

## **CONTENTS**

INTRODUCTION.....	2
INDEPENDENCE.....	3
THE UNION.....	4
POST UNION .....	8
WAR AND CRIME.....	13
RECONCILIATION.....	15
DEMOCRACY AND STATE BUILDING.....	16
RECOGNITION .....	20

## INTRODUCTION

The Republic of Somaliland is located in the Horn of Africa. It has the Gulf of Aden to the North and shares borders with Djibouti in the West, Ethiopia in the South and Somalia in the East. It has an area of 176,119 square Kilometers and a coastal line which stretches up to 800 Km along the Red Sea. In terms of area it would have ranked 37th in Africa, which means there are 18 countries with smaller areas than Somaliland in the continent. It is home to a population of four million. The capital, Hargeisa, is a metropolis with an estimated population of over one million. The national language is Somali but both English and Arabic are widely spoken.

## INDEPENDENCE

Somaliland was officially proclaimed a British protectorate in 1887 after the conclusion of treaties between Great Britain and the various Somaliland clans. Its international boundaries were established by treaties and protocols between Britain, Ethiopia and France. Somaliland was granted its independence on June 26, 1960 by Royal proclamation of her Majesty Queen Elizabeth II. It was the 15th state to gain independence in the African continent. As many as thirty-five (35) states, including the permanent members of the Security Council acknowledged its independence immediately, and the United Kingdom signed several bilateral agreements with Somaliland which were deposited at the United Nations under article 102 of the UN Charter. The new state called the State of Somaliland was a fully-fledged sovereign state under international law.

At independence in 1960, the State of Somaliland Constitution established

a parliamentary system of government for Somaliland with a Government consisting of a Council of 5 ministers headed by a Prime Minister, a legislative assembly of 33 members and an Independent Judiciary. The Prime Minister Mr. Mohamed H I Egal was sworn as Prime Minister of the State of Somaliland on independence. He was not only the head of the Government but also the Commander in Chief of the Somaliland Army.

## THE UNION

At the time of independence there was a strong anti-colonial sentiment sweeping the African continent. Somaliland was no exception. There was a popular drive to unite all the five Somali inhabited territories including Somaliland, Somalia, French Somaliland (Djibouti), Ogaden (Ethiopia), and the Northern Frontier District (NFD) of Kenya. The five pointed white star on the flag symbolized this aspiration. The 1954 Anglo-Ethiopian Agreement in which Britain transferred 25,000 sq miles (64,750 sq km) of ‘Hawd’ grazing land to Ethiopia evoked an outcry in Somaliland and intensified the demand for a union to recover lost territory. Under public pressure, Somaliland and Somalia representatives opened a dialogue on a union between the two territories. The two parties agreed to sign an act of Union after independence. They agreed that the act would be in the nature of an international agreement between two states. Accordingly, the Legislative Assembly of the independent State of Somaliland approved and signed the Union of Somaliland and Somalia Law on 27 June 1960. The Law was immediately effective in Somaliland, but as set out in the recital, it was supposed to be signed by the representatives of Somalia, as well. In fact, this never happened. Instead, the Legislative Assembly of the Somalia Trust Territory met on 30 June 1960 and decided to approve “in principle” an Act of Union (*Atto di Unioni*), which was significantly different from the Act of Union drafted by Somaliland assembly. According to Contini, (*The Somali Republic: An Experiment in Legal Integration*, Frank Cass & Co. Lt 1969: London), the Assembly requested the “*Government of Somalia to establish with the Government of Somaliland a definitive single text of the Act of Union, to be submitted to the National Assembly for approval*”.

But on the morning of 1<sup>st</sup> July 1960, the members of the Somaliland Legislative (33) and those of the Somalia Legislative (90) met in a joint session and the Constitution which was drafted in Somalia was accepted on the basis of an acclamation, with no discussion, and a Provisional President was elected. The newly elected Provisional President issued on the same day a decree aiming to formalize the union, but even that was never converted into Law as presidential decrees always require to be presented to the National Assembly for conversion into Law under Article 63(3) of the new Constitution within five days of their publication, otherwise, they shall cease to have effect from their date of issue. Thus, although the agreement between Somaliland and Somalia was that the same Act of Union would be signed by both states, that did not happen and the legal formalities were not completed properly as agreed. According to Contini,

