechanisms and facilitate their success.

Furthermore, the internal mediation efforts should be streamlined to harmonize their aims and to coordinate their dealings with different key stakeholders. There are now several active mediation efforts, each dealing with a partial issue. The Guurti has a legal mandate for such a role and should try to bring together the efforts of all the other initiatives. The results of the negotiation efforts should be a package agreement and not piecemeal settlements and should focus only on the last episode of the crisis, but should encompass on all outstanding election issues. Such package should incorporate all above priority issue. The Independent Scholar's Group will support the mediation mechanisms and help streamline both the approaches and agendas of the local efforts.

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<sup>17</sup>Ethiopia and the UK launched a joint mediation initiative to bring the President and the two opposition leaders to the negotiating table.

### **On The International Actors**

The ISG calls for the international community to support the Somaliland efforts to sustain peace and building a democratic society. Their role could include open support for the forces of peace and democracy in the current crisis. In this context, we appreciate the letters sent to all three leaders of the Somaliland political parties by the Somaliland friends, through Somaliland Focus UK. The international community could also adopt a clear policy and concrete regime of sanctions against anybody, any group or any party which (a) is not honouring the agreements reached to continue the path of peace and democracy in Somaliland (b) is employing hate propaganda and inciting violence within the society for whatever pretext (c) is committing publicly known atrocities (d) is working actively and openly against peaceful transition and application of the rule of law in Somaliland. The Somaliland international friends could establish an independent observer mechanism to complement local initiatives to follow the implementation of the agreements reached and to openly publish performance of all key stakeholders in the process.

### **On The Role of National Media**

The Media could be used as a dangerous weapon to sow seeds of suspicion among the general public and can result in sectarian violence similar to what took place in Kenya. We call the national media outlets and individual journalists to be accountable for their actions especially in these difficult times; to abide by their code of conduct; to act among themselves to reign on any media outlet which is using hate language and propaganda to ferment discord among the general population.

### **The Expiring Presidential Term**

The Guurti should take the lead to start consultations with the political parties, other relevant Government branches, the civil society and other key actors of the Somaliland society, to come up with a consensus solution which can lead Somaliland to free and fair elections. The Guurti should avoid taking any unilateral action without wide consultations with all key actors. The ISG recommends a package agreement, which addresses all the above outstanding issues about the forthcoming election and is signed by all key stakeholders.

## CHAPTER TWO:

# THE LONG MARCH FORWARD TO PRESIDENTIAL ELECTION

### Paper Seven: A Call for Action and Dialogue

#### **I. Introduction**

On 26th of September 2009, the ISG members met to discuss the implications of recent Agreement sponsored by the international community between the Somaliland parties and the subsequent historic unanimous vote of the House of Elders on the 25<sup>th</sup> of Sept, 2009, to endorse it<sup>18</sup>.

#### **Implementing the Agreement**

#### **II. Tension Diffused**

The people of Somaliland won in this critical moment of the development of their nation. Through their steadfast stand to support political reform, peace and reconciliation they have brought about the victory we see today.

The Somaliland Independent Scholar's Group commends the Guurti for choosing the path of dialogue and consensus building against a unilateral imposition of extension of President's term. We thank Ethiopia, Britain and the supporting donor community to bring the political party leaders to a consensus agreement. We also thank the Somali well-wishers, who expressed their support to Somaliland from all over the world.

The tension has been diffused and the expression "win-win" situation is already in the media. However, the hard work is still to be done. The greatest achievement so far is that goodwill and cooperation between the opposition and the ruling party has been restored. A window of opportunity is opened; however, it may close sooner than we realize if not utilized. The ISG urges the Guurti to continue leading the process to put the implementation of the agreement on track. The ISG believes that the key to successful implementation of the international agreement is to disband the present NEC and to constitute a new National Electoral Commission (NEC) within the next two weeks.

#### **III. Gateway to Implementation: Constituting a New NEC**

After the necessary signature ceremony takes place, the Guurti needs to bring together the key stakeholders (the three political parties and the House of Representatives) in consultation with the civil society to work out a mechanism to disband the sitting NEC and to constitute a fresh new NEC. Institutions mandated to select the NEC members, ie the Presidency, the Guurti and the two

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<sup>18</sup>After a week of rioting against alleged Guurti intention to extend President Rayale's term of office for several more years instead of holding the election, in the scheduled Friday 25<sup>th</sup> meeting, the political tensions sky rocketed and there was fear of the violent conflict if the Guurti passed such legislation.

opposition parties should not take more than seven days each to appoint their allocation of the members. Our target date for the NEW NEC to be in place is on the 15<sup>th</sup> of October, 2009.

### **Why a new NEC?**

The New NEC should be able to fulfil the duties it is appointed for effectively and diligently on behalf of the Somaliland people. During the tenure of the present NEC, the whole nation was trying to do its job and to cover its shortcomings: They were expected to organize and manage free and fair elections held on time in every five years; create a neutral ground for all stakeholders in the election, especially among the three competing candidates and their supporters; interact with the Executive Branch as an independent entity and provide it with objective and truthful information and assessments of election process; engage the media and other stakeholders to abide by their code of conducts; work with our international friends and donors and to make elections something the Somaliland people can be proud of to exercise their right to vote and not to view it as a source of conflict and uncertainty. The sitting NEC has failed in fulfilling the above responsibilities.

### **What kind of NEC?**

A NEC, whose members have integrity, proven work track record, across-party trust and a good national standing. The new NEC should also be gender balanced. The above criteria need to be observed by the institutions mandated to select the members and the House of Representatives, which has the final approval of individual membership.

### **Possible Scenarios Arising from the Implementation Process**

#### **1. Win-Win Situation: The New NEC is constituted on Time**

All parties cooperate to use this window of opportunity to bring the Somaliland Presidential election process on track. The New NEC, with the requisite qualities to manage and to lead us to a successful free and fair election is constituted within the next two weeks. It approves the Terms of Reference of the Team of Experts and the international community recruits them. They deliver their assessment of the election preparation time before the end of October, 2009. The New NEC sets a date for the Presidential election on the basis of the assessment provided by the Team of Experts. The President and VP terms are formally extended as in the agreement. The technical support needed for the election (both technical and financial) is made available by the donor community. The political parties' candidates exercise their right to campaign and to bring their message across to the Somaliland people. The people exercise their right to vote and choose a President and a VP. The elected President is inaugurated by February 2010. Somalilanders prove their resilience to maintain the path of peace and democracy and to pursue their aspiration to achieve their rightful place in the world community.

#### **2. Our Worst Nightmare Situation: NEC Reform is squandered**

We do not learn from our past experience. We do not use the window of opportunity we have. Personal and group interests overshadow cross-party cooperation and due diligence to reform NEC. Our worst nightmare is realized when forming the new NEC drags. Lack of cooperation and mistrust among the key stakeholders overshadows reason and progress. The Team of Experts has no

counterpart to work with and hence, their recruitment and engagement is delayed. No election schedule assessment and election date are in sight within the next two months.

### **3. A Catalyst Situation: Conflicting Expectations from the Server**

Unrealistic expectations from the team of experts to work out miracles to come up with everybody's wish list of voter registration will definitely spoil the cooperation and goodwill we need in badly to bring the election process on track. On the other hand acting maturely and accepting whatever the outcome of this last trial to clean up the mess we made of the voter registration, will pave the way for the election and will boost the morale of the Somaliland people and their confidence on their system of government. The team of experts may not change much in terms of numbers, but they are independent from and neutral to our fears and internal contradictions. We have no other option but to trust the process. Their first final verdict should be accepted as is, if we want to move forward. We expect the team to be cognisant of the baggage that comes with their assignment and hence should keep it strictly technical and deliver their result transparently and in the presence of the all stakeholders and the international community. We advise against any interim reports and we urge the key stakeholders to let them deliver a Final Voter Registration List.

### **4. An Unfortunate Situation: Engaging the Team of Experts or the Delivery of their Assessment and Final Voter List Takes Longer than Expected**

Such a situation will have a similar impact as the worse nightmare scenario. The window of goodwill opportunity will be closed. Personal and group interest will derail the election process. Worse still no National institution will be accountable for the Somaliland people. Fears of some sectors that the international community have no good intentions for the Somaliland state will get credence. The international initiators of this agreement need to do everything possible to avoid such a situation to arise and to be transparent about any difficulties encountered.

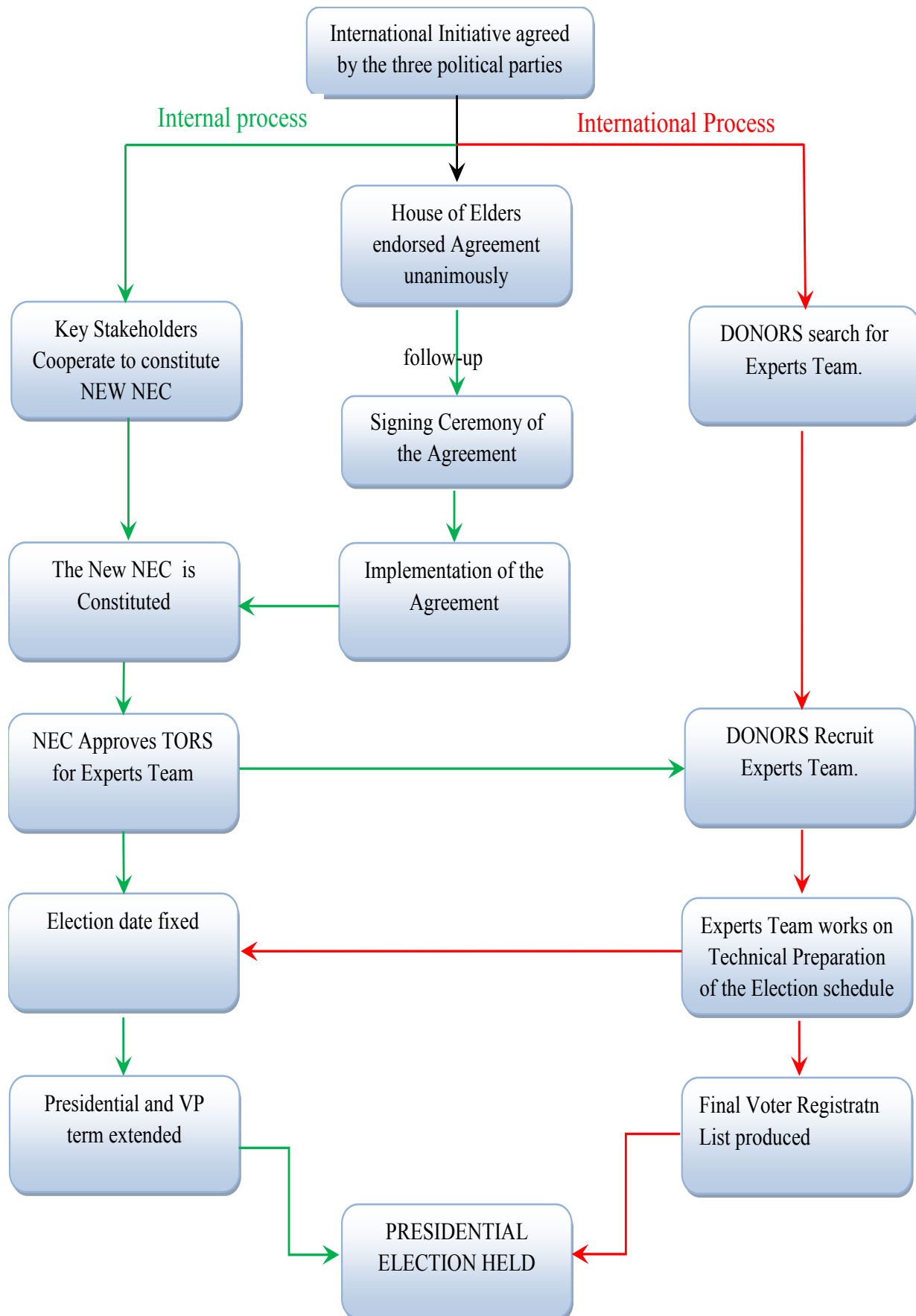
## **Summary of Recommendations and Action Sequence Flow Chart**

### **1. Recommendation**

1. The House of Elders continues to lead the process to ensure signing ceremony takes place as soon as possible and that political parties and the House of Representatives are clearly on board to keep the Agreement on track.
2. All stakeholders act proactively to move the election process forward and to avoid any action which contradicts the cooperation and goodwill attained and expected by the Somaliland people.
3. The key stakeholders expedite the process of constituting a new NEC and hence facilitate the Team of Experts to start its work.
4. The international community need to stand behind this agreement and monitor all stakeholders to fulfil their roles. The international community is also is expected to make the Team of Experts available on time to work with the new NEC.

5. The International community is requested to make available the financial and technical support needed for the forthcoming Somaliland Presidential election.
6. The people need to be informed to ensure peace and have confidence that the election is going to be free and fair.

**2. Chart: Sequencing of Implementation Activities of Six-point Agreement**



## Paper Eight: Implementation of the Six-Point Agreement and Learning from Recent Experiences

### I. Introduction

In their 24<sup>th</sup> October, 2009 meeting, the ISG members discussed the implementation of the recent six-point Agreement and lessons of recent political conflict in Somaliland.<sup>19</sup>

### II. The Current Climate of Cooperation among the Key Stakeholders

The Somaliland political temperature continues to be moderate, since the signing of the six-point Agreement (See [www.soradi.org](http://www.soradi.org) for the Agreement text). It is remarkable that the top leadership of the political parties, the President and Chairman of the House of Elders have so far refrained from attacking each other through the media, but instead have started the culture of discussing matters face to face. It is also remarkable that the President has initiated most of these meetings, something that the Somaliland people have expected from him all along. Therefore, the process of constituting a new National Electoral Commission (NEC) has been accomplished. The opposition parties and the two Houses of Parliament have also compromised on several outstanding issues including that they accepted to go along with the President's uncompromising demand to change their first choice candidates for NEC membership. The House of Elders, Kulmiye and UCID all changed their first choice candidates. On the contrary the President's choices were not subject to such scrutiny from UCID, Kulmiye or even the Guurti.

