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Understanding the Secession of Somaliland

History of the Formation and Failure of the Somali State (1960-1991)**

فهم انفصال صوماليلاند تاريخ تشكّل الدولة الصومالية وإخفاؤها (1991-1960)

Abstract: This article examines the secession of Somaliland by exploring its historical, political, and legal foundations. It argues that secession was an inevitable result of the structural, political, and cultural context of the emergence and unification of the post-independence Somali state. The historical perspective helps explain not only the secession of Somaliland, but also how Somalia became a textbook example of a failed nation-state. The article starts with a general background on the modern social history of the Somali peninsula and analyses key moments, starting from the history of the formation of the modern state in British Protectorate Somaliland and Italian Somaliland until the establishment of Somalia as a unified nation-state. The article also discusses the motives of and obstacles to Somaliland's separation from Somalia in 1991 and evaluates the stances of the international community toward this secession.

Keywords: Nation State; Post-independence; Somalia; Somaliland.

ملخص: تسعى هذه الدراسة إلى فهم انفصال صوماليلاند، وتقرأ خلفياته ودوافعه التاريخية والسياسية والقانونية، وتطرح فرضية رئيسية هي أن الانفصال نتيجة موضوعية للعوامل البنوية والسياسية والثقافية التي أحاطت بنشأة الدولة الصومالية وتوحيدها في فترة ما بعد الاستقلال. وتحتاج بأن المنظور التاريخي يوفر فهماً أفضل ليس في حالة انفصال صوماليلاند فحسب، بل أيضاً لاستيعاب الجذور العميقة لتحوّل الصومال إلى حالة أنموذجية لفشل الدولة الوطنية القطرية. وتنطلق من خلفية عامة حول التشكّل السوسيوثقافي الحديث لشبه الجزيرة الصومالية. وتحدّد نطاق اشتغالها الزمني والمكاني على أربع مراحل أساسية، تبدأ من تاريخ تكوّن الدولة الحديثة في إقليميّ صوماليلاند البريطاني والصومال الإيطالي، وصولاً إلى قيام الدولة الصومالية القطرية بصيغتها القومية الموحّدة، ومن ثمّ تمرّ إلى تفسير مبررات انفصال صوماليلاند وخلفياته عن باقي الصومال في عام 1991، وتختتم بتقييم مقاربات المجتمع الدولي منه ومواقفها.

كلمات مفتاحية: الدولة الوطنية؛ ما بعد الاستقلال؛ الصومال؛ صوماليلاند.

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Introduction

Somaliland represents a unique case of secession with several historical peculiarities. It is distinct from other entities with separatist claims in Africa, not only as a unilaterally declared republic that has proved able to survive and build a relatively stable and democratic state, but also because its claim to sovereignty is centred on a narrative that it is a territory with a colonial political history different from the rest of Somalia. Conversely, the post-independence Somali Republic aimed at building a nation-state that represents all Somalis in the Horn of Africa. The two regions were unified after Somaliland's independence from the United Kingdom on 26 June 1960, and Italian Somaliland's independence from Italy on 1 July 1960.

After gaining independence, African states largely adopted the borders carved out by colonial administrations as the political borders of their own national territories. Somalia represents one of two exceptions to this pattern (the other being Morocco) that contested regional borders upon the establishment of its national state. It refused to sign treaties preserving colonial borders, especially agreements demarcating its borders with Kenya and Ethiopia, given that the British colonists had "gifted" historically Somali lands to the neighbouring countries.

This study explores the historical and political background of Somaliland's secession by tracing its historical and political formation in the early colonial period, the rise of the separatist movement, unity and the struggle for independence, and the establishment of the Somali nation-state. It also examines the colonial experience of the 1940s, which laid the foundations of the modern state in both Italian and British Somaliland. The paper argues that colonialism, especially British, did not change social, political, and economic structures, but rather adapted to and engaged with clan-based society in order to serve its political interests. It also contends that the subsequent secession of Somaliland was an inevitable outcome of the failure to build a Somali nation-state and create durable national unity, in addition to the human rights violations committed by the military against the northerners. The study concludes with a critical assessment of the political and legal justifications for the secession process.

