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## Federalism: A Suitable Governance System for Contemporary Somalia

### About PDRCTalks

On October 30, 1999, the center was founded as an independent, nonpartisan, non-profit research institute dedicated to peace building, promotion of democracy and respect for human rights. PDRC is now celebrating its 20th anniversary in which the center has accumulated 20 years experience in research development, policy advising and educating / awareness raising.

PDRC has provided a platform for the government and opposition political figures to resolve disagreements leading up to multiple, peaceful, transitions of power. The center has also conducted mediation dialogues between elders of feuding sub-clans conducting, time and again proving its commitment to the restoration of peace, stability, and progress on numerous forefronts.

Puntland Development and Research Center (PDRC) has recently initiated a monthly event called PDRCTalks. This event is a new initiative to spread ideas, messages, and awareness on issues related to the betterment of Somalia. These issues cover topics ranging from governance, democratization, peace and development which are the key focus areas of PDRC.

As such, PDRCTalks organises useful dialogue by Somali intellectuals including Somali women, politicians, and business people, to discuss current and trending topics that face the country. The aim of PDRCTalks is to spark conversation within the Somali community and through this useful dialogue, change the attitudes and lives of Somalis. Social media is utilized to spread the messages throughout Somali communities living in the diaspora and within the country, through live streams. PDRCTalks has been received well and has featured prominent figures in Somali society to bring to the fore a multi-faceted number of topics in politics, economics, social issues as well as cultural themes.

PDRCTalks is a value added to PDRC's vision as a solutions oriented organization that prides itself in offering useful tools to bring about peaceful coexistence and economic development by all Somalis.

### Key Policy Messages

I. After a short period of civilian rule followed by a 21 years of an autocratic military rule and the ensuing of the state collapse, in January 1991, Federalism has been opted for as the best system that suits the country as well as a viable solution for Somalia's prolonged civil strife, and to bring resolution to create trust and harmony among Somalis.

II. There is much confusion and lack of clear understanding by Somali politicians and the general public with regard to federalism as such, a problem that has caused havoc between the Federal Government of Somalia (FGS) and Federal Member States (FMS).

III. There is a growing disagreement between the Federal Government and Federal Member States on the Federalism framework, where Federal Member States believe that both the current President and the Prime Minister are continuously and deliberately defying to honour the principles of Federalism that are enshrined into Somalia's provisional constitution.

IV. There is widespread perception that the FGS is intensively engaged in undermining the structures, the social harmony and

the administrative set-ups of the FMS, rather than supporting them in overcoming the persistent political, social and economic hardships that they are enduring. The FGS is totally ignoring the fact that Somalia is in the making and shall be so accustomed.

V. There is absence of an orchestrated commitment to the adopted Federal System of Governance in Somalia by the Federal Government of Somalia (FGS) and Federal Member States (FMS), there is no way to ensure Somalia's road to recovery, the establishment of peace and economic development.

VI. In order to ensure a meaningful political stability, and the transitioning from clan-based selection of the legislature, and prior to holding of political elections, the constitutional review process must be inclusive, transparent and adopted through a well-arranged popular referendum across the whole country.

VII. The currently reviewed National Constitution shall definitely stipulate the power and resources sharing principles, which will be harmonized with the adopted constitutions of the FMS.

### Background

Federalism is not a newborn phenomenon in the Somali governance context. Post-independence Somalia tried to adopt different versions of governance systems; Federalism was among the proposed modalities advocated by pro-Italian South-West politicians. However, the country embraced British model of parliamentary system leading up to the 21st October military coup in 1969. The federalism doctrine slowly faded in backdrop of a strong Scientifically Socialist State. This centralist model concentrated power into the center and leaves the peripheral regions less protected and least developed.

In the lead up to the resumption of the Third Republic in Embagati Kenya in 2004, the foundations were laid in the principle of a strong federal system and devolution of power. The country has embraced a federal system not because it is inherently the better system of governance, but it was seen as a viable solution to restore trust and peace.