The situation prevailing in Somaliland before the key stakeholders decided to go on the route of dialogue and compromise was quite explosive:

- It was perceived that the President was seeking a one-year extension of his term from the House of Elders. Discussion of the issue in the House floor was concluded on a Thursday and the voting was set to take place on the next day Friday morning and could not even wait for the Saturday.
- In the House of Representatives an impeachment process against the President was tabled as an agenda for discussion. This agenda was being pushed by the opposition and it was believed to have a significant support in the House
- From another front, it was alleged that UDUB members were pushing motions through both Houses of Parliament to unseat their two Speakers and replace them with their own supporters
- The two opposition parties discussed openly, with their Chairmen on the record, to form a joint parallel government, if the President succeeded to get an extension of one year from the House of Elders.
- Public demonstrations, which were much more ferocious than before were expected to follow the above moves.

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<sup>19</sup>The meeting was sponsored by SORADI and was moderated and its report compiled by Dr Mohamed Fadal.

Such an explosive situation has been diffused, people believe, by the President climbing down from the one-year extension demand and convincing his Guurti supporters to go along with the compromise route. The Guurti vote on the Friday morning was unanimous, to diffuse the crisis. What changed the President's mind is beyond the scope of this paper and will be debated long after the event, but what matters is that with that decision sanity has been restored in the Somaliland politics. It also shows the power of the President's actions whether he chooses to go along the dialogue and compromise route or otherwise. The hope now is that, the President and all other key stakeholders continue to cooperate to fulfil the responsibilities they have for the Somaliland people to lead them to free and fair elections.

### **III. On the New NEC**

It took about three weeks to constitute a new NEC and that is relatively fast in the Somaliland standards. However, in this regard one can cite few unfulfilled expectations: There is no female member again. Somaliland had only one female Commissioner and her performance, style of work and integrity has been exemplary. So many other sisters like her are aspiring to serve their nation as Commissioners. How long should we continue to deny them that right? Otherwise, the ISG considers this selection of the new Commissioner of a higher calibre than the lot they are replacing. The ISG welcomes the new NEC and commits itself to support it to face the challenge of leading this country to free, fair and peaceful elections.

The parliamentary approval process was expected to be rigorous. A House sub-committee was assigned to screen the individual members if they meet the criteria clearly outlined in the Electoral Law. However, the committee took five wasted days, because in the approval day, their efforts had no bearing on the House floor discussions and voting results and the process was anything but rigorous. The voting results were sixty-five votes for each of the seven members; there were no opposing votes or abstentions. Is that a normal thing? Certainly not, and the house members need to do a lot of soul searching on the matter; at the end of the day, the vote is an individual matter and the MP is accountable for his or her decision. Finally it was not fair to the individual Commissioners, who came from different backgrounds and professions, to be doled out with equal score marks from all 65 members of parliament.

The ISG wants to warn the new NEC not to be rushed into a hasty and ill-prepared hand-over ceremony. A proper audit of the institution has to be commissioned to avoid future complications of their work – The Financial matters, the institutional assets including equipment and transport and the Voter Registration equipment, materials and documents all need to be clearly accounted for.

Furthermore, all key stakeholders including the international partners have to be fully involved in the hand-over process. The new members will need to be trained to do their job properly. It is also important to build the structure of the organization. The Somaliland Government and the partner international community need to cooperate to build the institutional structure and capacity of the new NEC. On their part the new members need to take the responsibility to choose their international counterpart agency and with the proper contractual arrangements and MOUs and in a transparent and independent manner. In doing so, they will have to keep in mind that the Somaliland people are expecting them to organize the Presidential election in the fastest possible time.

#### **IV. Key Milestones in the Agreement**

Milestones to reach include: New NEC is constituted; Expert assessment delivered; Final Voter Registration List adopted; NEC sets the election date; and the Presidential term extended accordingly.

Among the above milestones only the first one is crossed so far - constituting the new NEC. That itself is a great success for Somaliland and the key stakeholders in this process need to be commended. However, the next most critical milestone to reach is that the NEC sets the date for the Presidential election. To achieve that, NEC needs to facilitate the work of the Expert Assessment Team and also the production and adoption of the Final Voter Registration List. It is incumbent upon NEC in collaboration with its international partners to ensure this process does not complicate the steps that will follow, in terms of the time it takes and the quality of the results attained. Furthermore, NEC should use the prevailing climate of collaboration among key stakeholder to renew the commitment of the three political parties to accept whatever final list the neutral experts come up with. The goal is to fulfil people's right to elect their President and not to fight over a list.

#### **V. Recommendations for the Lessons not yet learnt**

1. The two Houses of Parliament need urgently to revisit Electoral Law to revise it mindful of the lessons learnt from the recent crisis: a) To make the criteria for the selection of the Commissioners more defined and measurable, b) To remove what is not working in these criteria, such as the age limit of 60 years, c) To define clearly what should the approval procedure of the House of Representatives entail other than voting, d) To define the legality of the pre-screening process before the list is submitted to the Parliament. This refers to the controversy over the pre-screening conducted by the President on other stakeholders' candidates, without any screening of the President's nominations.
2. The mandate of the National Electoral Commission need to be clarified more. This refers to the notorious unilateral decision taken by NEC to suspend the Voter Registration results.
3. There should be sanctions defined in the Electoral Law for breaches.
4. The Issue of Gender equity in the National Electoral Commission needs to be addressed by all the key stakeholders.

## Paper Nine: Reflections on ISG Efforts— Are the Election Preparations on Track?

### Introduction

The ISG considers the year 2009 a very eventful one. The Group had at least nine full meetings and several in between ad hoc sittings especially during serious crisis periods. It published nine situation papers all about the contentious presidential election process and the surrounding circumstances. These papers are all available on the SORADI website: [www.soradi.org](http://www.soradi.org). A particular theme running through all the papers was to urge the key stakeholders for dialogue and consensus solutions. The ISG set itself three key objectives:

1. To analyse issues arising from Somaliland democratization process, organize them in terms of their priority and urgency and build scenarios that could develop from the actions of different actors and processes and to finally put forward actionable recommendations and the best and worst case scenarios.
2. To try to be objective in its analysis and recommendations.
3. To create a reliable and up to date source of information and analysis of the events and processes for both the Somaliland society and their international partners.
4. To contribute to the ongoing efforts of advancing and deepening the Somaliland democratization process and to sustain the prevailing peace and stability, which are enjoyed in Somaliland.

The Group believes that it gained confidence and has built trust among its members, that it carved its own space to have its voice heard and that of the Somaliland civil society to participate in the ongoing political debate. It succeeded to influence the evolving agendas of different stakeholders and to steer them towards the route of dialogue and consensus building. It also succeeded to collaborate with other domestic and international actors and to facilitate emerging coalition of the democratic forces in Somaliland.

### The Present Situation

The Group has discussed in its last meeting, held in the Academy for Peace and Development hall, following questions:

1. What is the status of the Presidential election process?
2. What is the role of the civil society in such election?
3. What can we say about the possible timing of the election?
4. How can the Group deepen its contribution to the democratization process in the longer term?

The Somaliland Presidential election is a multi-stakeholder process, which also involves key stakeholders from the international community. This is a holiday season for most of our international partners and that definitely will slow the pace of the preparations until the second of January 2010.

However, it is also a period of quite preparations, sustained work and learning period for the new National Electoral Commission.

- a. The team building process among the new Commissioners has been remarkably fast and successful compared to the experience from their immediate predecessors.
- b. The international stakeholders and the Commission have overcome the suspicion and disruptions affecting the reciprocal trust and cooperation among partners.
- c. The international stakeholder roles and division of labour regarding the issue of the SERVER (Voter Registration) and that of the general election support have been agreed upon.
- d. The international funding component is committed
- e. The NEC and the national political parties seem to be on the same wave length so far.
- f. Recruitment for key posts in the National Electoral Commission institution are already underway

The above steps all lay the ground work for the actual starting of the process of free, fair and peaceful elections and key among the remaining steps is announcing the date of the election.

#### **Group's estimation of a possible election date:**

What are the key factors to consider? a) Publishing a final list of voters b) preparation time needed for the election c) Extraneous factors such as the influence of Somaliland seasons and the international partners' timelines.

The Group has exchanged views to come up with some guesstimates and arrived at the latest viable date to be in the last days of May, 2010. This is going to be tight if the final list display time is taken into consideration, but it is even worse to spill over to June and the onset of "hagaa" heat for the coastal people. The Commission will have to make some hard choices to reconcile the general demands for a speedy election date and the realities on the ground. In their discussion the group highlighted the possible parallel tracks of action for the election preparations and the filtering process of the final voter registration list.

The ultimate goal, though, is to have a free, fair, and peaceful election. Furthermore, the Commission is expected to make maximum effort to utilize the window of prevailing goodwill from all actors to garner support of all key actors to build the institution of the Electoral Commission and to address any legal and administrative gaps that may exist.

## Paper Ten: The Long March Forward to Presidential Elections

### I. Introduction

On 16 February 2010, the ISG members held their regular monthly meeting to discuss and assess the overall progress made on the six-point Agreement.<sup>20</sup>

### II. The Current political atmosphere

The national political mood continues to be focused on the much awaited Presidential Election. And though every stakeholder would like to hear a date set for the election, yet no one is willing at this stage to push the National Electoral Commission (NEC) to set a hasty date, which can lead to a situation like the past disappointments.

As the momentum gained after signing the six-point agreement (on 30<sup>th</sup> September, 2009) is slowly dissipating, the goodwill it created among the parties is also being slowly eroded. Furthermore, the public is evaluating the effect and influences each of the recent political disputes within the Somaliland's key national institutions may have on the all encompassing presidential election.

These include the recent dispute among the Chairman of the Guurti and his two deputies, which threatened to open up a whole set of other problems, and which could derail the preparation for the elections. The Guurti internal quarrel is alleged to be over power-sharing among the chairing team. If so, they are encouraged to put their act together and to solve their internal problems to attend to the national issues at hand. On the other hand, present practice of all political parties launching thinly veiled political campaigns could be violating Somaliland election laws and the existing codes of conduct and may lead to increased tensions before we even reach the official campaign period.

A further source of concern for Somaliland's fragile democracy is when the key Government institutions do not cooperate. The primary purpose of Parliament in a democratic society apart from its legislating function, is to oversee the performance of the Executive Branch. Recent experience from the Parliament and Executive Branch is not in any way helping the credibility of the Somaliland institutions. Lack of overall cooperation among these institutions coupled with the increasingly evident institutional weaknesses in both Houses of Parliament may lead to a constitutional crisis of serious proportions if not dealt with sooner than later.

### III. On the NEC Performance

The NEC is still enjoying the trust of all stakeholders and is making good progress in the preparation for the election. They have re-built good working relations with the international donors and started filling their organisational capacity gaps. Their strategy is to implement activities in parallel to safe run up time to the Presidential election. Some of NEC's most significant accomplishments to date include that it:

- Approved of the terms of reference for the independent expert assessment.

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<sup>20</sup>The meeting was sponsored by SORADI and was moderated and its report compiled by Haroon Ahmed Yusuf

- Participated in and supported the independent assessment carried out jointly by NEC and the Electoral Reform International Service (ERIS), as called for by the 6 point Agreement.
- Managed to get funding green light from donors to start the implementation of key activities while the overall budget is still being finalized and agreed upon.
- Established and operationalized the recruitment and tender evaluation panels
- Developed recruitment policies and procedures, and hired key headquarters staff, as well as, ninety percent of the regional and district staff.
- Supported the recruitment of International election specialists, eleven of which have been recruited.
- Developed a Voter Education concept paper to be presented to the international and NEC specialists for their use.
- Developed and discussed the NEC By-Laws, which are currently in the final stages of approval.
- Drafted the political parties Code of Conduct, which will be shared and negotiated with the stakeholders.

#### **IV. Action Awaited From NEC**

**NEC needs to address the following issues as soon as possible:**

1. Setting the date of the presidential election is not only central to the six-point agreement, but will also give some kind of perspective to the elections of the other national institutions. Though no one is advising NEC to rush into hasty elections, there are legitimate concerns that need to be noted. Setting the presidential election date is also important for the mobilization of international election observers.
2. The launching of campaigning of political parties is a legal issue. Therefore, all stakeholders need to analyse and agree what constitutes a political campaign before it becomes a problem and causes damage to NEC's credibility, and if any particular party is found to be breaching the laws and the existing codes of conduct, it should face sanctions.
3. NEC is expected to address also the issue of the Election Monitoring Board. Is there need to activate it now?
4. The Media plays a critical role in the conduct of elections process. NEC needs to engage the media and to push through its updated press code of conduct.

#### **Voter registration (Server)**

Publishing a final Voter Registration List is a very important milestone for Somaliland election process, which needs to be reached, in order to hold the Somaliland presidential election. The experts have done an initial evaluation of the server containing the electoral list and they have started the long expected cleanup process. However, there are a number of sensitive issues that need to be addressed carefully by NEC.

In a recent press conference the NEC indicated that the voter list preparation can take two to three months; there has been some cautious but clearly itchy reactions from the political parties. A voter list display period at the polling stations is also planned where each voter will be told that he/she will vote only once, despite the illegal multiple or double registration a person has done during the registration. There are also plans for some form of validation process, which may include NEC issuing new ID cards.

Therefore, NEC needs to: inform the public clearly about these plans and their objectives – there should not be any chance given to misinterpretation and misinformation. It needs to consider the repercussions (if any) of an open-ended election period. How long the immediate stakeholders and the public at large could be held in suspense?

## **V. Recommendations for the way forward**

1. Let the NEC take its time in the preparation for the election, but should be transparent about its plans.
2. Voter education should start early.
3. Ballot papers need to be ordered as early as possible to save time.
4. NEC should apply sanctions defined in the Electoral Law for offences committed against its work and against other agreements reached by stakeholders.
5. The House of Elders needs to settle its internal dispute and attend to other urgent national matters awaiting it.
6. The legitimacy and legality of current Local Councils, whose original and additional terms ended, need to be addressed.
7. The House of Representatives needs to start amending its Election Law, to lay the ground for its approaching election.