*“ the Union of Somaliland and Somalia Law did not have any legal validity in the South (Somalia) and the approval “in principle” of the Atto di Unione was not sufficient to make it legally binding in that territory.”*

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

- "a) The Union of Somaliland and Somalia Law, and the Somalia Act of Union were both drafted in the form of bilateral agreements, but neither of them was signed by the representatives of the two territories.*
- b) The Union of Somaliland and Somalia Law purported to derogate in some respects from the Constitution of the Somali Republic.*
- c) The Somalia Act of Union was approved "in principle" but never enacted into law.*
- d) The decree law of July 1, 1960, did not come into effect since it was not converted into law in accordance with the Constitution."*

It was only on 18 January 1961 when a new Act of Union was put to the National Assembly and was promulgated on 31 January 1961. This Law entitled the "**Act of Union**" was made retrospective even though there is a generally accepted principle that laws should not be retroactive. The new Act of Union was different from the one signed by the Somaliland Legislature. The Law of Union passed by the Somaliland Legislature contained some guarantees about the laws applicable in Somaliland, the rights of Somaliland serving officers, which should not become less favorable than was applicable to them at the time of the union, the establishment of a special Commission on laws and its composition etc. These were, in hindsight, the only, rather halfhearted, demands that Somaliland made at the time of the union. But the 1961 retrospective Act was very clear in repealing anything which was inconsistent with the 1960 Somalia Constitution, and specifically repealed "the provisions of the Union of Somaliland and Somalia (Law No.1 of 1960)" except for Article 11(4) which relates to agreements

entered into by the independent State of Somaliland (see Article 9(2) of the 1961 Act of Union).

The above is a clear indication that Somaliland was an independent state with a Government of its own, however short lived. This was again confirmed by Article 11(4) of the 1961 Act of Union, which read:

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

On 20 June 1961 a constitutional referendum was held to vote on the new constitution for the country created the previous year by the union of British Somaliland and Italian Somalia. The constitution was overwhelmingly approved by Somalia voters. But, in Somaliland, the referendum was boycotted by the leading political party, the Somali National League (SNL), as a result only 100,000 votes were casted, and 60% of those voted opposed the provisional constitution.

## **POST UNION**

The displeasure with the union by the people of Somaliland manifested itself not only at the polling stations but also in the form of an attempted military coup by young officers from Somaliland in December 1960. The aim was to restore Somaliland sovereignty. The coup failed and the leading officers were tried in a court in Mogadishu. The proceedings started in 1963. The judge was Mr. Hazelwood from the court of Hargeisa and the prosecutor was an Italian. The trial took two months and the prisoners were acquitted. The judge declared that there was no case for the following reasons:

The officers were never sworn for a country called 'Somali Republic and'

The trial could not be conducted under the constitution of Somali Republic; it should be conducted under the State of Somaliland jurisdiction.

The Union turned out to be problematic. The two countries were different in many ways.

the administrative systems were different

The legal systems were different

The educational systems were different

The working languages (English and Italian) were different

The civil servant culture and ethics were different

The UN created in 1960 the Consultative Commission for integration, an international board headed by Paolo contini, to guide the gradual merger of the two new country's legal systems and institutions and to

reconcile the difference between them. But the differences were not limited to systems. There were big gaps in the people's mindset and expectations, and the people of Somaliland soon became disillusioned. They felt marginalized and reduced to second class citizens. In the first government formed in 1960 by Adan Abdalla Osman, all the key portfolios went to people who hailed from Somalia including:

The President – Mr. Adan Abdallah Osman

The Prime Minister – Mr. Abdirashid Ali Sharmarke

Interior Minister – Abdirizaq H Hussein

Minister of Foreign Affairs - Abdillahi Esse

The speaker of the house of parliament – Haji Bashir Ismail Yousuf

The Chief Justice – Dr. Haji Nuur Mohamed(1962)

The commander of the army – Colonel Daud Abdillahi Hersi

Police commissioner – Mohamed abshir Muse

The capital and the seat of the government - Mogadishu

Cabinet positions – 11 out of 14

The inequalities manifested in many other ways. In the national assembly

Somalia had 90 seats, where Somaliland had only 33 seats. The six districts of Somaliland at independence (Borama, Hargeisa, Bernera, Burao, Erigavo and Las Anood) were reduced to two regions (Hargeisa and Burao), while the six districts of Somalia at independence (Miguirinia, Mudug, Hiran, Banaadir, Alto Jubba, Basso Juba) were all

elevated to regional jurisdictions. Somalilanders were bypassed in a wave of promotions after independence, and Job opportunities became available to only those with the right connections in Mogadishu.