Federalism will distribute power and resources among member states, contrary to the unitary system where power and resources are concentrated into the center and in the hands of few.



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The key promoters of Federalism are Puntland, Jubbaland, Southwest and to a difference status the Somaliland. Their rationale is embedded in historical grievances based on violations of human rights, marginalization of peripheries and the abuses in civic rights. The fact that state became a "One City State" and the concentration of power resources into the capital has resulted in the revolt of the 80's and 90's. Moreover, there is a belief that after the civil war these regions have organized their citizens and turned the region into a "successful" administration with relative peace and working institutions that have parliaments, executive, judiciary, police, revenue collection systems, and district level local administrations.

Other proponents of federalism are Somali academic circles and practitioners of peace building such as Civil Society Organizations and Think Tanks. Their arguments are based on the presupposition that a divided society such as the Somali with diverse clan backgrounds, grievances and unsettled scores, with separatist or secessionist tendencies due to the civil wars; diffusion of powers through decentralization, devolution or federation is the solution.

The Somali people have been making efforts to reinstate their statehood and a series of reconciliation conferences held inside and outside the country to restore hope.

In 2004, the Transitional Federal Government (TFG) was formed in Nairobi-Kenya, which initiated the first Somali Federal Government ever. In 2012, the TFG adopted a provisional federal constitution, which turned the Federal Government of Somalia to a federal status and thus an internationally recognized Federal Government of Somalia (FGS) was born.

Since it was adopted, Federalism as a system of governance has been the core complex discourse that has raised debates and arguments within the Somali society. There is a lack of clear understanding and consensus about the concept of federalism in Somalia and how it will apply in the country and transit from the unfair 4.5-clan system of resource and power sharing. The state building process has been hard to achieve due to mistrust, weak government institutions and a society that is still healing from the wounds of the civil war.

## Three Stages of the Somali State

The Somali state is a product of colonization; two of its stages are directly inherited from the colonial powers.

### 1. The Civilian State (1960 – 1969)

Independence movements spread throughout Africa in the 20th Century. On June 26, 1960, British Somaliland became independent and the UN trusteeship over Italian Somaliland ended five days later. The amalgamation of these two regions formed the Republic of Somalia on July 1, 1960. For the majority of the population, allegiance was still based on clan-ship. "Nationalist leaders saw only too clearly how clan differences and self-interest had in the past facilitated the partition of their people by foreign powers". For these reasons, 'pan-Somalism' became the preferred and stressed form of nationalism. Nationalism politics were also designed to disregard tribalism and eclipse the role of traditional elders.

Adan Abdullah Osman, president of the Legislative Assembly, was elected President of the newly born Republic of Somalia. President Adan Abdullah appointed Abdirashid Ali Sharmarke as prime minister on July 12, 1960.

Legislative elections followed on March 30, 1964, and the Somali Youth League (SYL) won 69 out of 123 seats in the National Assembly. The Socialist National Congress (SNC) won 22 seats in the National Assembly.

Elected in 1967 by the National Assembly, President Sharmarke and his prime minister Mohamed Haji Ibrahim Egal focused on uniting the divided Somalis. Since many Somalis remained in Ethiopia, Djibouti and Kenya, President Sharmarke promoted national integration and the idea of Greater Somalia. He used the Somali five-point star flag as a symbol of unity between the Republic of Somalia, Somaliland, Djibouti, Ogaden and the Northern Frontier Districts (NFD).

The civilian governments worked well in the early years, but marred by corruption, nepotism, misrule and tribalism, which have resulted in a lack of progress in the country.

.Disappointment over the civilian government's performance led to the assassination of president Sharmake. In a bloodless coup d'état on 21 October 1969, President Mohmaed Siad Barre's reign to power ushered in a new government. The country's fall into military hands led to a one party system and a strong central government that held a grip on power.