## **Paper Eleven: The Political Campaign Ethics**

### **I. Introduction**

The ISG members held their regular monthly meeting on 29<sup>th</sup> March, 2010 to discuss and assess the overall progress made towards the planned presidential election.<sup>21</sup>

### **II. The Current political climate**

Somaliland remains stable and without any major politically sensitive events happening during March, 2010. However, public interest and debate on the upcoming elections continues unabated. The public at large seem to be in a suspension mode in anticipation of the announcement of the date for the Presidential election from the National Electoral Commission (NEC). NEC is busy with the preparation for the election and insists that it is not ready to set a date yet. One of the critical issues

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<sup>21</sup>The meeting was sponsored by SORADI and was moderated and its report compiled by Haroon Ahmed Yusuf

which NEC is currently addressing is the planned Voter List display, which is expected to take place in all the voter registration stations. This process also includes the issuing of new registration cards to replace the corrupted ones from the Vote Registration exercise.

There is slow but increasing public realization of the importance of the Voter List display event and hence, the need for more detailed information about the process. If the display period takes place without any complications, most of the anticipated voting day headaches could be avoided.

The international community's interest and support for Somaliland's stability while holding the scheduled elections remains high. This is indicated by both the frequent visits of international delegations and invitations extended to both government and opposition leaders by friendly countries.

### **Political Campaign Ethics**

An issue of major concern for Somaliland's democratization process is the emerging culture of negative political "campaigning style". There are increasing relentless personal attacks across political opponents. The political party officials regularly indulge in smear campaigns during political forums, events and public appearances, rather than sticking to the issues. One of the popular strategies utilized by all parties is to organize events that are designed to welcome political actors that have deserted one party and are joining another. These events have become forums for targeted smear campaigns which could lead to instigation of clan antagonism.

Some experts suggest that negative campaigning are used more to 'blunt' an opponents chance of winning the election than to promote the sponsoring party or candidates own image or characteristics with their constituency. Disagreements should be based on issues, and focused on political party or government policies and actions. If there are allegations of wrong doing by a political party, it is better to use the style of instant rebuttal by the accused party without resorting to negativity. There is a need to create a political culture based on rolling debates between parties and candidates, as well as, political functionaries, responding to campaign issue positions in an interactive way. Democratic elections are about friendly rivalry not slander, bitterness, hate and instigation of violence. People want to hear about solutions to the various problems they face every day, not the antics and tit for tats among the political elite.

At this stage, when the all important election is just a few months ahead, responsible leadership in all political parties should assert itself over over-enthusiastic supporters to see that things are kept under control and the fair name of Somaliland's democratic record have received over the years from all concerned do not get tarnished in any manner whatsoever.

### **NEC: the Voter List Display and the New Cards:**

The planned electoral display period appears to be very critical for preparing the ground for the Election Day. This means if the display programme is conducted and managed appropriately, the majority of the conflict-causing issues can be easily resolved. If the display process goes smoothly, there is a great chance that the election shall also go smooth. So far, NEC has put in place all the regional and district NEC personnel; it selected a South African company to print the new cards in

order to save time in the run up to the elections and it claims to be transparent with key stakeholders about the content of the voter list out of which voter cards are to be printed from.

**Gaps which NEC needs to address:**

1. Nobody disputes that NEC has the right and responsibility to set the date for the election, whenever, they think is right, but they need to remember the huge interest of all the actors in hearing a date set. There is speculation about the date; therefore NEC has to be on the guard to issue correct information.
2. NEC should have clear emergency response plans and mechanisms.
3. There is an obvious public demand and interest in learning about the specific dates for voter display and election. Therefore, it is NEC's responsibility to satisfy that demand.
4. NEC needs to call a meeting of the major stakeholders to analyse and agree with them what constitutes a political campaign before things get out of hand. NEC should also point out to the stakeholders, the rules and statutes which set the limits that the campaigning style should not transgress the established Code of Conduct.
5. NEC needs to urge all concerned to exercise self-restraint and refrain from indulging in smear campaigns and personal attacks.

## Paper Twelve: Somaliland 2<sup>nd</sup> Democratic Presidential Election in Sight on 26 June, 2010

### Introduction

In their 29<sup>th</sup> of May, 2010 meeting, the ISG members discussed the preparation for the upcoming Presidential election to be held on the 26<sup>th</sup> of June, 2010, and the recent process of the Voter List Display and Replacement of cards conducted in all regions and districts of Somaliland.<sup>22</sup>

There is unity of purpose at last for all Somaliland political stakeholders to hold the Presidential election. The President provided the required leadership to have declared that the presidential election is going to be held, signed required laws and urged the citizens to take their new voting cards. The Somaliland Electoral Commission is in full control of the preparation process and continues to enjoy sustained support and confidence from all key stakeholders. The opposition candidates are conducting their business with care and the two Houses of Parliament have furnished the necessary laws in a fast-track manner. The civil society has never been so fully engaged in partnership with the NEC and other key election stakeholder. That is a remarkable unity of purpose for Somaliland political actors and a maturing democratic culture.

### II. Important NEC achievements so far:

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<sup>22</sup> The meeting was sponsored by SORADI and this report was compiled by Dr. Mohamed Fadal.

1. NEC set the date of the election in the shortest time possible from the date of the final endorsement of the 6-point Agreement on 25 November, 2009. Very few people expected the new NEC to be so efficient to set voting date for June, 2010. It is a job well done and it is expected to save Somaliland people further headache down the road for other due elections.
2. NEC conducted the Voter List Display and Card Replacement exercise. This process started on the 13<sup>th</sup> of May, 2010 to continue for 7 days at 1210 Registration Stations (later Display Stations) in all regions of Somaliland, followed by 10 more days in which the display continued to take place at District Centres to give a chance for those who could not make it during the first 7 days.
3. NEC staffed all its regional and Districts offices, completed contractual arrangements and forged a fruitful partnership with civil society.
4. NEC has relatively successfully managed the logistics of the display process. This exercise should give NEC a valuable learning opportunity to address the identified shortcomings in good time for the fast approaching Presidential election date. Contractors and regional and district NEC officials need to account for and rectify short-falls reported in different parts of the country.

### **III. NEC-Civil Society Partnership**

NEC has succeeded to establish a meaningful partnership with the civil society. It is working closely with an advisory civil society group comprising of key Umbrellas such as NAGAAD, CONSONGO, SONYO and SONSAF and the professional organizations for peace, governance and institution building such as APD, FOBAG and SORADI. This advisory civil society group supports NEC primarily on three key areas of activity: the Voter Education, the Dispute Mediation process and the recruitment and deployment of local monitors and observers. NEC, in close coordination with the civil society advisory group, has assigned credible NGOs with requisite experience to different regions of Somaliland to implement Voter Education programmes, while members of the advisory group took the responsibility to monitor these activities. This exercise is to ensure that the Somaliland voters are fully informed of the various stages of election preparations such as the display and card replacement exercise as well as about their voting day responsibilities.

Likewise a Dispute Mediation programme has been organized. 600 people selected from all Somaliland regions and districts have been trained to undertake the on the spot conflict resolution activities at the display centres. Identifiable with their distinctive dress, which bears the insignia of MEDIATORS, they are active as mobile teams in most display centres. Each team is composed of a cross-section of the society including professional groups, the youth, women and non-titled elders. This is a very successful programme, which demonstrates how fruitful the NEC-Civil Society partnership could be. These 600 Mediators will also be deployed in the voting and tallying days of the Presidential election and shall remain a valuable resource for Somaliland to build on for future elections.

### **IV. The Voter List Display and Card Replacement Process**

The “Server” is a household word in Somaliland, which denotes the Voter Registration process. This experience brought out so vividly two contradictory sides of the Somaliland people: Its capacity and aptitude to mobilize so fast and so intense for a national cause, especially when clan competition is brought into play, and this is a potent energy, which can be harnessed positively for nation building. It is believed that the Somaliland people including the diaspora spent much more resources than all international input put together. However, the other side of the coin is the rampant multiple registrations that took place, and how all actors ignored the illegal nature of such activity, but rather embraced it fervently. There is a need here for intense public education to inculcate the culture of the rule of law.

The Display and Card Replacement process was an attempt from side of NEC to overcome the negative effects, which the multiple registration acts could have on the upcoming elections. The process was smooth and peaceful in most of the designated areas except in some areas in Sool and Eastern Sanaag . It started slowly but has gradually picked up momentum during the last days. The later stage at the districts was also brisk in many areas. The summer heat situation of the coastal areas is definitely a concern, but also another area of concern is due to abundant rains and favourable pasture and water situation in the countryside, the nomadic population is widely scattered and is no longer in the traditional concentration areas such water points and rural commercial centres. Both factors may lower the number of registered voters who will claim their replacement cards and therefore reflect on the size of the final voter list.

## **V. Current key Challenges**

The display process was also kind of a dress rehearsal for the upcoming presidential election. It was a serious challenge, which NEC has successfully handled. However, ISG identified several flashpoints distilled from the impressions of its members, who conducted monitoring exercises for the Voter Education and the Mediation programmes, from the Eastern, Western and Central regions of Somaliland.

### **Security**

According to the ISG information on the Sool situation, the display exercise went relatively well in Las Anod and in many other display stations across the region. However the insecurity in Buhoodle and Widwidh could have repercussions on the elections if not managed responsibly. The ISG would like to point out that, in the aftermath of the disintegration of the state of Somalia, the burden of ensuring peace has fallen primarily on the shoulders of the traditional leaders of each society and therefore, in this situation the onus is still on them. The Burao peace process in May 1991 should always serve as a shining example of what people can achieve through dialogue and responsible leadership.

The Somaliland army is in the region. Although its reputation is established as a disciplined and responsible professional army and especially that of its sector commander is said to be exemplary, still their responsibility is not to antagonize the civilian population. In this backdrop, the ISG believes that there are other Somali regional forces whose aims are served through the cultivation of hatred among communities to be able to easily incite conflict. The army in the area should see their

primarily responsibility to uphold security not for the sake of it, but for the benefit of the local population and that will also ensure the security of Somaliland and contribute to that of the region.

### **Alleged Multiple Card-Holding**

The ISG recognizes the possibility of multiple card-holding, which means that the card replacement process was not fool-proof. On the other hand the ISG also recognizes that Somaliland is still in the process of State-building, which is primarily learning by doing process and therefore the Voter Registration and display process should be viewed in that light. We also need to remind ourselves that many of our institutions have started in such shaky grounds including the first presidential elections in Burao in 1991 and Borame in 1993 as well as the selection process of the members of the two Houses of Parliament in 1993 and 1997. Today, these institutions are populated by democratically elected public officials. In the same token, we can improve the Voter Registration process in the future.

Furthermore, the following measures are expected to mitigate the effect of its short-comings: a) each voter's name is checked from a register and list of names; b) a voting card with picture identification is issued c) A potent ink is applied on the figure of each voter; d) A ban on motorised traffic during the voting day will limit travel from one polling station to another; e) A team of 13 persons are in each polling station, including three political party representatives and 4 NEC staff members 2 Ministry of Interior representatives, 2 local monitors, 2 security guards and are supplemented by other international and local observers all deployed to deter fraudulent acts; f) It is only one-day exercise and voting repetition could be limited by the available time. All the above put together can be a powerful deterrent against fraud and can ensure a credible voter result.

### **Transport of Election Material and personnel**

The transport of materials and personnel for on-time delivery to remote polling stations is considered to be a challenge, which needs to be addressed by NEC. The available feedback from the display exercise should give an opportunity to improve that process. Contractors who failed to fulfill their contractual terms need to be accountable for that.

### **NEC Staff Selection and Accountability**

From Somaliland election experience, the way each polling station is run is key to the success of the election: a) NEC should ensure that its staff are adequately trained and empowered for the job, sensitized well for the magnitude of their responsibility, well aware of applicable sanctions for dereliction of duty and should be provided with adequate logistical and security support. b) The rules are applied strictly uniformly in all polling stations and both individual and team accountability should be uniformly emphasized.

## **VI. The Election Campaign**

The election campaign is a legitimate way of the candidates to present their election platforms and to express their edge against their opponents to sway voters on their favour and to earn their trust to rule. It is equally a legitimate way for voters to screen and scrutinize their candidates to make up their mind who to vote for from the running three candidates. It is also a way of voters informing

themselves of what each candidate stands for and whether that conforms to their vision of a national leader and if the candidate addresses their interests and outlooks.

To avail themselves of that democratic privilege, the candidates and their parties are expected to uphold the peace and stability within communities and the society in general during the campaign, during the voting day and in the aftermath of the election. To refrain from hate language and any action leading to incite people to violent action; to avoid creating distrust among communities, especially the youth, who could be agitated to commit violence. Political parties are expected to take responsibility of the actions of their supporters and to be accountable for breaching the campaign code of conduct. Candidates need to openly denounce and warn their supporters of any illegal ways of vote seeking such as: Vote buying, ballot stuffing, and multiple voting.

Political parties are also expected to run a mature democratic campaign and to present their platforms clearly to make the people understand what the rule of a particular party and leader will mean to them if elected. To bring out issues, which matter for the lives of the Somaliland people and to move away from the stale clan fragmentation approaches and to address key national Issues such as their strategy to pursue recognition aspiration of the people.

2. The Candidates are expected to address issues surrounding the other upcoming elections: the Long overdue local government election: when to hold it and with what election system, the parliament election and its pending laws as well as the election or selection of the House of Elders. Addressing the issues of the registration of new political associations and the independent candidates are also urgent. Issues of youth unemployment and migration, Environment, Health, water and HIV-Aids etc

A joint debate for the three national candidates organized by a neutral body or media organization will add value to Somaliland democracy and the legitimacy of the election result. It will show the maturity of Somaliland leadership and its own voters. It will sharpen the focus of the winner to lead the nation and to be clear of what really matters to the populace.