Colonization and the Formation of the Modern State in the Horn of Africa (1884-1960)

The Horn of Africa took shape as a political entity in the first quarter of the 19th century, when Britain, France, Ethiopia, and Italy each claimed sections of the peninsula during the Berlin Conference of 1884. The three European empires scrambled to legitimize their colonies by signing agreements with the numerous Somali clans and sultanates, while the Ethiopian empire (known by the exonym Abyssinia) expanded eastwards into Somali territory.

Each colonial power had its own motivations: Britain and France sought to secure the Suez Canal by controlling the supply routes in the Horn of Africa, while Italy wanted to establish a colony in the mould of British Kenya so it could join the proverbial club of powerful colonizers.¹ The British established their protectorate in the north under the name of British Somaliland in 1887,² pursuing an administration based on indirect rule by signing treaties with local clans.³ The first agreement was made with the Sultanate of Warsangali, ruled by Mohamoud Ali Shire in 1888. The British colony of India initially assumed governance in the protectorate until 1898, after which the Foreign Office took over, eventually succeeded by the Colonial Office in 1905.⁴

¹ Robert Hess, *Italian Colonialism in Somalia* (Chicago: University of Chicago Press, 1967), pp. 15-23.

² Hugh Chisholm (ed.), "A Dictionary of Arts, Sciences, Literature and General Information," *The Encyclopedia Britannica*, vol. 25 (1911), p. 383.

³ British Orientalist, Ioan Myrddin Lewis argues that the northern Somali clans felt the threat of being devoured by Ethiopia, and thus accepted British protection. Through signing a series of treaties in the 1880s, colonialism granted the northern chiefs political powers and began to pay them salaries. See: I. M. Lewis, *A Modern History of Somalia: Nation and State in the Horn of Africa* (Boulder: Westview Press, 1988), pp. 85-88.

⁴ Abdurahman Abdullahi Baadiyo, *Making Sense of Somali History*, vol. 2 (London: Adonis & Abbey Publishers Ltd, 2018), p. 90.

Years after the establishment of the protectorate, Britain ceded most of the territory, especially the Hawd areas, to the Ethiopian Empire in an attempt to court the Emperor Menelik II (1844-1913),⁵ who was at the peak of his political and military might after his victory at the Battle of Adwa (1896).⁶ Britain retained only the coastline, a hundred kilometres inland, which it considered sufficient to protect the meat supply to Aden. With the exception of the coastal city of Berbera, most areas of the protectorate were left without colonial administration and British forces were reduced to a minimum.⁷ Thus, it is fair to say that Britain did not actually rule most of Somaliland except for the coastal cities, and that colonialism did little to transform the precolonial political structures in a way that influenced the building of state's foundations, as Andreas Wimmer notes.⁸ Instead, the British strengthened the authority of clan leaders through whom they could manage society and declined to build the elements of a central government, such as a public infrastructure, nor did they establish a modern political authority until the 1940s. Britain also took control of land on the peripheries of the Somali Peninsula, which was later called the Northern Frontier Province and fell within the British colony of Kenya.⁹

Meanwhile, Italy sought to control southern Somalia by concluding agreements with southern sultanates and tribal leaders through trading companies.¹⁰ The first of these agreements was signed in Banaadir in 1888, under the nominal sovereignty of the Sultan of Zanzibar, Barghash bin Saeed, followed by the Sultanate of Hobyo led by Yusuf Ali Kenadid (1890-1911) in the same year. A similar agreement was concluded with Sultan Osman Mahmoud in the Majeerteen Sultanate in 1889 but Italy dissolved these trusteeship agreements unilaterally in 1925, and on 5 April 1908, the Italian parliament passed legislation to unite all of southern Somalia as "Somalia Italiana", which Governor Maria De Vecchi turned into a full-fledged Italian colony in 1927.¹¹

Italy successfully established a colony in southern Somalia for Italian settlers and worked to introduce modern agricultural methods to raise productivity as well as providing services to the settlers that they did not make available for Somalis.¹² The colonial governor in Mogadishu appointed provincial leaders from the Italian population, with a council of tribal elders to advise the colonial governor. As a result, their rule was more centralized and direct than British rule in Somaliland.¹³ Meanwhile, France controlled the territory of what is now known as Djibouti by signing treaties with the sultans of Issa and Afar, declaring it a French colony under the governorship of Leonce Lagarde, who played a prominent role in expanding the area of French influence in the Horn of Africa. This colony was known as French Somaliland from 1896 until 3 July 1967, when the French administration renamed it the French Territory of the Afars and the Issas,¹⁴ before the country eventually gained independence as Djibouti in 1977. Notably, the goal of French colonialism was to build coal facilities for French ships in the Red Sea and the Indian Ocean.¹⁵

⁵ Ibid., pp. 90-91.