## 2.The Military State (1969 – 1990)

Siad Barre and his Somali Revolutionary Socialist Party (SRSP) took power via a coup in 1969, due mainly to corruption and instability caused by the patronage networks. Through a strong alliance with the Soviet Union, Barre declared a one-party state and pushed for a pan-Somali movement. Barre's rule was marred by oppression and tyranny, although in his tenure the country made progressive social programs, which brought about tremendous change. However the speedy progress declined in the late 1970s. Due to the cruel acts of the tyrannical regime, the country's unity has been disintegrating, political conditions deteriorated and clan loyalties came to the fore. Rebel groups emerged and the country was mired in political waves and instability that led to the fall of Barre's 21-year regime.

## 3. New Paradigm: The Pre-federal States

After the fall of the unitary state, changes started to shape within the country with a paradigm shift. First after the atrocities of the bloody clan based civil war, Somaliland declares secession in May 1992 while Puntland was established as a cornerstone for a future federal republic of Somalia, in 1998. Mogadishu however was still integrated to the concept of the unitary state, but the prevailing mistrust in the Somali political elites and within Somali people at large was a driver towards decentralization. The centralized system has resulted in a lack of political participation and belongingness from people outside the capital. The periphery regions lacked development programs while consistently prioritizing the development of Mogadishu and equitable sharing and distribution of resources was highly needed as a profound demand for greater local autonomy and efforts to maintain centralized government.

## Main Challenges

Federalism has been decided upon as the viable solution for Somalia as a conflict resolution that will bring trust and harmony among Somalis. Federalism in Somalia faces many challenges; some of them have been mentioned during the Garowe FGS and FMS leadership meeting hosted by the newly elected Puntland state President, Said Abdullahi Deni in May 2019. In the following paragraphs, some of these challenges will be analysed and deepened.

### 1.Constitution

The following are articles that still pose problems between Federal Government of Somalia and Federal Member States.

#### Art 53: International Negotiations

1. In the spirit of inter-governmental cooperation the Federal Government shall consult the Federal Member States on negotiations relating to foreign aid, trade, treaties, or other major issues related to international agreements.
2. Where negotiations particularly affect Federal Member States interests, the negotiating delegation of the Federal Government shall be supplemented by representatives of the Federal Member States governments.
3. In conducting negotiations, the Federal Government shall regard itself as the guardian of the interests of the Federal Member States, and must act accordingly.

Art. 53 poses a threat to Somali unity as FGS claims full authority in International Negotiations and FMS believe they are not consulted with during negotiations, nor are their representatives were invited at the table as stated in paragraph 1 and 2.

In this regard, member states asked the federal government to recall two laws submitted to Parliament that were: National Electoral Law and revised Petroleum Law. It is argued that there are outstanding issues that needed clarification within the National Electoral Law, while Petroleum Law is believed to be unilateral. Both these actions are in contradiction of article 53 of the constitution and the norms of the federal structures.

FMS on the other hand are accused of entering into negotiations of international agreements at the absence and approval of FGS. This has led to the spilling of the Gulf crisis in Somalia since member states and the federal government have different agendas and alliances with Gulf countries.

Art 54. Allocation of Powers

The allocation of powers and resources shall be negotiated and agreed upon by the Federal Government and the Federal Member States (pending the formation of Federal Member States), except in matters concerning: (A) Foreign Affairs; (B) National Defence; (C) Citizenship and Immigration; (D) Monetary Policy, which shall be within the powers and responsibilities of the federal government.

Article 54 of the draft Somali Constitution grants the federal government power in matters related to foreign affairs, national defence, citizenship and immigration, and monetary policy. Arguments that the constitution envisions a form of cooperative federalism where power and institutional balance is harmonized between FGS and FMS have been heard. Member states believe that FGS should work on consensus building and should avoid appropriating powers that are not within the mentioned four.

The FGS's unilateral decisions and lack of consultation with the states undermines the spirit of cooperation that is built within cooperative federalism. Federal - State consultations are believed to prevent return of unitary and tyranny.

Resource sharing is another potential area of conflict between FGS and FMS if not addressed properly. Indeed, federal states as well as local constituents should receive their share of national resources.