### **VIII. Conclusion**

Judging from the debate raging in the of Somaliland major population centres, there shall be a high turn-out for the election. The hope to conduct it fairly freely and peacefully is in everybody's mind and therefore is the citizen's, political parties and their government's responsibility to ensure it. The authorities will ultimate claim its successes as they rightly do for all past elections and need to be in tune with the people.

## Paper Thirteen: On the Eve of the Presidential Election: Celebrating Successes and Preparing for the Worst

### Introduction

In their 22nd of June, 2010 meeting, the ISG members assessed the campaign experience and discussed possible after voting problematic scenarios.<sup>23</sup>

### Quick Assessment of the Campaign

1. It was a smooth and orderly campaign in which the political parties and their supporters have honoured their pledge to keep the peace and to respect other competing parties' designated days.
2. It was a campaign where speeches addressed towards the dancing crowd in the arena were mostly devoid of any seriously thought out visions to address the multitude of problems bedeviling the daily lives of the people. Opposition parties concentrated on the safe ground of criticizing the government's performance during its term in office. The government on its part could not bring across any significant accomplishments of its own or a new vision to continue ruling.
3. The opposition parties presented their manifestos; UDUB did not, which shows that it was not ready for the election. The opposition manifestos basically lacked any critical analysis of where the money will come from for all the grand commitments they shouldered.
4. It was generally noticed that crowds of the same people may have been coming out for all three political parties. This was made easy because of the separate days of campaigning assigned for every party. This may have minimized supporters of any party feeling marginalized and hence creating hostility among different groups. It was also noticed that the crowds turned their campaign days into entertainment events.
5. Smearing of the candidates was not a clear strategy of any party. There were some rumours thrown into the street against one or the other of the candidates, which quickly subsided when nobody comes out to substantiate them.
6. In sum it was a campaign, which further underlined the political maturity and the democratic culture taking root in Somaliland. It was also a campaign which showed unity of purpose of all stakeholders to uphold peace and stability of Somaliland.

### II. Problematic Scenarios: Close election results

As far as the ISG is concerned, the best scenario is when one of the parties wins an outright majority and a clear mandate to rule. However, problematic scenarios may arise, if the results of the two leading parties or all three of them are close. While such close result may have serious repercussions

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<sup>23</sup> The meeting was sponsored by SORADI and was moderated and its report compiled by Dr Mohamed Fadal.

for the desired peaceful transition of this election period and the instatement of a mandated President and vice President, the ISG believes that there is a great opportunity for the National Electoral Commission, which commands tremendous trust from the Somaliland people, to be able to provide leadership to handle such a situation. NEC which is in control of the situation and is forceful enough to lead through such bumpy situation, is a sure bet to weather any crisis that could result from any of the problematic scenarios. However, it is an important assumption in this context, that no serious violations of the election laws by any particular party happened in the campaign time.

Having said that, the ISG still considers it important to explore following possible problematic scenarios:

**Scenario-1:** UDUB wins with a slim majority against one of the opposition parties. This may result in:

- Disputes and claims of recount of certain regional, district or Polling Centre results. In this context, the opposition's prevailing distrust of the Constitutional Court may further complicate the situation.
- There could be some early spontaneous street demonstrations mostly by young people, which could not be sustained and which eventually will die down.
- Reactions of some of the unscrupulous sectors of these parties could promote the idea of a parallel government. That has failed before and is not going to be supported by the Somaliland people this time.

**Scenario-2:** One of the opposition parties wins by a slim majority against UDUB

Negative voices say: UDUB is a ruling party with entrenched interests, which may not be prepared to be dislodged; it has at its disposal the security forces and can be tempted to use them; it may also take the attitude that there is no change of government culture in the Horn of Africa, why us?

However, other voices say, it is an incumbent government and hence, if it contests the election results, it could not count on support from the majority of the people who already voted for change. Therefore, UDUB is more disposed to be convinced to concede, especially, when it is reminded of the experience of last election, when Kulmiye graciously conceded on basis of a two-digit lead from UDUB.

**Scenario-3:** A win by one of the opposition parties against the other with a slim majority. This may also result in disputes and claims of recounts. However, the Settlement will probably be easier than when UDUB is in the scene. Furthermore, the role of the Supreme Court would be less controversial and may be part of the solution.

**Other considerations in the problematic scenarios:**

1. In all the above three problematic scenarios, the party in the third position can have a strong leverage to diffuse the situation, if it accepts the results. It will weaken the contestant's position and can therefore facilitate the early resolution of the problem.

2. The role of the army is considered to be a neutral player. Unlike the last Presidential election where there were suspicions that some of the parties can have influence on some of its sectors, the ISG believes that the army has been transformed substantially into a professional entity and therefore

will not be drawn into the internal political wrangling for one side or the other. The police on the contrary could not be considered to have attained such professionalism yet.

**Worst Scenario:** the ISG considers the first scenario as the worst. However, considering the smooth and level playing field campaign, the trust and support, which NEC commands and the readiness of civil society to support it, Somaliland can overcome such a situation. Furthermore, there is no obvious stakeholder, who could benefit from or is prepared to bankroll a conflict situation.

### **Recommendations**

1. The Somaliland civil society and civic community need to prepare for the problematic scenario situations by putting contingency plans into place.
2. The NEC needs to prepare to be highly visible and in control of the situation during and after the voting day; to inform the public regularly and to rally all supportive forces including the civil society and the wider civic community to counter any negative repercussions from a close result.
3. The political parties and their candidates should respect the will of the people, even with slim majority. It is prudent that all parties should proactively prepare themselves for the possibility that the people may choose to give their votes to another candidate – that is what democracy is about.
4. Forming a shared government with a contending partner could be a sure way of diffusing any of the above problematic scenarios.
5. The international observer community needs to coordinate its position in such eventuality and should also inform itself of local initiatives.
6. Other international partners have a role to support the NEC officially declared results and in line with the observer community position.

## CHAPTER THREE

### PEOPLE VOTE FOR CHANGE AND FOR DEMOCRACY

#### Paper Fourteen: Somaliland Voters Spoke Loud and Clear for Change and For Democracy

##### **Introduction**

In their 18<sup>th</sup> of July, 2010 meeting the ISG members celebrated the success of the Presidential Election and formulated their advice to the new government.<sup>24</sup>

##### **In Appreciation of Those who Toiled for this Historic Achievement:**

The ISG congratulates the Somaliland people for the successful Presidential Election held on the 26 June 2010. The ISG started analysing the challenges of the Somaliland Presidential election in March 2008 and has often faced the wrath of one side or the other of the key stakeholders when its monthly reports came out. The Group hailed the first agreement between the Political Parties in May 2009, to set a date for the election; it also hailed the subsequent signing of several codes of conduct and agreements between the key stakeholders as positive steps towards free and fair elections. The Group confronted the previous National Electoral Commission (NEC), when it rejected the use of the National Voter Registration results and welcomed their eventual disbanding and the appointment of new NEC members. It pleaded with the international partners not to give up on Somaliland and has continuously intimated them with the unwavering commitment of the Somaliland people to hold the election.

Today, the ISG commends the political parties for the clean campaign they conducted and for the discipline of their supporters during the campaign and the voting day. The Group congratulates NEC for a job well done. The performances of both NEC and the competing Political Parties set high standards for the future development of the nascent Somaliland democratic culture. The ISG also thanks international partners of Somaliland, for enduring its numerous political twists and turns during the struggle to realize this election. The Group also thanks the International Observers, who took the risk to travel to Somaliland to witness the elections, perhaps against the advice of their families and friends.

Special thanks also go to the Ethiopian and UK Governments for the timely intervention in September 2009, to put the election process on track again. The Group also likes to thank Interpeace for providing world standard technical support to make this election possible. The Somaliland civil society should also be proud of its role in this historic achievement.

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<sup>24</sup> The meeting was sponsored by SORADI and was moderated and its report compiled by Dr Mohamed Fadal.

The ISG congratulates the outgoing President, Dahir Rayaale Kaahin, for setting a record for a peaceful and orderly transfer of power. The ISG also welcomes and congratulates President Ahmed Mohamed Mohamoud (Silanyo) and his Vice- President Abdirahman Abdillahi Ismail (Zeili) for the honour the Somaliland people bestowed upon them to lead in the next five years. We commend Kulmiye party for the professional and successful campaign work it organized.

### **The Somaliland People Voted for Change, But What kind of Change?**

We believe that the people's voice is loud and clear for better governance and democracy.

1. People voted for change in search of a **national vision** for Somalilanders to rally around, to nurture it and to be inspired by it in their effort to build a prosperous and just society.
2. People voted for a **quality government**, with people who has the integrity and required skills and who can be creative to face the daunting challenges facing them.
3. People voted for a **responsive government**, which is responsive to their demands and concerns and which does not over-rule them or manipulate their divisions and which lives by the rule of law.
4. People voted for an **effective government**, which shows internal cohesion and which fosters the cooperation of the three branches of Government and respects their independence.
5. The People voted for **administrative and financial transparency** in the public sector. More importantly, people voted to see the culture of corruption and impunity of perpetrators routed out from the public sector.
6. People voted for **respect for the constitution** and to have all their higher Government institutions including the Local Government operate on valid mandate – to hold elections on time.

### **High Expectations from the new President**

The expectations from the new government are high, but that is natural considering the efforts, which the Somaliland society put into this election. However, in the end, there is only so much that any government can do in its term of office. A lot will depend on how it prioritizes its strategies and targets in addressing the immense challenges facing it.

### **ISG Suggests Following Priority Areas of Action**

The ISG would like to add its voice to the stream of well meaning advice and suggestions given to the new President to highlight following areas:

#### **Revenue Generation**

Low level government revenue has always been a real challenge to all Somaliland governments and it still is. The ISG believes that for the new government to meet the expectations of its citizens, it has to have the resources to function and to do development work. There is not much to go round with an annual budget of around \$40 million. One has to ask how we can expand the revenue base of the Somaliland state. First, change the culture of tax fraud, which is widespread and accepted in the

public sector. The first step could be raising the salaries of tax-collection personnel to have some leverage on their behaviour.

Secondly, for a long time now the Somaliland government took the easy way out of tightening its grip on the imports and exports sectors to raise revenue. One key export commodity is the livestock, which is already reeling with the weight of the taxes, service charges and regulation costs imposed on it by different levels of government. We do not see any possibility or even logic of putting any more tax burden on it. The second important commodity is imported “Qaat”. We believe that there is in the latter more than enough room for the government to increase its revenue. To streamline its policies and to effectively tax the qaat trade and consumption is not only bringing in extra revenue but will be a prudent social policy strategy for the new government to reduce the drug’s adverse effects. Equally cigarettes’ import taxation offer ample room for tax revenue generation; it is often cited that Somaliland cigarettes sales are one of the cheapest in the world. Why should we subsidize and grant such an incentive to cigarette consumption, while the rest of the world is fighting it?

Thirdly an important potential source of revenue, which the Somaliland government did not tap, is income tax on both the individual and corporate levels. Lack of system to realize it is the major hurdle. The new government needs also to look into the VAT model, which is used by many countries. Property tax is also an under-utilized revenue source.

Fourthly, maximizing income from key economic infrastructures is also expected from the new government. The Port of Berbera and the Central Bank of Somaliland are two key areas, with a lot of untapped potential to lead the economic development of Somaliland and to become the focus of expanding government revenue base.

### **Security**

Security issues should remain a priority for Somaliland, both internally and in the regional context. At the local level, the Sool and Eastern Sanaag issues need to be seriously attended to. Somaliland is built on dialogue and there is no alternative to that approach also now. President Silanyo has already aired his commitment as candidate to engage the eastern regions’ issue through dialogue. The present situation is untenable for two reasons: a) to sustain a continuous combat status of the armed forces is costly and with the present level of government revenue is not prudent to be lax about it; and b) one cannot keep people of whole regions in limbo for so long. Therefore, it is incumbent upon the Somaliland government to use all possible channels to seek possible solutions through dialogue.

There are some other unfinished businesses, such as the “Ceel-bardale” conflict and other latent or conflict-prone issues such as the land problems. On the former, there is an urgent need to solve it. If it continues to simmer, it may not only get worse, but it may also tempt other sinister forces to try to use it to destabilize Somaliland from within.

### **Governance**

Kulmiye has won a substantial majority of the Somaliland people’s votes compared to other competing parties and is therefore expected to accommodate all Somaliland communities equitably to minimize feeling of exclusion from any group. With this, the ISG does not mean to sanction apportioning government positions on clan lines; the focus is rather more on the new government’s

public relations to attend to initial perceptions in the street. The elected president, we believe have the acumen and experience to handle such a situation.

The “limited multi-party system” in Somaliland also limits the quality of its democracy. It is an important Kulmiye election pledge to what in the street jargon is described as ”opening the political parties”. It has not only attracted supporters for Kulmiye, but it has also shown Kulmiye’s commitment to nurturing Somaliland democratization. This will remove a major contentious issue in the Somaliland politics if fulfilled. While changing the constitution may need a wider process of public debate and consensus building, the more straight forward way out is to apply this time the Local Councils Election Law to follow the original design of the competition of multiple associations.

Another important expectation from President Silanyo is to pass through the Houses of Parliament a law which will regulate the election/ selection/ appoint or combinations of them of the House of Guurti. It was not lost to the audience recently, when on the important occasion of the announcement of the election results at Mansoor Hotel, the sitting Speaker of the Guurti has emphasized in his speech, the need for such a law. However, despite the urgency expressed, the President has still the opportunity to initiate meaningful public debate on the matter to get a general consensus formula of reforming the Guurti House system.

### **Government Administration**

Professional civil service, adequate administrative and operational systems and well thought of policies and strategies are critical requirements for an effective government administration. The Somaliland civil service needs a serious overhaul, which will include inculcation of the culture of competition and merit at the work place as well as at the entry levels. There is also need for an attitude overhaul to acquire client service culture.

The local Government services are not usually given the level of importance they deserve. This Level of government is closer to the people and hence should be more responsive to their day-to-day service needs and that is not the case now. Despite the fact that, clear principles and procedures of decentralization are enshrined in the Somaliland constitution, they are not sufficiently applied. The new president and his administration need to correct the power imbalance between the two levels of government, if sound local service delivery and development is to happen. What is worrying is that the trend continuous to be towards centralization and not decentralization. The Local Governments are today more than ever before under the mercy of the Ministry of Interior.