⁶ Adwa was the decisive battle in the First Italo-Ethiopian War, where the Ethiopians defeated the invading Italian forces on 1 March 1896, curbing Italy's campaign to expand its empire in the Horn of Africa. See: Raymond Jonas, *The Battle of Adwa: African Victory in the Age of Empire* (Cambridge, MA: Harvard University Press, 2015).

⁷ Britain claimed that its primary goal in colonizing Somaliland was to supply meat to the British India colonial stations in Aden, and it was in fact called "Aden's Butcher's Shop". See: Ahmed Ismail Samatar, *Socialist Somalia: Rhetoric and Reality* (London: Zed Books, 1988), p. 16. Similarly, Britain's objectives included "protecting the slave trade and repelling the influence of foreign powers". See: Abdi Ismail Samatar, *The State and Rural Transformation in Northern Somalia, 1884-1986* (Madison: University of Wisconsin Press, 1989), p. 43.

⁸ Andreas Wimmer, *Nation Building: Why Some Countries Come Together While Others Fall Apart* (Princeton: Princeton University Press, 2018), pp. 100-113.

⁹ Baadiyo, p. 97.

¹⁰ Ibid., pp. 99-100.

¹¹ Ibid., p. 101.

¹² Ibid., p. 99.

¹³ It is important to note that Italian colonial rule in the south had far greater political and social impact than the British did in Somaliland; in the south a vast urban class of Western-educated colonial bureaucrats, the so-called comprador bourgeoisie, arose. But the colonial administration remained focused on an export industry dominated by Italian settlers and did little to establish state institutions.

¹⁴ Baadiyo, p. 103.

¹⁵ Ibid.

Finally, Emperor Menelik II, who expanded the borders of his Abyssinian empire tenfold, seized much of the Somali territory and the western Somali region (known as Ogaden according to the colonial administration) in 1897. Not content with the way Somali lands were fragmented, Britain signed an agreement to annex the western Somali region to the State of Ethiopia that same year, but it was temporarily subject to British administration again in 1947, before Britain once again returned it to Ethiopia in 1948 against Somali wishes. The territory remains part of the Federal Republic of Ethiopia to this day.¹⁶

In the aftermath of World War II, the colonial map of Somalia changed because of two main factors. The first was legislation from Westminster establishing the British Commonwealth (1931) as a political and economic framework for the British colonies.¹⁷ The second factor was the defeat of the fascist Mussolini regime in East Africa early in World War II. The British military administration took over all of the Somali territory by 1941 and adopted a more centralized and direct policy of governance. It moved the seat of its colonial government in Somaliland from Berbera to Hargeisa as an expression of its desire to rule the entire region, rather than being confined to the coastal cities, and set up programs to develop the protectorate's economy.¹⁸ Political reform and economic modernization, hence, became a new focus for British policy in Somaliland.¹⁹ The colonial administration also began to establish modern political institutions, creating an advisory council in 1946, then municipal councils (1950-1954), the Legislative Council (1957), and the Executive Council (1959).

The Establishment of the Modern State in Somaliland

Towards the end of the 1940s, the colonial administration changed its style of indirect governance to building new institutions that reproduced the tribal system under the pretext of balancing the representation of clans within these state institutions. This interference in the clan structure directly affected the formation of the post-colonial Somali state: clan relations became the most prominent determinant of the political process in the post-independence state, and political parties began to compete based on these relations for access to power and state resources.