The union was not between equals. The feeling was not mutual. The enthusiasm for Somali nationalism and unity were not shared. Mohamud Abdi Nur, a Somalia politician warned Mr. Mohamed Haji Ibrahim Egal against a hasty Union and the lurking perils. In a letter to Mr. Egal he said:

*'There is no Somali Nationalism felt here in Somalia. My advice to you is to abandon the pursuit of a union with Somalia. If that is difficult, then I would suggest that you claim to occupy the same positions the British are currently holding under the UN Somali Trusteeship, so as to secure a share of the power when the two countries unite. Also, request a quota for the number of MPs you want to have in Parliament. Write down what you expect in terms of sharing power with the leadership in Somalia before you join. Otherwise you will be facing disappointment in the future as the people here do not have the same mind-set and no feeling for Somali brotherhood'*

Unfortunately, Mr. Nur's counsel was not heeded and his prophesy materialized. As a mark of protest against the severing of diplomatic ties with the UK on the question of NFD, Egal resigned from the cabinet in 1963; formed a new political party, the Somali National Congress, and remained the leader of the Parliament in Opposition until 1965.

The situation got worse after the president, Mr. Abdirashid Ali Sharmarke was assassinated on the 15<sup>th</sup> of October 1969 and his government lead by the prime minister, Mr. Mohamed Haji Ibrahim

Egal was overthrown by the Military in a coup de' eta masterminded by General Siyad Bare on 21<sup>st</sup> October 1969.

The military Junta adopted what it called 'scientific socialism'. It suspended the constitution, banned political parties, dissolved the parliament, disbanded the Supreme Court, curtailed all political freedoms and nationalized the financial institutions, almost all industries and trade. This affected everybody, but particularly the people of Somaliland who were traditionally entrepreneurs who depended on the private sector for their livelihoods. The economic marginalization of the northern regions (Somaliland) also extended to the distribution of development aid. It is estimated that the North received less than 7% of nationally disbursed development assistance by late 1970s. At least 93% of all development projects and scholarships were distributed to the South.

The regime passed legislation giving the state wide powers of detention and execution to a number of paramilitaries, militias and security agencies including the national Security Services (NSS), the Military Police (Hangash), and the Victory Pioneers (Guul wadayaal). High security prisons such as 'Laanta Buuran' and 'labaatan Jirow' where political dissidents were incarcerated were built with the help of communist East Germany. One of the inmates was Mr. Mohamed Haji Ibrahim Egal who symbolized Somaliland. He was kept in jail for 6 years from 1969 to October 1975, and was rearrested a year later in 1976 to serve another 6 years.

In 1977 the regime declared war on Ethiopia in an attempt to conquer Ogaden, the Somali inhabited region of Ethiopia. After initial successes, the Soviet Union which was the mainstay of the Somali national army

switched sides, by abandoning the regime and supporting Ethiopia along with Cuba. As a result the Somali army was defeated in 1978. This lead to three major developments:

#### Massive economic crises

One million Somali refugees fleeing Ethiopia, of which about 400,000 were settled in 11 camps in the North Western regions (Somaliland)

#### Discontent among the army

The Barre regime became increasingly paranoid, oppressive and violent. The execution of 82 high level military officers executed for their opposition to the way the war was handled prompted an attempted Coup de eta in April 1978. The reaction was a major crackdown on individuals and communities perceived to be hostile to the government. The refugees in the camps were armed to support the army against the local community which welcomed them to their homes not long ago. The people could not take it any longer and started to resist.