Furthermore, In the Local government work, there is another form of centralization happening; it said to have been reduced to a “Mayor only” show. The power of raising revenue and spending it are both in the hands of the Mayor. Whatever systems that existed for the financial checks and balances are no longer effective.

## **Income and Employment Generation**

Meaningful employment generation usually comes from the private sector and not so much from the public sector. Our youth has to be prepared to get gainful employment from the private enterprises. That means policies towards the education systems should also cater for that end. To attract international investment, the government role is to create conducive investment climate: liberal investment laws, reliable court systems, credible financial regulations and infrastructure. The world today is competing for limited investment resources, and we need to prepare ourselves to compete and we can.

Furthermore, we need to build upon existing economic sectors. The Somali livestock export trade does not work well with monopolies. It evolved historically as a decentralized trade, which relied on many traditional values based on trust in the market place. On the other hand, it has a tendency to anarchic competition at the export level. The positive role of the government could be to organize traders to minimize the negative competition, but to be careful not to stifle it with over-regulation, which could result in Somaliland losing its historical and geographical edge to other export outlets in the region. Another important healthy category of the economy is the modern service sector. The telecommunication, money transfer, hotels, and airlines as well beverages and other emerging light industries, need to be supported through facilitation and regulations in order to become the engine of employment and generation of quality jobs.

In the context of economic development, the role of stable national currency cannot be underestimated. The issue of introducing the Somaliland currency to all Somaliland territory is one of paramount importance and will be an immediate challenge for the new Somaliland government to face.

## **Recommendations**

1. **National Vision:** The President needs to mobilize the nation to harness the immense positive energy and goodwill generated through this successful and peaceful election to build a national vision and strategy towards building a prosperous, just and democratic society.
2. **The new government:** 1. forming the new Government and the way it will work is expected to be creative to tap into the Somaliland's immense potential and to tackle the multitude of challenges facing it. 2. Build a government which can work together as a team to move things forward.
3. **Building Systems:** Focus on building and revamping the systems of public finance and administration and management at both the national and local levels and seek technical assistance from the international community is important.
4. **The Judiciary:** The problem of the Judiciary in Somaliland is a chronic issue and may not lend itself to quick fixes. However, the new President and his party cannot afford to maintain the status quo. Some of the solutions identified in various national conferences and studies include: allocate more resources than hitherto was the case to the operations and personnel of

the judiciary branch. Providing secure tenure for the qualified judges and possible retirement benefits need to be explored, even if not feasible immediately.

5. **Security:** 1. The Sool and eastern Sanaag issue needs to be attended to urgently. The ISG believes that the President is well-placed to handle it and hence urges him to open a dialogue immediately with serious actors and leaders of the regions. It is important to seek credible actors who care about the welfare of the people and who above all have tangible influence. 2. It is also important to address the other simmering land issues including the “Ceel-Bardale” problem. 3. The problems of southern insurgency are being regionalized and hence Somaliland needs to foster and enter into regional security cooperation agreements with the neighbours to counter such threats.
6. **Elections:** 1. Start early national debate on the issue of the election, selection, appointment or any of their combinations for the Elders House. 2. Fulfill the campaign commitment to follow the local Council election law to start new political associations.
7. **Revenue:** Engage the business community publicly to expand the government revenue base. Draw them into the process of finding a longer-term solution. The new government needs to realize the potential of such Key public sector sources such as the Somaliland Central Bank and the Port of Berbera.
8. **International Cooperation:** The new government needs to develop effective strategies for international cooperation and to guide the Somaliland diaspora to re-orient its focus to the implementation of these strategies.

## Paper Fifteen: A Roadmap for Pending Elections and The Registration of New Political Associations<sup>25</sup>

### **I. A Short but Eventful Period of President Silanyo's Administration**

It is a period of sweeping changes happening to both the political and non-political human resources spheres of the Somaliland state. All ministerial positions have changed. Over a hundred appointments and dismissals of the lower ranks of the civil service and government autonomous agencies have taken place. The recruitment process of the lower ranks did not meet the transparency standards expected from Silanyo's reign; it basically followed the old practice of appointing people to positions not on merit but on the basis of clan affiliation and influences. There is an obvious confusion of whether ongoing change can qualify for reform. It is also worth stating here that, the dismissal procedures of civil servants did not meet the national or international Labour Code standards; there were also no retirement benefits negotiated with them. The fact that the Government is not able to pay them now, should not mask what could be their right as citizens and should be addressed formally in the future. Many of them have been working for the nation for a good part of their lives and need to be recognized and compensated in due time.

On the positive side, the ISG acknowledges trends of reform in two Ministries; the Ministry of information and the Ministry of Justice. The Ministry of information took positive steps to opening access towards public radio and TV. It has started serious consultations with both private and public media on how to uphold the Freedom of Speech in this country and has accomplished it all without sacking employees left and right. We also see positive change in the Ministry of Justice which according to our feedback from the Lawyer's Association is transferring the administration of the salaries of lower court employees to the relevant courts instead of the Ministry controlling it, thus significantly moving towards the empowerment of the courts and the separation of the roles of the Judiciary and the Executive branches of the Government.

The recent act of President Silanyo relinquishing chairmanship of the Kulmiye party is itself a landmark experience in Somaliland politics and hopefully also its democratic culture. Whether the two other Chairmen of two other parties will follow suite is an open question. On the other hand, the Silanyo move has raised questions among the Somaliland public, as to who is responsible for the implementation of the Kulmiye election platform, the Party and its new leadership or the President and his cabinet? The ISG members believe that, both are accountable for the people on fulfilling the election pledges. The Government is expected to turn the Kulmiye platform into its national political programme. And out of that programme, each Ministry develops its action plan. The new party leadership, on its part needs to maintain ownership of the Programme and to supervise its implementation either through the party machinery or through the oversight of its parliamentary caucus. Kulmiye should bear in mind that the man in the street, the voter, did in fact take ownership

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<sup>25</sup>In their 29 August, 2010 meeting the ISG members discussed the significant events of the first two months of President Silanyo's term in office and possible roadmap for pending elections. The meeting was sponsored by the Social Research and Development Institute (SORADI) and its Director, *Dr. Mohamed Fadal moderated it and compiled this report.*

of the platform already, as part of the teashop discussions and five years is not a long time to be under the mercy of the electorate again.

The ISG identifies following core principles and reform agendas, which need to be demanded by all national institutional stakeholders including other political parties, the civil society, the minorities, the regional communities and the public at large.

1. Open access for the registration of new political associations.
2. Upholding the Constitution and the rule of law, in both state and private sector spheres
3. Civil Service reform – systemic reform and regulation of numbers in accordance with job availability and prepared terms of reference to rid ghost employees from the public payroll.
4. Equity in access to state resources between the periphery and the centre regions, especially the distribution of public positions and funds.
5. Rid the public system of corruption and sleaze.
6. Ensuring the integrity of the system from the vagaries of unscrupulous asset grabbing business people.

Where do we stand in all the above? It is of course, too short a time to assess, but many people are scratching their heads already.

### **The Security and the Sool Region**

The security concerns on the eastern regions is still an issue, however, the President's pledge to pursue it through dialogue and reconciliation among the communities seems to be not only calming the situation, but also encouraging new moves of constructive dialogue with these communities. The Silanyo administration has appointed a high profile committee mainly populated by current and ex-Ministers, but there has been concern over whether the right approach is such a top-down one, which has failed several times before. Could it have been better that down-to-earth people-to-people talk be initiated? The ISG is of the opinion that the latter approach has more potential to bear fruit and especially if that is coupled with the patience and blessing of the national government. Furthermore, the Committee appointed by the Government is believed to be wanting of more locally influential and less political charged people. Furthermore, the reconciliation needs to be married with strong public services delivery component, because the region is seriously lagging behind in the provision of social service to its communities.

### **The international Relations:**

The Somaliland international image has been battered during the last few weeks with unsubstantiated rumours of Somaliland politics being driven towards the right. That is of course, contrary to the content and intent of the President's inauguration speech. But President Silanyo's administration needs to come out clean to dispel the intent of these rumours and especially on the public perception of creeping uncertainties into the Somaliland-Ethiopia relations. Maintaining excellent relationship with key regional states is a pillar of consolidating Somaliland stability, democratization and above all growing economic partnership and integration in the Horn of Africa Region.

## II. Pending Elections Roadmap

The Somaliland National Electoral Commission has treaded into a controversial territory, when it published its unsolicited opinion on the following complex issues: The opening of the registrations of new political associations, the modality of the election of the Elders House and the extensions and sequencing of the coming elections, which are all issues that have bearing on the constitution. Is NEC mandated to interpret the Constitution or is it treading into the Supreme Court's mandate? Has NEC conducted wide ranging consultations with key stakeholder, chief among them, the Constitutional Court, the Parliament and the wider civic community before delivering a leading opinion? Is it enough to rely only on input of the interested sides, such as the three political parties? Isn't that a conflict of interest? Who is speaking for the wider sectors of the society that have different political interest and opinions, when such decisions are being taken behind closed doors? The NEC earned the respect of the Somaliland people in the last elections and needs to maintain that trust by staying neutral. It's premature document is now being used to sideline the national reform and change agenda, which was voted for by the Somaliland people, especially on the opening of the political arena for democratic competition.

Some of the pertinent questions which need to be publicly discussed are: in what sequence should the pending national elections be conducted and what would the impact of such sequencing be on the reform agenda expected from Kulmiye and the President Silanyo's Administration? Another key issue is, in regards to the urgent need to improve social service delivery to the public, especially at the local community level and hence the need to inform about the election of the Local Councils.

The ISG tries to address the above questions as below:

1. The priority should be given to the provision of social services to the local communities. The Local Government is closer to the people to provide them essential social services and therefore, its election is more important and urgent for the public. Furthermore, the Local Councils are not sitting on legal mandate at least for the last two and half years. Their mandate expired in December 2007. A six-month extension by the Elders House has also expired.
2. The opening of the competition of new political associations in the Local Council election is a right of the citizen and if denied, it is a right denied. This viewpoint is based on the logic that the current monopoly of three political parties is contrary to the constitutional right of freedom of associations. But also more practically, portions of the society who may not subscribe to any of the three political parties are being excluded, which may include political aspirants from the Sool and Sanaag constituencies. These constituencies are otherwise expected to fit into the established system and without any room for them to find their niche in the Somaliland political arena. It is not also to the interest of the existing political parties, because they will not grow without competition, and their internal democratization process will definitely suffer. These parties are occupying national constitutional space which is being turned into an exclusive turf.

The NEC has shown concerns in its recent document that there can be a deluge of sub-clan based applications, which may be difficult to process; that extremist elements may abuse the system; and that its cost could be prohibitive. The ISG sees it differently. Somaliland has already gone through this path a decade ago and very successfully, with less experience and less available resources. The

criteria set and the existing constitutional and legal instruments were enough to address the above concerns and still are. Furthermore, we can always improve our system to tighten any possible loopholes.

The two existing laws: Law NO.14/2000 and NO. 20/2001 will be amended and harmonized to accommodate the regulation needs of the second round of the registration of political associations. The term of office of the Committee for the Registration of the Political Associations and Approval of Political Parties was six only month. However, there is no indication that the law had the same life span as the Committee. It is considered to be applicable for another round of new political associations' registration, with relevant amendments made if needed.

In 2005, it took Somaliland six months to go through the process of registering and screening new political associations and holding the elections. It can also be done now and definitely in a more professional manner. The ISG supports the formation of a similar committee to oversee the second round process of registrations.

### **The Guurti Election and the Constitutional Article #58**

The current membership of the Guurti has been in place since 1993, when the House was first formally established. Their term has been extended four times. There is a need for change and infusion of new blood in this important house. Its last extension was made in-house with proposal from the President, which caused uproar among the opposition parties and the Somaliland public as well as its diaspora worldwide. The status quo has since been treated by the parties as fait accompli. However, the controversial extension is also expiring again in the next few months.

The worst case scenario which can happen is another controversial self-extension and with the collusion of the Executive and the Supreme Court. The best scenario is to face the content of Constitutional Article #58, which clearly talks about "The Election of the Guurti". There is no ambiguity in that article that the Guurti is to be elected; the word "election" is used three times within the few lines of the article. Article 62 has a different title, "Convening the first sitting of the Guurti, after its "selection". According to constitutional lawyers, the latter cannot match in anyway the clarity of Article #58. However, there is a strong difference of opinion among the Somalilanders on the issue of election or selection of Guurti members. So without misleading ourselves on the content of the two articles, let us face to amend the Constitutional Article #58 or to get on with the election path. If the constitution is to be amended for selection or for anything else other than election, the following arguments need to be taken into consideration (see also for more professional view in Ibrahim Hashi, Somalilandlaws.com):

1. The Guurti is a House based on the tradition of the Somaliland nation and need not be subjected to the vagaries of electoral competition. Elders and other community dignitaries cannot put up themselves for election; in the cultural context, they have to be recognized and hence selected for their service to the society. Furthermore, it is claimed that elections do not necessarily bring to the fore the right people for leadership.
2. Other sectors of the society argue that the Guurti is a legislative House, which is more powerful than the House of Representatives and can and does block important laws passed by the latter. Therefore, if it should enact laws and continue to be able to override those passed by the elected

House of Representatives, then its members have to also go through the rigours of elections. If, however, the alternative route of selection is opted for, then, the powers of the House of Elders have to be scaled down to be confined to its traditional, cultural, religious and peace maintenance roles.

The ISG proposes the following steps to be taken to avoid repeat of 2006 controversy:

Step-1: That the President appoints a high-profile National Commission to study the above issues from all angles, to conduct wide ranging consultations with all sectors of the society and to present its recommendation within three months.

Step-2: The Legislative Houses (the Cabinet, the House of Representatives and House of Elders) pass the relevant law, after a consensus has been achieved about the fate of the Constitutional Article #58. The ISG believes that Somaliland is running out of short-cuts, quick fixes and bending towards narrow group interests to address this issue.