The colonial blueprint for state-building in Somaliland began in 1946 with the establishment of an advisory council, composed of major merchants and civil servants on the one hand and elders and clan chiefs on the other. On the surface, these councils seemed to represent both the traditional (clans) and modern (merchant class) elements of society. These representatives, in turn, chose the members of the local municipal councils in the cities of Somaliland (Berbera, Hargeisa, then in Burao, Ergabo, Burma and Lasaanod, respectively). These municipal councils were also based on clan ties, and to some extent they were successful in the cities but failed in the rural areas after the expansion of the roles of clan elders in the first colonial government was met with fierce resistance.

Two major determinants played a fundamental role in the formation of the state in Somaliland, and in the Somali region more generally: the emergence of Somali nationalism, and the call for Somalia's unification under one state.

¹⁶ The Somali region of Ethiopia, or Region 5, according to the state's administrative division, has been under Ethiopian sovereignty since the middle of the 20th century. Its population is about 8 million, all of whom are ethnically Somali, and share close cultural ties with Somalis in Somaliland, Djibouti, and Somalia. They speak Somali as their mother tongue.

¹⁷ Richard Ogden, "The Commonwealth Prime Ministers' Conference," *International Journal*, vol. 19, no. 4 (Autumn 1964), pp. 545-550.

¹⁸ Lewis, *A Modern History of Somalia*, p. 133.

¹⁹ Lewis states that the number of Somali civil servants rose significantly after World War II thanks to economic programs introduced by the British colonial administration as part of its "Welfare Scheme". See: *Ibid.*, p. 70; Abdi Samatar points out that the rise of livestock exports brought Somaliland into the global capitalist system, as the economy of the protectorate was linked to the Protectorate of Aden. Thus, economic inequality became more prominent in society, which led to the emergence of a petty bourgeois class among the merchants, associated with the colonial economy. See: Samatar, *The State and Rural Transformation*, pp. 81-82.

1. Emergence of Somali Nationalism

Somali nationalist discourse was produced by the political parties, civil organizations, and youth unions that emerged alongside British and Italian colonization. The first Somalilander political organization, the Somali Islamic Society, was founded in the early 1920s in Aden with the help of Somalis living in Yemen, seeking to promote a discussion on "the issues of the Somali community in Aden and the issue of British rule in Somaliland".²⁰ In 1935, another organization was founded, the Somali National Assembly, which in 1951 transformed into a political party called the Somali National League (SNL). In Italian Somaliland, thirteen young men founded a youth organization called the Somali Youth Club (SYC) in 1943, which turned into a nationalist political party in 1974 called the Somali Youth League. Later, these two parties (SNL and SYL) led the movement to unify the regions of British and Italian Somaliland, with the SYL becoming the ruling party in the independent Somali Republic.

The first parliamentary elections were held in Somaliland in February 1960, with several political parties running, including the SNL, the United National Front (NUF), and the United Somali Party (USP). The SNL won the elections with a two-thirds majority²¹ on a nationalist manifesto and the party embraced the idea of Somali unity. However, during these elections, a clear contradiction between the nationalist discourse and the political practice of these parties emerged during the electoral campaign. Although all the parties participating in the elections were calling for the unification of the Somali lands in one state, clan ties remained the only significant difference between candidates, demonstrating that those parties were merely a continuation of the old clan social structure and networks.

2. The Idea of Somali Unity

At the end of World War II, all the regions of Somalia fell under British rule with the exception of Djibouti, which remained a French colony. To assuage Somali discontent with the colonial fragmentation of their historical lands, British Foreign Secretary Ernest Bevin (1881-1951) proposed the idea of unification — or the concept of Greater Somaliland.²² The other major powers (France, the Soviet Union, and the United States) rejected the British plan, which they believed would undermine their interests in the Somali Peninsula,²³ and the Ethiopian Emperor Haile Selassie strongly protested against that unity.²⁴ Responding to international pushback, Bevin addressed the British House of Commons in June 1946, saying:

At about the time we occupied our part, the Ethiopians occupied an inland area which is the grazing ground for nearly half the nomads of British Somaliland for six months of the year.

²⁰ Marleen Renders, *Consider Somaliland State-Building with Traditional Leaders and Institutions* (Boston: Leiden, 2012), pp. 35-36.