Art. 142. Existing Federal Member States in Somalia

1. Until such time that all the Federal Member States of Somalia are established and the adopted Federal Member State Constitutions are harmonized with the Somali Federal Constitution, the Federal Member States existing prior to the provisional adoption of this Provisional Constitution by a National Constituent Assembly shall retain and exercise powers endowed by their own State Constitution.
2. Existing Federal Member States must be consulted in the decision-making process regarding the federal system, and the security arrangements.

In regards to article 142 of the Federal Constitution and article 4 of Puntland Constitution, until an agreement on the constitution is reached, member states that existed prior to the provisional constitution can use and exercise the powers stated in their State Constitution.

As Puntland existed prior to the Provisional Constitutional, many of the frowned upon decisions they take as a region is justified within these two articles. Puntland has made clear that it's appetite for participation and success of the federal project is contingent on the respect for existing political realities in its territory, especially in the face of challenges from competing interpretations of the provisional constitution and state formation.

## 2.Elections

The 2020 Elections has been on politicians, citizens and diaspora minds as the country was promised one-man one-vote. It is a way out of the 4.5 system of despotism and corruption, which member states have welcomed. Issues regarding the elections come in the form of the model of the election as well as the allocation of powers.

The FGS wants to install a model of proportional close-list nation-wide constituency; this means that members of parliaments would not represent their district or region, as member states want. A member of parliament without a constituency goes against the federal concept.

For the allocations of powers, FGS is arguing for the 4.5 system to stay, with each political party having a balance of power within the party. In a way, FGS is endorsing a legislated 4.5 system.

In conclusion, it is argued that FGS is pushing for a centralised system without seeming they are against federalism.

### 3. Interference

The current crisis between FGS and member states was heightened since the Garowe meeting that ended on a bitter note. Indeed the FGS and member states failed to agree on key issues.

Federal member states argued continuous interference from FGS on internal politics; unseating administrations and putting in place favourable ones, was unconstitutional. Furthermore it has become clear that there is a lack of political will from the federal government, in fact it has been argued that President Farmajo's government is trying to reinstall a unitary system that could favour the rise of an authoritarian rule. By putting in power administrations that favour them in the different regions, Farmajo and Kheire's administration can easily proceed with the destruction of federal structures.

Member states such as Hirshabelle, Galmudug and Jubbaland shed light on many acts from the FGS' interference. The interference is done through money empowerment, intimidation and an intense social media campaign.

Puntland, Galmudug and Jubbaland accused the government of lacking the will to address these issues that have been dragging for the past 2 years. These many accusations have been addressed during the Garowe meeting and have facilitated the rise of unfriendly and hostile relations. The leaders failed to find common ground of negotiations and the rift seems to be growing bigger.

### 4. Lack of Public Awareness

The general Somali population have little or none of knowledge in regards to federalism; moreover the Somali people are not sure of the system of governance that should be adopted. Some favour centralized unitary system, especially in Mogadishu, while Puntland adamantly advocates for federalism. Both ideologies lack the capacity and ability to advance their divergent agendas.

There has been lack of awareness program on federalism, how it works in Somalia as well as roles and responsibilities of member states and the federal government. There is also the raised issue of decentralization within national states which has not been implemented and which also lacks public awareness and education of the process. All in all, this has led to a lack of citizen's ownership of the process.

In short, there is a need for a civic education campaigns to raise awareness among Somalis on the issues pertaining to federalism and to the constitution. Not only should the politicians from different member states be aware of the constitutional review, the public should also gain understanding after the constitution is approved to know their rights and responsibilities as citizens.

### Conclusion

Federalism in the Somali context is a new system, which is contested, and a complex but still stands as a powerful system of governance that solves political challenges and helps separate powers in every level of government. This system is more flexible than the centralized system of governance and is considered to be effective in reducing conflicts by paying attention to the interests of the citizens across the country, their shared history and diversities. Federalism in Somalia is ought to bring about national policies that serve the collective interest, however, no doubt that the system faces many challenges.