### **III. Recommendations**

1. ISG urges the Government to set the example to live by the Constitution and the rule of law in all its dealings.
2. Adhering to the constitutional right of the freedom of association and the registration of new political association.
3. Extend terms of both House of Representatives and Elders for two years, to give time to complete all pending election laws. And start public consultations on the Guurti election.
4. Form (reinvigorate) the Committee for the Registration of the Political Associations and Approval of Political Parties before the end of 2010, to start process of registering new political associations, review if the existing parties maintain legitimacy and function according to the law and to hold the election of the Local Councils by October 2011.
5. The Government ensures that the amicable relations with Ethiopia and other regional states are consolidated and mechanism established for addressing new challenges.
6. The centre is always a magnet of grapping the lion's share of the public pie; President Silanyo's government is expected to consciously introduce equity in the system and accommodation of the political and development interests of the peripheral regions. Both political and economic incentives should be considered for the marginalized Sool and eastern Sanaag communities.

## **Paper Sixteen: Managing the Transition and Keeping the Election Focus<sup>26</sup>**

### **1. Managing the Transition**

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<sup>26</sup> In their 30th September, 2010 meeting the ISG members discussed some of the key issues facing President Silanyo's Government, including core reform issues, the security and the election focus. The meeting was sponsored by SORADI and was moderated and its report compiled by Dr Mohamed Fadal.

Managing a transitional situation is often a challenge. The new government is said to be struggling to manage the transition; may be, but there is freshness in the air and there is positive anticipation. There is definitely a change not only on personnel terms, but the quality of the personnel and the way government business is conducted has also improved. There is also a general climate of tolerance and good will from the public, to give public officials a chance to consolidate their ideas and strategies. So far there is space for everybody to work and contribute and there is willingness from its officials to correct things when mistakes are made. Building Somaliland is a learning process and we encourage the new administration to continue to allow the learning culture to flourish. The ISG focus in this paper is still to pursue the reform agenda and to emphasize the need to give attention to the pending elections.

## II. Administrative and Financial Reform

The ISG discussed the current hot issue in the media, which is about the Auditor General conducting investigations on alleged financial irregularities in key institutions headed by some high profile members of Rayale's Government. To address this issue the ISG asked itself the following questions:

1. Has President Silanyo's Government charted a strategy on how to deal with the widespread claims that public resources have allegedly been squandered during the reign of the last government?
2. Has the Government identified and prioritized which agencies or individuals to investigate? Or is it because some overzealous auditors took the initiative before even the Government formation is complete? If so, is it enough to leave the issue only in the hands of the technical skills of the auditors or does it need a political approach? Does the audit institution has the capacity to handle such expanse of cases, which it claims to be undertaking in such a short time and if not what could be the consequences?
3. Is it a priority issue for the new Government to pursue the issue now with such vigor, when the lapse of security of parts of the country is in the front pages? And what is the most fruitful way of addressing such issues without creating political and clan backlash? Isn't it a delicate matter to handle with care or is it simply a matter of the Auditor General doing his job?

The ISG also addressed this issue in its 15th paper by saying: "The People voted for **administrative and financial transparency** in the public sector. More importantly, people voted for to see the culture of corruption and perpetrator impunity routed out from the public sector." Therefore, the ISG stands by the above statement, but it also attaches importance to the sequencing and prioritization of actions to be taken: First, there is a need for the government to put out a reform agenda and strategies; secondly, priority has to be given to tackling the prevailing people's attitude of accepting and even abetting the culture of corruption in the public sector. The public property is considered to be "beytimaal", an Arabic word which originally meant public coffers or treasury, but which in the Somali context denotes wasted resources which have nobody to care for them. Thirdly, the Government needs to address the prevalent culture of impunity for corruption practices and to bring perpetrators to justice.

Some of the first steps in the financial and administrative reform for the Government to take are: to build the capacity of relevant national institutions including the audit, the police force and also the

general attitude of public and institutions to deal with financial fraud. The Government also needs to strengthen the relevant laws, to build the competency of judiciary institutions, and to ensure the cooperation of all relevant government institutions. Furthermore, the Government needs to inform the public the plans, strategies and programmes it wants to pursue, and to ensure that its initiatives do not reflect any bias against any particular clan. Even if the Government is bent to do financial investigation against ex-government officials, it can disarm possible clan backlash by targeting for auditing institutions headed by individuals from different clans and who had comparable weight of authority and influence. Above all, the government has to ensure to set itself good example through the actions and behaviour of its public officials in handling public resources.

The ISG's advice to any of ex-government officials under investigation is that the leadership role expected from them is not to invoke clan protection against the laws of the country. They have a right for a due process, a transparent unbiased process which considers everybody "innocent until proven guilty". So the choice is theirs to hide behind the clan and to try to frustrate the law to take its course or to allow their name to be cleared in a transparent manner. There are standard procedures to follow if one is being investigated and these include to hire a lawyer and to trust the legal system with which they have been ruling this country for so long. On the other hand, the Audit department is not a political office and has no right to call press conferences or release information to the media which has no legal base and which can cause judging people in the media and can result unnecessary politicization of the matter.

The ISG's advice to the new Government is, it should remember, the Somaliland Governments before them came out as losers, when they tried to use arbitrary powers against their national opponents. We remember the uproar which was created, when President Egal tried to imprison Suleman M Adam and that he could not keep him in jail for long; we remember that President Rayaale was not able to keep Gabose, Hashi and others in jail regardless of whatever methods he tried to use including the courts; we remember incarcerating and intimidating Yusuf Gabobe and other journalists failed. For all those people, when they came out of jail, their public support increased and they became even more confident and emboldened to pursue their purposes. The Somaliland people, it should be clear, by now to the public officials, do not appreciate repeat of what they fought against, which is basically public officials applying the law arbitrarily against dissidents and critics of the government.

### **III. Charting The Pending Elections' Roadmap Further Pursued:**

In its last paper, the ISG suggested a pending elections' roadmap. Why is the Group so intent on following up the election issues? The source of legitimacy of Silanyo's Government is the fact that it has been democratically elected. Therefore, all other key national institutions such as the Local councils and the two houses of Parliament need to be legitimized through elections. All three elections are pending. But, there is a general consensus that none of the above elections could be held now.

Recently on the 7<sup>th</sup> of September, 2010, the House of Elders has taken action as a result of a letter from the President to start a process of dialogue on the pending elections. Subsequently, the House of Elders has made a ruling on the sequence of the coming up elections. The election of the Local Councils will come first and should be held within 18 months. The ISG supports that decision, and

hopes this extension period will be used for the registration of new political associations. It therefore, urges the President to form the new Political Associations' Registration Commission, so that the process starts without any further delay. The Parliament has already included in its current agenda to form the relevant law.

In the same sitting, the House of Elders has also ruled to extend the time of office of the sitting House of Representatives for another 2 years and 8 months, which will start from the expiration date of its term (end of October,2010). Furthermore, from there, the Guurti assumed, without a solid legal ground, that this will automatically mean the extension of the expiring term of the House of Elders for another 3 years and 8 months. The length of the period of extension of both Houses has been seen by the public and the President alike as being too long. The President is known to have asked the Guurti to reconsider it and to reduce it somewhat. The ISG is not aware of any action taken by the Guurti to change its decision.

The ISG shares that feeling with the public and the President, however, it cautions against getting bogged down on the length of the period. What is more important is to focus on what needs to be done during that period. If the two houses of parliament complete the relevant election laws and amendments during that period and if the Executive and the NEC hold all the pending elections, then Somaliland has a lot to celebrate after the end of the House of Elders extended term in 2014.. The challenge here is whether this could be accomplished. Without a clear strategy, time table and cooperation among the three legislative branches of government, it will be difficult to achieve that goal and Somaliland may find itself again after 3 years 8 months, still to be under the mercy of the same circumstances.

**Some of the key issues, which need to be addressed during extended period are:**

1. Promulgation of the Political Parties Law
2. Appointment of the Commission for the Registration of the New Political Associations
2. Promulgation of the law of election or selection or a combination of it for the Guurti
3. Review of the Law # 20/2001 for the election of the House of Representatives
4. The NEC addresses fixing the existing Voter Registration problems
5. Selective review of certain specific problematic Articles of the Constitutional
6. Addressing self sufficiency in financing Somaliland Elections.

**IV. Security Matters**

The security situation has been in every Somalilanders mind since the landing of a contingent of foreign trained guerrilla personnel at our north western coast, without any of the national security institutions being aware of it, let alone taking action. Where was the Army, which was especially mandated to guard the borders of Somaliland Republic? Where were the secret services forces,

whom we are made to believe that they are on top of the situation? Where were the Police Forces, which were supposed to be stationed in every corner of Somaliland? And where were the Coast Guards who took credit for capturing the illusive pirates, but who failed to notice a whole contingent of foreigners landing at their beaches at will and travelling through the bread of the land from north to South. Could Somaliland be trusted as a peaceful neighbour, which the regional bilateral interests are safe in its hands?

The above institutions are supposed to be receiving a lion's share of the national budget, much more than what is allocated to hospitals, water supply, education and the rest of the other sectors combined. This has been quite a sacrifice from the Somaliland people to allocate so much of their meager resources to these institutions to maintain their security.

These security institutions were supposed to be fully functional even before the Silanyo's government came to power, which is in office for less than three months. Why isn't the audit going in that direction? Clearing the security house is much more pressing for Somaliland people than recovering vehicles missing from the ministries and government agencies. What the Somaliland citizens are asking is, will the problem be adequately addressed and will the Government use it as a golden opportunity to apply its reform agenda in regards to the concerned institutions and to forge a more effective regional security relationship with neighbouring states?

## Paper Seventeen: Urgency to Address Pastoral land Degradation and Increasing Rural Conflicts in Somaliland<sup>27</sup>

### Background

Land conflicts have been a feature of Somaliland sources of insecurity since the end of the civil war. The urban land conflicts occupied the state efforts in most of last two decades but has now somewhat abated. However, of recent the rural land conflicts are becoming more frequent and are turning into wider violent confrontations. Deepening rural poverty especially in the eastern regions of Sanaag, Sool and Togdheer, diminishing common pasture lands and water resources as well heightened clan territorialism and land ownership all make a potent mix of future land conflicts in the rural areas. This is going to be aggravated by the institutional weakness of the Somaliland State, which is manifested in the lack of formal judicial presence in most rural areas and therefore, weak enforcement capacities, even when rulings are made through local mediation mechanisms on the bases of the Somali “Xeer”. As a result more and more clan feuds among the pastoral and agro-pastoral communities remain unresolved, which create a vicious cycle of conflicts.

### The dilemma of the common grazing lands:

The Somaliland grazing lands are said to be trapped in the classic situation of what Garrett Hardin in 1968 called the “Tragedy of the Commons”<sup>28</sup>, a situation where every pastoralist uses the free common grazing resources to maximize the size of his/her stock and to use it also freely for other needs, such as for household or for commercial use. This means everybody takes as much as he pleases from the wood, pasture, water and wild life, which are limited and depleting. There is no government regulation or any significant communal arrangements designed to ensure the sustainability of these resources. As a result the rangelands are used over their capacity and therefore deteriorate progressively. Most Somalilanders over the age of fifty years can vividly remember Somaliland with grassy savanna plains teeming with wild life and forested countryside with rich diversity of vegetation covering places that today look brown and dusty. Similarly the fishery resources are being depleted, this time not from irrational local overuse, but from international poaching.

The solution proposed for those who see no room for community based rational management of the rangelands beneficially is to take the route of either strong central government control or the distribution of the common resources to private ownership or a mix of both to avoid a tragedy. That is what the strong military Government of Siyad Barre tried some forty years ago: government ownership of all land, drive for pastoral cooperatives, more incentive for crop production and settlement of the pastoralists. It is generally believed that albeit its good intentions, it did more harm than good and that it unleashed a trend of corrupt bureaucratic manipulation of land use, which

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<sup>27</sup>In their 29 January 2011 meeting the ISG members discussed the growing trend of pastoral resource based conflicts in Somaliland. The meeting was sponsored by the Social Research and Development Institute (SORADI) and was moderated and its report compiled by *Dr. Mohamed Fadal*.

<sup>28</sup><http://www.aworldconnected.org/article.php/539.html>

eventually fuelled greed and speculative grabbing of the common lands for private ownership, and which got out of hand after collapse of state institutions due to the civil war.

A counter argument to that is indeed the individuals and the community suffering from what is now termed as “the commons dilemma” can be rational and one only needs to find examples where people came together and devised local institutional arrangements to make their resources sustainable, without government intervention or turning it into private plots, but keeping it and managing it as free common resources. Elanor Ostrom (1990) has established in drawing from worldwide examples how community members can become rational to make institutional arrangements that survived centuries to sustain their free commons<sup>29</sup>. In some situations, the members acted at a stage where the deterioration of the common resources was thought to be irreversible (as in Somaliland case today), but attained a situation, which became even better than the original.

However, the Somaliland free commons including the pasture and forest resources, the natural water catchments and the underground aquifers, the coastal and marine resources are all currently trapped in a situation which could be described as that of the “Tragedy of the Commons”. If there are existing institutional arrangements by some of the Somaliland communities, which could be cited as the rational resource management strategies, they need to be brought out to light to learn from their models. It could mean these models have succeeded for instances to arrest desertification or deforestation, through a system of managing the natural resources. It could also mean these models have succeeded to devise arrangements among different clans to use together common resources without conflict and without depleting them.

To address the above issues, Somaliland state efforts were mostly focused on reversing the increasing trend of grazing land enclosures, but with minimum success. There are also some small scale, but useful environment preservation attempts, initiated by local NGOs among them Candle Light, such as in Ga’an Libah and Daallo forests’ preservation.