## WAR AND CRIME

In response to the targeted harsh policies enacted by Siad Barre against the people of Somaliland, a group of social and political activists established the Somali National Movement (SNM) in April 12 1981 in London. By 1982, The SNM, transformed into a liberation front which engaged the Somali National Army in hit and run operations. The government took revenge on the people for the SNM activities. According to 1990 Africa Watch report,

*'Both the urban population and the nomads living in the country side have been subjected to summary killings, arbitrary arrest, detention in squalid conditions, torture, rape, crippling constraints on freedom of movement and expression and a pattern of psychological intimidations.'*

On May 27, 1988, the SNM launched a surprise attack on Burao, followed by another attack on Hargeisa on May 31. The operation was successful against all odds and the movement managed to hold onto parts of the two cities for days. The government responded with a massacre of the civilian population. The number of civilian deaths in the ensued carnage is estimated between 50,000- 100,000. The government attacks included the leveling and complete destruction of Hargeisa through a campaign of aerial bombardment. This has lead to more than 400,000 people fleeing their homes and crossing borders to seek sanctuary in refugee camps in Ethiopia. Another 400, 000 became internally displaced. The infamous letter, '**the Final Solution**', written by General Mohamed Saed Hirsi, the commander of the 26<sup>th</sup> regiment in the 'North' (Somaliland) to Siyad Bare, on January 17, 1978 revealed the intention of the regime to eliminate the majority community in Somaliland.

In 2001, the United Nations commissioned an investigation on past human rights violations in Somalia, specifically to find out if "crimes of international jurisdiction (i.e. war crimes, crimes against humanity or genocide) had been perpetrated during the country's civil war". The investigation was commissioned jointly by the United Nations Co-ordination Unit (UNCU) and the Office of the United Nations High Commissioner for Human Rights. The investigation concluded with a report confirming the crime of genocide to have taken place against the Isaacs (the majority community) in Somalia.

## **RECONCILIATION**

After the liberation of the country and the collapse of the regime in Mogadishu, the people of Somaliland embarked on a series reconciliation conferences including:

February 1991 Berbera conference

April-May 1991 Burao conference

October 1992 Sheikh conference

Jan-May 1993 Borama conference

September 1996 Beer conference

October 1996- February 1997 Hargeisa conference

These meetings were attended by representatives of a broad spectrum of the community including traditional leaders, religious leaders, SNM leadership, politicians, intellectuals, businessmen, and members from the Diaspora community. The main purpose was to make peace, resolve conflict, reconcile differences, build confidence, demobilize militias, and transit from SNM based governance structure to a broader community/clan based system. These conferences laid the foundation for the new Somaliland state.

## **DEMOCRACY AND STATE BUILDING**

Collective decision-making is part of the tradition of Somaliland. The SNM, the precursor to the Somaliland government, was an inclusive democratic institution that changed leadership democratically five times in a span of 10 years. That tradition was carried on by the successive governments that ensued.

**On May 28, 1991**, Abdirahman Ahmed Ali Tuur was elected the first president of Somaliland by delegates and was sworn in as president on June 7, 1991.

**On May 5, 1993**, Mohammad Ibrahim Egal was elected president of Somaliland at Borama conference and was inaugurated as president on May 16, 1993. The National Charter, the precursor of the Somaliland constitution, was adopted.

**On February 23, 1997**, President Mohammad Ibrahim Egal was re-elected by the National Communities Conference (meeting as an electoral college), and an interim constitution was approved.

**On 31 May 2001**, the present Somaliland constitution was put to a referendum. 97.9% of electorate voted for the new constitution referendum endorsed by international observers as free and fair.

**On May 3, 2002**, President Egal died in Pretoria, South Africa, and Vice-President Dahir Riyale Kahin was sworn in as president of Somaliland on May 4, 2002

**On December 15, 2002** the first Local elections were held

**On April 14, 2003**, President Dahir Riyale Kahin of the *United Peoples' Democratic Party (Ururka Dimuqraadiga Ummadda Bahawday – UDUB)* was re-elected

**On September 29, 2005**, the first Legislative elections were held. The election was declared free and fair by a South African-led non-governmental mission consisting of 76 observers from 12 countries.

**On June 26, 2010**, Ahmed Mahamoud Silanyo of Kulmiye party was elected president and was inaugurated as president on July 27, 2010. This was the second presidential election by popular vote. The election was declared free and fair by more than 70 international observers.