Somalia adopted the federal system in order to end conflict and disputes between clans and to mollify the political and social interests of different regions. As previously mentioned, federalism was a result of both domestic drivers and external drivers. As such, the general public opinion towards federalism is divided into two major perceptions: those who view this system as incompatible and divisive of the Somali society and those who think that it is key to Somali problems and the prolonged civil strife.

It has become clear that federalism in Somalia needs intensive awareness education programs, strong political will among the key actors, FGS and the FMSs, as well as decentralization of power even within member states. If the complexity and confusion surrounding this system is dealt with, not only will Somalia succeed, but it would also become a role model for many African countries.

As federalism processes is evolving in Somalia and steadily gaining momentum, on the other hand those who view it as incompatible system for the horn of Africa's war torn state and its society, are shrinking in numbers. Federalism is adopted in Ethiopia and is working well and yet remains the only system that can offer a quick fix of ethnic tensions and promote recovery and social thriving. It is also a rebirth of a prosperous Somali nation. The ongoing federalization process in Somalia has been met with numerous obstacles over the last five years, including significant delays in implementation, disagreements and tensions between regions and states, and acute public skepticism.

What is needed is a more balanced approach that seeks to reconcile the underlying anxieties and to respond to the interests and needs of the Somali people as a whole. The fact that the majority of the Somalis are nomadic and the federalism was a generally unknown system that has actually complicated the process even further. Nevertheless, the process has achieved some significant successes, including the eventual peaceful merger of all of the regions in the country into federal member states, the establishment of the upper house of the bicameral parliament and, thanks to extensive training and capacity building, the increasing understanding of politicians and bureaucrats of the fundamentals of a federal system has become evidential.

## Recommendations

The following recommendations are derived from the key guest speaker Faysal Roble's notes and speech as well as from the members of the panel discussion and the participant's questions and comments:

- Somalia is a Federal State (art. 3 §3 and art. 48). Federalism corresponds to the diversity of the Somali society. The Constitution creates a two-tier system of government (1) Federal and (2) Member States. The mixed up of federal and state power relations should clearly be defined, separated and practiced as prescribed by the constitution.

- Article 54 contains the competences that are to be exclusively exercised by the Federal Government: (1) Foreign Affairs (2) National Defence (3) Citizenship (4) Immigration (5) Monetary Policy. The Federal government should solely remain within the four powers and responsibilities delegated in article 54.

- The Federal Government of Somalia and Federal Member States need to collaborate and develop a clear understanding of the adopted federal system currently in place

- There should be strong working relations and the inclusion of member states in all matters that concerns their legitimate state rights stipulated under the federal constitution

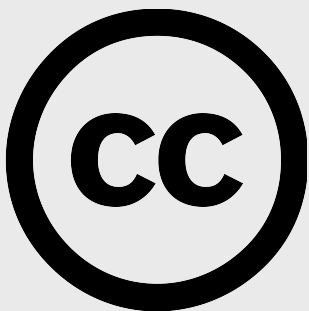
- Power relations, resource sharing between FGS and FMSs should be discussed and clearly specified within the constitution.

- Federalism is not possible without the application of the democratic system of governance; Somalia should move away from the rudimentary and unfair clan based system of politico and administrative transitions.

- Emerging federal member states should correspond to the constitutionally specified criteria of state establishment, which is to be more than two and half states to form a federal member state.

- Federal government of Somalia should fully embrace federalism as the countries constitutionally agreed upon system of governance and not jeopardize it by concentrating power into the capital.

- As prescribed in the federal constitution article 86 power functions shall be decentralized and performed by the local organs of the State and by public bodies.
- Member states shall disperse services to bring the power, decisions and services closer into the hands of the people.
- The federal government and member states shall improve civic education and awareness in order to give citizens a clear understand of the system.
- Constitutional review must be completed, put into public referendum, and officially adopted within a specified timeframe as the country's official constitution.



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