### **Present Environmental Crisis and Increasing Rural Resource Conflicts:**

There is now a rural livelihood crisis. The pastoral resources are shrinking, the population is growing and traditional areas of expansion, such as the Haud are no longer available to ease the pressure. Therefore, the remaining pasture and water resources are going to be fiercely contested and will mean increased rural conflicts. Furthermore, commercial interests such as charcoal burning and control of livestock lucrative trade channels are becoming part of the problem. Land speculation and enclosures formation in common pasturelands are also on the rise. Construction of Cemented water reservoirs (Barkado) and the building of commercial settlements in the common grazing lands between neighbouring sub-clans or lineages are growing triggers of rural conflicts. A dozen flashpoints in Somaliland of potential conflicts can already be identified.

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<sup>29</sup>[www.indiana.edu/~koertge/E105/Commons.htm](http://www.indiana.edu/~koertge/E105/Commons.htm)

The “Berkad” generated problems: The “Berkad” construction, a cemented reservoir to collect rainfall run-off water was inspired by Engineer Laurance’s open water reservoirs (waro) constructed along the border region with Ethiopia in the 1950s, to open the waterless rich Haud pasture land for extended grazing period for the nomads. The practice spread like wild fire and is now a common feature in all Somali territories. It provided a temporary solution to availability of water for the nomadic population. However, the practice not only created developmental and environmental havoc in the Somaliland rural areas, but also blocked the emergence of other means and technologies of solving rural water problems. Berkad construction heralded disastrous environmental degradation through spread of village settlements without any government regulations in place. It created serious health problems by extending the mosquito season as an all the year round occurrence and hence the spread of malaria as a major disease in the rural areas. On top of all that, berkad construction has now become the source of most rural conflicts. Constructing a berkad in a common pasture land is the preferred method of turning it into a clan claimed territory and therefore the harbinger of conflicts. Therefore, state control of berkad construction will definitely mean control of major trigger of rural conflicts and also to some extent control of environmental degradation.

The State initiated trend of multiplying districts and regions by upgrading the administrative status of villages and towns in the rural areas without any measurable development criteria is also adding to the problem. This often leads to the creation of few public employment positions and access to taxation and tariff levying powers for the sub-clan or lineages, which settle in the upgraded areas. It may also lead to, during elections, the allocation of political seats to such group-exclusive areas. The result however, is turning to be a state sponsored political and administrative fragmentation at the local level and increased competition among the neighbouring sub-clans and lineages for political resources. This may lead to increase of rural resource conflicts.

To address the rural conflicts, the state so far has been playing the role of a fire fighter, trying to quell sporadic conflicts from different corners of the Somaliland territory and its clan extensions across borders with the neighbouring states, such as Ethiopia and Puntland. The trend is also that a conflict between any two neighbouring lineages may escalate and snowball eventually to end up in the state President’s desk. This is a disempowering trend for all the official and traditional hierarchies of conflict resolution mechanisms in the regions, districts, villages and lineage levels. Some typical examples are the “Kalshaale” case in the Buuhoodle District of Togdheer and the “Balli Egal” case in the Odweine regional jurisdiction. Both cases climaxed in the last six months as national issues, although simmering for years. Another example is the El-Bardale case, which seems to be winding up due to conflict fatigue from involved parties after dragging for decades and causing unwarranted deaths and continuous insecurity in the region. The Agaare conflict in the Ethiopian side of the border has already claimed more than 40 lives and if it further escalates has the potential to involve all neighbouring polities from of Ethiopia, Somaliland and Puntland.

## **Proposed course of actions**

### **1. The “Dilemma of the Commons”:**

To address the “the dilemma of the common natural resources”, Somaliland cannot afford to rely solely on the state intervention approach for two main reasons: (a) it has been tried by Siyad Barre regime and the legacy of its failure is still haunting the Somaliland people as well as all Somalis; (b) the Somaliland State is still weak and does not have the reach and the capacity to even exercise its legitimate force to enforce its rulings. Somaliland cannot also go solely in the route of privatization, because it also does not have the capacity to control the land to be able to distribute it equitably to different socio-economic uses and into private holdings. Therefore, its approach should be a more local culture based one with a focus to empower existing positive institutional arrangements at the local level as well as the development of appropriate policies and legislative frameworks to protect common resources from plunder and to sustainably harness their potential for both common and private use.

### **2. The Rural Resource Conflicts:**

Keep the conflict localized and avoid turning it into a project. (a) The local State Institutions which are mandated to address security issues include: the Governor’s office, the Local Government, including the elected Council and Mayors’ offices, the Regional and District Police forces, the village headmen and the Regional and District Courts. These state institutional hierarchies should be empowered not only through transfer of funds, but also through increased powers and personnel to address issues on the ground before they escalate. (b) The empowerment of the traditional mechanisms: the Aqil is a salaried traditional institution, which existed for centuries to bridge the formal state institutions with the informal clan system. The Aqil commands legitimacy among his lineages and with other clans and lineages to settle conflicts. The Aqils are familiar with the rule of law requirements of the formal institutions of Government. To bring their constituencies to dialogue and negotiating positions and to enforce official and negotiated rulings, they rely on respected elders among their lineages. It is a very valuable institution for resolving conflicts at the grass-root level, before they escalates into regional or national level problems. Therefore, there is an urgent need to strengthen the bond between the Aqil and the State institutions. It seems to be now overshadowed by other trendy titled groups like sultans, which tend to address conflicts at a more national approach level.

### **3. The Central Sate level Role:**

Avoid micro-managing local affairs including conflicts. The Central Level should concentrate on strategic issues of institution building and empowerment and the development of policies and strategies, laws and procedures and above all generating adequate resources for development. Ensuring legitimacy of local institutions is important. At present, the Local Governments in Somaliland are now suffering from serious legitimacy deficit. It is a priority issue for the Central Government to address the legitimacy deficit problem by organizing Local Council elections and also to empower both local government and traditional local structures. The Central Government needs to reverse the trend of centralization enforced through the ever-growing powers of the national Ministry of Interior.

**Recommendations:****Addressing Rural Conflicts**

1. Keep conflicts local and empower local state and traditional mechanisms on the ground to address the conflicts before they escalate, spiral and snowball to end up at the President's doorstep. Empower frontline institutions including the Aqil, Tuulo Headmen, district police and courts and upwards to the Governor to address conflict at the local and regional levels.
2. Avoid Central Government micro-management and politicization of local conflicts. Reward local state officials who exercise their responsibilities effectively to keep the peace and to earn the respect of local people in their jurisdiction and who therefore, allow the Central Government to mind its national strategic development and security mandate instead of dragging it into local conflicts.

**Rural Land Ownership Issues**

3. Commission a comprehensive National Environmental Assessment to document and understand the condition of the free common pasture and farm lands, fisheries and the forestry resources. The priority should be to study the state of pasture resources. In the assessment, the clan conflict prone areas and socio-economic fault-lines could be identified. This will lead to the development of a long-term comprehensive environmental and rural development policy and strategy for protection and development.
4. Address clearly the issues of land ownership. Is there a clan ownership of land or only for usufruct purpose? Develop laws and administrative regulations for the acquisition of private deeds in the pastoral territories. Define and map out where is only for grazing for crop-farming and for range, wildlife and state reserve.
5. Establish the plot size and cost of rural land private ownership (enclosures) and make its granting contingent to its benefit to the local community and empower local institutional arrangements to regulate it, which could be institutionalized in the form of Local Range Land Allocation Committees. Delineate roles of overlapping Government institutions in authorizing and licensing land acquisitions for private and commercial purposes.

**Environmental Degradation and Disaster Management:**

6. Decentralize National Drought Preparedness Action. Local Governments have to come up with a regional emergency drought preparedness plan. Recurrent droughts are becoming a predictable feature of the rural lives. If so, why not plan for them? Individual preparedness initiatives are far advanced than State efforts. Individuals households prepared themselves through the harvesting of seasonal rain water through the "berkad", building of their water tankering capacity and enhancing their mobility through trucking of the stocks, to take advantage of distant rainfalls and availability of better feed. The State needs to build on this process, regulate it for better environmental management and advance it to stabilize the drought frequency and to mitigate its impact?
7. Environmental protection components and considerations should be inbuilt into any development activity, whether it is commercial or common, to be undertaken in rural Somaliland (on the coastal and marine resources or in the farming, forestry and pastoral sectors). Any new development project,

whether industrial or otherwise should satisfy an environmental impact code before it is granted a license.

8. There has to be an immediate curtailment of berkad construction. A licensing procedure of berkad construction need to be developed, which is based on a wider consultation of local state institutions and concerned communities and should be tested on a conflict sensitive criteria. Any new berkad should fulfill strict criteria of its impact on the environment, the peace between different users of the area and the socio-economics of the local groups.

9. The Government should bar aid agencies in investing in the berkad construction. The aid agencies, whether local or international, should move towards introduction of other appropriate water technologies including drilling rigs and use of hand-pump.

10. Similarly to mitigate the environmental degradation, cutting trees for shelter construction should be seriously addressed. The different Government levels, the international Aid Agencies, the local NGOs and the private sector can introduce and strengthen use and production of “mud bricks”. There is now out there a rich experience in Africa and in the developing world of cheap ways of producing varieties of mud bricks to save trees.

## Paper Eighteen: New Moves in Democratization and Peace-building in Somaliland: The Opening of the political Parties Registration System and the Widh-Widh Peace Process

### **I. The Significance of the Widhwidh Conference for Peace in the Sool Region**

In their 29th June, 2011 meeting the ISG members discussed: a) the Widhwidh (Sool) conference’s implications for lasting peace and b) the Status of the implementation of the Recommendations of the National Consultative Committee for Political Associations<sup>30</sup>.

There are already two Widhwidh meetings which both kindled hope for peace in the Sool region. They both happened in difficult times and circumstances and therefore show that the genesis of peace and reconciliation in the region is sprouting in the middle of the conflict. It shows that the time for armed conflict is waning and that the peace and dialogue trends are showing their face albeit cautiously. The story goes that the initial moves were started by business people from Widhwidh, a fact which adds value to the process, because it was not cooked for political interests, but was born out of genuine search for solutions to solve problems faced by business persons who provide essential goods to the Sool population. They overcame the pressures of mistrust and the ongoing frenzy of demonization of one or the groups, often common in conflict situations.

The first conference took place in early 2011 and its significance was that the community confronted their traditional leadership to lead the peace process. The second conference was initiated this time

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<sup>30</sup>The meeting was sponsored by the Social Research and Development Institute (SORADI) and was moderated by Dr Mohamed Fadal.

by members of the armed group SSC (Sool, Sanaag and Cayn) who opted for dialogue instead of the gun. This second meeting also started small and informally but gathered momentum as it progressed and grew into a full-fledged Sool conference, attended by eight “Ardaa” (sub-clans), members of the SSC and a strong delegation from the Somaliland Government. Again, it shows that the urgent need for peace is real and is gathering speed. Both events follow President Silaanyo’s continued position for peace and dialogue with the Sool community and his positive conclusion of the Kalshaale case, despite initial blunders.

So, what did the meeting accomplish? First, the fact that it happened in the heart of conflict territory and was led by SSC people shows that the time for peace and dialogue has come. Second, it demonstrates that SSC can grow into a credible partner for peace which can represent Dhulbahante interests on the negotiating table. Thirdly for the Somaliland Government, the perseverance to continue calling for peace is paying off and that there is no alternative but to continue along that route. The onus is always on the Somaliland government and society to apply their now worldwide recognized experience of peace and reconciliation skills and to take the responsibility as the custodians of 1991 Buraao Peace Accord, which is still binding to all the clans who signed the agreement. Fourthly, the meeting helped to put into focus the different forces that influence the Sool issue and their roles in the quest for peace. They include: The SSC, The Traditional Dhulbahante leadership and their “Ardaayo”, the varying shades of the Diaspora including the prominent political leaders of Dhulbahante, the regional states including Somaliland, Puntland, and the TFG and the jihadist trends in the South.

What are the implications of the Widhwhidh conference on the quest for long-term peace and stability for the Sool region? It is a shining example of how in a climate of mistrust and war-mongering mood, courage of certain individuals overcomes the barriers of hate with tremendous sacrifice from their side. It should be further noted that the neighbouring Buuhoodle community has also declared its commitment to embrace the call for peace as the media reported and to hold a grand conference with a powerful preparatory committee composed of all sectors of community already inaction. The ISG hails such local efforts and urges all actors of influence especially the diaspora to support it.

The Widhwhidh process can become a model for the rest of Sool and Dhulbahante communities to a) start talking to their neighbours as happened in Sanaag in the early 1990s and to work towards a more comprehensive process of addressing the peace, development and governance issues; b) The official outcomes of the Conferences can offer solid guide and basis for more wide-based dialogue. There is need to revive trust among neighbouring communities so that they can get on with their lives and disentangle themselves from the mindset of the long gone Somalia civil war.

The Widhwhidh conference also offers lesson to the two states of Somaliland and Puntland to start government level talks to establish peace and stability in the region. Both states are threatened by the creeping extremist influences from the South, which necessitates their cooperation if they want to ward it off. Authorities who continue fuelling conflict among the civilian population should be aware that their actions are not only undermining the recovery of the people from three decades of conflict, but are endangering their longer-term human security and survival in this already marginalized region, something which the international community need to monitor.

### **Recommendations of Widh-whidh Process and by Extension the Sool Issue**

1. The Somaliland Government has to stick to and continue the dialogue path. The Widhwidh process offers an entry point for further opportunities to bring to the dialogue process other Dhulbahante “Ardaayo”, the SSC as a whole, the traditional leadership and other political heavy weights in the diapsora.
2. The international community and the regional states should insist and facilitate dialogue and cooperation between Somaliland and Puntland governments and to sanction against subversion of any peace process
3. For all the actors, who influence the region, the time has come for them to be accountable for their actions and to check whether they are harming or healing the prospects for a lasting solution of the conflict and above all the impact their action have on the security and the livelihood of the civilian population.

## **II. Opening of the Political Space: The Status of the implementation of the Consultative Committee Recommendations**

In spite of the fact that the President has given the Committee a relatively well defined mandate and terms of reference, in the beginning, by the look of its makeup, it seemed to be bound to fail. A committee of twenty persons was already a crowd and looked too cumbersome to be a functional body. Furthermore, the fact that six members of the Committee were representing the existing three political parties, which declared their staunch opposition to any change to the status quo, also raised questions. Therefore, for the skeptics, it was a futile exercise designed to get the President off the hook from his election promise to open political parties and to exonerate himself from any blame. However, the majority of the people in the Committee were from different social strata of the society: From the two Houses of Parliament, the Presidency, intellectuals, universities, religious scholars, traditional leadership, civil society organizations including Human rights, youth and Women and the business community.