**On November 28, 2012**, the second Local elections were held. 50 international election observers from 17 countries monitored the local elections which were declared free and fair

**On November 13, 2017**, the third presidential election was held. Muse Behi Abdi of Kulmiye part was elected and was inaugurated on December 13, 2017. 60 observers from 27 countries declared that they have witnessed a poll that preserved the integrity of the electoral process.

## **8. Statehood**

Somaliland fulfils all the requirements of a Statehood according to 1933 Montevideo Convention. It has:

**A permanent population**, estimated at 4 million.

A **defined Territory** with a total area of 176,200 Sq Km. demarcated by international borders established by protocols and treaties. Specifically, by:

The Anglo-French treaty of 1888

The Anglo-Italian protocol of 1894

The Anglo Ethiopian treaty of 1897

**The capacity to enter into relations** with Sovereign states, international corporations, agencies and organizations. It has already signed multiple MOUs, agreements, leases and concessions with countries and companies.

**A government in control of its territory.** The government exercises its authority over the country through regional and district administrative structures. It collects taxes and provides security and social services. Government revenues over the fiscal year exceed \$300 million.

Somaliland has a democratically elected president, a democratically elected parliament and democratically elected local councilors. It has its own:

Constitution

Flag

Passport

Central bank

Money

Army and

Courts

It has representatives in more than 20 countries, and there are growing numbers of foreign consulates and representative offices in operation in Somaliland.

## RECOGNITION

Somaliland is not a new state. It is an old state. It was a British protectorate for 73 years, gained its sovereignty from Britain 58 years ago, and it has been a fully functioning state for the past 27 years. The state of Somaliland is not an aspiration; it is a reality and enjoys a de facto recognition. It abides by international laws and protocol norms. It takes very seriously its duties and responsibilities as a member of the international community.

Before it joined Somalia, Somaliland was an independent sovereign state. The union though faulty was a voluntary union between two independent states. The union did not work. It brought death and destruction and ended in tears. The people of Somaliland demonstrated their unhappiness with the Union right from the start. They voted down the union constitution devised by Somalia in 1961; a coup de eta was attempted by young Somaliland officers in the same year; and a ten-year liberation war was fought from 1981 to 1991. The war was costly. Somaliland lost 50,000-100,000 citizens in the hands of the Somali national army, which carried out a scorch earth military campaign with the expressed intention to exterminate communities. Yet, no one has been convicted for the crimes against humanity committed.

The people of Somaliland decided at the Grand Conference in Burao in 1991 to leave the union and reclaim their independence. That was neither the first time nor the last time African states entered into a union to be dissolved later.

In 1958, Syria and Egypt created a political union, the United Arab Republic (AR), which was subsequently dissolved in 1961

In June 1960, French Sudan and Senegal united as Mali and separated in August 1960

In 1980, Senegal and Gambia formed Sengambia and then parted their ways in 1989

In 1950 The UN federated Eritrea with Ethiopia but the two countries separated following a UN monitored referendum in 1993

In 2011 South Sudan seceded from Sudan after a peace deal in 2005

Since 1991, 27 countries gained recognition as sovereign states and joined the UN as full members. Most of them were former members of the Soviet Union; others were part of states and colonies. In terms of International law, Somaliland has a stronger case to qualify for UN membership than many of the new members. This was corroborated by statements made by many independent actors and experts. A statement issued in 2005 by the Department of Foreign Affairs of South Africa said:

*'It is undeniable that Somaliland does indeed qualify for statehood, and it is incumbent upon the international community to recognize it.'*

The AU sent a fact-finding mission to Somaliland in 2005. The mission report stated:

*'The Union established in 1960 brought enormous injustice and suffering to the people of the region. The fact that the 'union between Somalia and Somaliland was not ratified, and also malfunctioned when it went into action from 1960 to 1990, makes Somaliland's search for recognition, historically unique and self-justified in African political history. Objectively viewed, the case should not be linked to the notion of 'opening a Pandora Box'. As such the AU should find a special method of dealing with this outstanding case.'*

The findings of the AU mission were echoed in a 2006 report by the International Crises Group which said:

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

The above testimony shows clearly that Somaliland has a historic, political, legal and humanitarian case and right to be recognized. The recognition of Somaliland is in the best interest of the region and the global community and the best grantor of peace, stability, democracy and prosperity in a very strategic but turbulent region.