The Immediate problems, which the Committee encountered as it tried to start work in the first two weeks pointed to a self-fulfilling prophecy. The Committee had to expel an uncooperative member from UDUB in a unanimous decision, which obviously angered the Party so much so that it withdrew its remaining member and so boycotted the process. In fact this proved to be a blessing in disguise for the Committee, because its work rolled smoothly afterwards and that successful collective decision created a spirit of cohesion and bonding among the Committee members. As the work progressed, the trust among the members to represent the people’s wishes rather than those of any grouping solidified.

The Committee decided not to confine itself in Hargeisa, but to cover all major regions of Somaliland to garner opinion from across the social strata, through the use of organized public debates and written questionnaire. The Committee opted for an unorthodox method of operation i.e.

to travel to each region as one unit, in an effort to avoid the usual disagreements among such committees who split themselves to different geographical areas and later encountered difficulties to reconcile their different experiences. The only leg of the regional trips which the Committee split was between Laas Caanood and Ceerigaabo. In all other areas, such as in Boorame, Gebiley, Berbera and Burco, the Committee sat together in all meetings as one unit.

The most difficult aspect of the Committee's task was how to select the participants of the debates. In Hargeisa, the committee organized itself into groups to identify participants for Committee approval, each group from a designated category of the city population to have their day to debate and express their opinion on the matter. They included the traditional leaders (Sultans and Caaqils separately), the religious scholars, the professionals and intellectuals, the universities (students and teachers), the youth, the women and the business community.

In other regions, the Committee decided to leave the selection of the participants and organization of the meetings to the regional authorities. The Regional Governors and Mayors cooperated with the Committee in an exemplary manner and have done a commendable job in balancing the different shades of the regional groupings and opinions. It demonstrated how these regional authorities are very much in touch with the pulse of their own constituencies. According to the different circumstances of the regions, meetings were organized either as large gatherings in one place as in Berbera, Gabiley and Las Caanood or as separate meetings for the participants of different social strata as in Burco, Boorame and Ceerigaabo. The debates were very lively and objective. The participants were given the opportunity to fill a "Yes or No" vote sheet, and asked to reason their choice and to give any advice. Those who wanted to speak were allowed 2-3 minutes time to further express their opinion. Participants used the opportunity to also express their approval or disapproval of the Government actions and to pass their messages. The Committee was satisfied that the process captured the general opinion trends of the population.

#### **Most significant concerns from each of the "Yes" and "No" sides:**

1. For the "No" side, the 1969 elections syndrome was evident in the debates: the experience of the anarchic proliferation of the political parties in 1969 election is still vivid in the minds of most elderly people and has obviously been passed on to the younger generation. One has to remember that this was the main reason why the Somaliland Guurti elders kept Article 9(2) in the final version of the last Constitutional revision, defying the recommendation of the intellectuals, politicians and even the reigning veteran President Egal himself, when the latter group proposed to remove restrictions on the number of political parties in the Constitution. The same fear from the 1969 experience is still evident in large sections of the Somaliland public. In spite of that fear, participants widely expressed their disapproval with the present political parties system and pointed out its weaknesses which need to be addressed, but still many people argued to give them a chance to reform themselves and build their capacities, before subjecting them to any serious outside competition.

2. For the "Yes" side, the most significant concern that emerged from the across country debates and which also many "no" leaning voices shared with them was: the undemocratic culture of present political parties and the monopolistic character of the leadership positions. It was cited that there has never been any competition for the chairmanship and presidential candidacy of any of the three

political parties. Their Congresses have never been democratic gatherings. The grass-root membership has no role or influence in the parties' policy and decision-making processes and that they are capital-based, top-heavy and diaspora- dependent. Furthermore, instead of overcoming clan divisions in the society, the leadership of current parties perpetuates it and creates a fertile soil for entrenched clan political interests, which are a recipe for social disharmony and conflicts. The conclusion of this voice trend was that the present political parties cannot grow or contribute to the democratic process without being subjected to open competition, which is also their only salvation, if they are to survive as engines of political and democratic development in Somaliland.

### **The Outcome of the of the Committee Work**

The Committee reached its final decision through three key components of the process: a) the debated opinion trends b) the legal opinion of four commissioned lawyers and c) the voting tally of the “yes” and “no” numbers from a national sample of 1769 persons; this last item was considered to be the most important source of the decision.

### **The Key recommendations of the Committee, reached in a unanimous decision were as follows:**

1. To open the registration process of the political associations in the first local council election
2. To be implemented within the next 18 month the next local council election and registration of political associations.
3. To complete the amendments and filling the gaps in the laws and regulations of political parties, associations and the elections in time for next local council election.
4. To build a standing committee to register the political associations and to be responsible for the oversight of the national political parties' practice of internal democracy.
5. To address the flaws of the current registration system.

The President adopted the Committee recommendations and the process has passed fairly fast through the Presidency and was afterwards submitted to the Parliament to address it in its current session. Some of the controversial issues that appeared afterwards are whether to form a separate Standing Committee as the case was in the first trial or to give the mandate to the existing National Electoral Commission. The most important next step is to pass a law through the Parliament. The Law No 14 is being amended. Some of the issues to note will be:

- a. Whether the cycle of the Registration of the new Political Association will be every 5 years or on a longer period.
- b. Whether the conditions for registering new political associations allows fair competition with existing parties. This will include the amount of the mandatory deposit funds and the number supporting voters and from how many regions to submit for registration.
- c. Whether the principle of level playing field is observed: All competitors are equally subject to the criteria and conditions for registration and for qualifying as a party.

- d. Whether the registration body will also be mandated the responsibility for the oversight of three national political parties and whether it will have mandate to sanction violating parties.
- e. Whether this law will cover all requirement of a national Political Parties' Act, or it is confined to the registration of political associations and the local council elections.

### **Lessons to be learnt from the exercise**

1. Committees when formed for specific tasks need to go to the people to garner their opinion, instead of talking among themselves in a closed room and reaching decisions. In the latter case seeking expert opinion could be a more appropriate route for the authorities.
2. The addition of Political Parties in this Committee undermined the credibility of the Committee from the beginning. People argued that it is conflict of interest situation. But in the end all these fears were allayed due especially to behaviour of most political party representatives who took responsible national stands on the issues by accepting and agreeing with the rest of the group to base their decisions on the people's verdict.
3. Committees should use the media to first educate the public on the issue at hand and the clear objective of the particular mission. This committee did not do that from the start and its work has been made more difficult because of that.
4. The influence of partisan group influences on the selection of the debate participants could be said to be more in the capital city than in the regions. The organized interests are more active in the capital city than in the regions.
4. Boycotting a national process is beneficial neither to the boycotting body nor to the public. UDUB had made the cardinal mistake of withdrawing and therefore had forsaken its chance to contribute to the process. It has to be observed that boycotting has not been a culture for Somaliland political parties, even during the difficult times when the Rayale's government employed heavy handed methods.
5. This exercise demonstrated that the Somaliland public in the regions needs to have dialogue with the Government and have public debates to participate and be informed in the national decision making process.
6. The process and its outcome removed a lot of uncertainties in the Somaliland democratization process and created hope for political transparency and dynamism.
7. Clan meetings will increase, but if the law is applied, they cannot translate themselves into increased clan political fragmentation. For political associations to register and for national political parties to emerge, there are adequate criteria and legal provisions which make impossible for clans and sub-clans to have their stand alone national political entities.

### **On The Implementation of Committee Recommendations**

1. The ISG fully supports the recommendation of the Consultative Committee on the Political Associations and commends them for their landmark collective agreement on such difficult issue.

2. The ISG urges the Parliament to pass the necessary laws and to ensure that the amendments of Law No 14 fully address its shortcomings to relieve the nation of any further confusion of the issue.
3. The ISG urges the lawmakers to ensure that the oversight mechanisms of the political parties should include sanctions imposed on any political party which violates its internal democratic regulations and practices. The sanctions may include fines and can also result in revoking the license to operate as a party. Any organization charged with the oversight responsibility should be mandated to apply the sanctions.

## Paper Nineteen: Somaliland-The New Year New Challenges (2012)

### I. Introduction

On the 15<sup>th</sup> January the ISG members met at the SORADI office to discuss the prevailing situation in the country and debate the most significant issues.<sup>31</sup>

### II. Somaliland's current context:

The New Year has ushered in new challenges as well as opportunities for Somaliland. Some of the most significant challenges include the preparation and holding of the overdue Local Council elections, the unpredictable outcome of the Taleex clan conference, renewed concerns about Seemaal and worsening relationship between the independent media and the government. There are also opportunities for more international business investment, improved relations with the Arab countries, the possibilities of donors accepting a country led development process and the establishment of a special Somaliland fund.

Somaliland is not insulated from the events happening in the sub-region (or the wider world for that matter) and its relationship with the neighboring countries can bring both cooperation and hostility which require careful analyses and response. The new scenarios that are emerging out of Somalia continue to pose both diplomatic and security threats to Somaliland. An Al-Shabaab defeat or success can have its risks; the border dispute with Puntland and the insurgency in Sool, Sanag and Cayn (SSC) are two good examples of both internal and external threats. The Taleex Dhulbahante conference, which is an obvious manifestation of the trend for the formation of micro-political-entities in Somali territories, poses a new challenge to Somaliland bid for recognition as well as its internal peace and stability.

### A. The Taleex Dhulbahante Conference:

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<sup>31</sup>The meeting was sponsored by the Social Research and Development Institute (SORADI). It was moderated by Haroon Ahmed Yusuf.

From the Somaliland government's perspective the Taleex Conference is a traditional 'non-political' clan conference just like those regularly held by any clan in their territory. These types of Conferences generally sort out internal clan issues, address their relationship with neighboring clans and agree on a future "socio-political" strategy for the clan. These types of conferences are also generally led by the traditional leaders and are considered as politically benign. The Somaliland government has reportedly accepted the holding of the conference in order to maintain and probably improve relationship between the Government and the people and leadership of the Sool region. One of the long term objectives of the various Somaliland governments has always been to extend governance structures and services that are inclusive and satisfactory to the people of Sool and their legitimate leadership, but that effort has not always been successful due to various reasons that include the division among the Sool region politicians and lack of effective strategy by the Somaliland authorities.

In this sense, some of the people of the region felt marginalized and their grievances ignored. This sentiment is regularly exploited by the local leaders particularly, clan politicians from the Diaspora who often up the stake when there is change of government is in the offing in Mogadishu.

The instability that can result from negative outcomes of the Taleex clan Conference shall primarily affect the security and livelihood of the local people in the area. It shall also escalate the already fragile relationship between Somaliland and Puntland and ultimately destabilize the sub-region. Most of the estimated 350 conference delegates shall return to for their diaspora lives soon after the conclusion of the conference and the local populations from both sides shall suffer the consequences of the eminent escalation of hostilities.

### **Recommendations:**

- The Somaliland government should continue the famous path of peaceful conflict resolution, negotiations and consensus building without compromising on the country's sovereignty. The government should show tolerance, mend fences and open negotiations with any willing and legitimate politicians from Sool region.
- The Somaliland government is responsible for the security and well-being of its people, which includes the people of Sool region. Thus the government should address their grievances and listen to their demands for good governance and the provision of services.
- Somaliland's steady advancement and achievements in the last twenty years has endowed it with the strength and confidence to try new bold ideas and paths for the future, which the country should not shy from.

### **A. Local Council Elections:**

Somaliland is presently in the process and preparation for holding the much delayed local council election which is currently scheduled to take place in April, 2012.

In January, 2012, the Committee for registration of new political parties and Licensing granted temporary Certificates to Fifteen newly established political organizations that fulfilled the initial criteria for registration and shall go through further screening to qualify for contesting the forthcoming Local Council elections. This makes a total of 18 entities, after adding the existing three political parties, but the jury is still out for the final number of political associations and political parties to contest the election after the screening process is complete.

The national electoral commission (NEC) has also held a series of consultations with the political associations and parties, government, the Houses of Parliament, traditional elders and civil society organizations on the challenges of holding the election. One of the main issues identified as a significant challenge is “the technical complications of the open list system”. In other words, the open list system of voting, which was included in the recently amended ‘law 14’ (which guides the local council elections), prompts the construction of a ballot paper with the photos, logo and names of the candidate, who will run into the thousands given the expected number of local seats contestants.

According to NEC, there are questions as to the difficulties the voters will encounter to find and select their preferred candidate in an unduly long list of contestants? How long would it take each voter to select his/her candidate? Is the 12 hour voting day period enough to allow all voters to exercise their right to vote? Would long queues cause conflicts in polling stations? and so many other related concerns.

## **Recommendations**

### **On the Registration and Approval Committee**

1. The Committee for registration of new political parties needs to act more proactively to manage the process of screening and qualifying the credible political associations and to weed out the more speculative and ghost registrants by strictly and transparently applying the provisions of Law No 14. The danger is to wait until the last moment to do final qualifications without prior indications of the performance of different associations.
2. The civil society organizations need to provide support to cooperate with the Committee for Registration and Approving of new political parties.
3. The International partners need to provide capacity building support to the committee and immediately recruit a specialized consultant to support it.

### **On the Media**

There appears to be an increased confrontation between the government and the independent media. The media in Somaliland have enjoyed a relatively free space in which to operate. Freedom of expression is a constitutional right in Somaliland. The arrest of 20 journalists some of them female and the closing of an international renowned television stations was a shocking action that sent vibration across Somaliland. In addition this action was done without legal due process of obtaining a court warrant and hence teeters on the illegality and unconstitutional behaviour from the Government. Therefore, the ISG urges the Government to respect media freedoms and to apply the law when taking action against any alleged wrong doing. Furthermore, the government needs to initiate dialogue with the media and to also revamp and activate the pending media law to have a legal working framework.