²¹ SNL won 20 of the 33 seats, while USP won 12 and NUF just one. Thus, Muhammad Haji Ibrahim Egal headed the first elected legislative council as prime minister of a cabinet made up of: Jarad Ali Jarad Jameh (Member), Haji Ibrahim Nour (Member), Ahmed Haj Dawali (Ahmed Qais) (Member), and Haji Youssef Iman (Member).

²² With regard to Somali unification, Britain organized a meeting for the SYC in the presence of representatives from all Somali clans to convince them of the idea. British policy changed after Bevin's announcement in the British House of Commons that Britain was prepared to fulfil the Somalis' desire for Somali unity and independence within the framework of the British Commonwealth of Nations if the Somali people agreed to that. By negotiating with the party's central committee, Bevin linked Somalia to the British Commonwealth. The British administration in southern Somalia distributed official leaflets inviting all Somalis from the colonial administration, police, and army to join the SYL and offered those who became members of the party the privileges of high-level posts and access to jobs in general. Meanwhile, two prominent Somaliland protectorate politicians, Michael Mariano and Adam Aweys, were transferred to Mogadishu to represent Somaliland in the party ranks. The party's constitution provided for the unification of the five Somali regions under one state. Eventually, a major conference was organized in Mogadishu, with Sultan Abdillahi Deria of Hargeisa presiding. However, southern politicians refused to move forward under the British administration, preferring to be placed under the tutelage of the United Nations. Thus, the UN Security Council took control of Somalia from Italy and set a deadline of ten years to give it independence.

²³ Gordon Waterfield, "Trouble in the Horn of Africa? The British Somali Case", *International Affairs* (Royal Institute of International Affairs), vol. 32, no. 1 (January 1956), pp. 52-55

²⁴ The King of Ethiopia, Haile Selassie, had stated his right to include the Somalis in his kingdom. See the memoirs of Ambassador Ahmed Qibi: Adan Ahmed Mohamed, *Danjire Qaybe Iyo Caalamka*, Duale Bobe Abdirahman (ed.) (Hargeisa: Sagaljet, 2013), pp. 44-50; See also the report of Haile Selassie's visit to the United States in 1954. A few years later, Ethiopia illegally took control of Eritrea in 1961; see: Theodore M. Vestal, "Emperor Haile Selassie's First State Visit to The United States in 1954," *International Journal of Ethiopian Studies*, vol. 1, no. 1 (Summer/ Fall 2003), pp. 133-152.

Similarly, the nomads of Italian Somaliland must cross the existing frontiers in search of grass. In all innocence, therefore, we proposed that British Somaliland, Italian Somaliland, and the adjacent part of Ethiopia, if Ethiopia agreed, should be lumped together as a trust territory, so that the nomads should lead their frugal existence with the least possible hindrance and there might be a real chance of a decent economic life, as understood in that territory.²⁵

During the 1950s, the call for a unified Somali state became widespread for three reasons: 1) Somaliland's SNL and southern Somalia's SYL carried out intense political campaigns calling for Somali unity;²⁶ 2) Bevin proposed to grant Somalia independence immediately if they accepted remaining under British tutelage; and 3) Given Britain's prior annexation of the Hawd Reserve, located within the borders of the British Somaliland Protectorate, to Ethiopia in 1942, as well as the western Somali region in 1948, there was a prevailing fear that the Ethiopian empire would seize Somali territory region by region if they did not unite as one country.²⁷

On 6 April 1960, the Somaliland Legislative Council held a meeting in Hargeisa chaired by the British Governor, Sir Douglas Hall, to discuss two items: the independence of Somaliland, and its union with Italian Somaliland. The majority of the council members expressed their enthusiasm for the union with Italian Somaliland, which was under the tutelage of the United Nations, while other members, such as Garad Ali Garad Jama and Somaliland Prime Minister Mohamed Haji Ibrahim Egal, suggested that Somalis obtain independence first and wait to unite with Italian Somaliland.²⁸

On 16 April, a government delegation from Somaliland departed for Mogadishu, the seat of the Italian Somaliland government. The delegation included three members: Mohamed Haji Ibrahim Egal, Garad Ali Garad Jama, and Haji Ibrahim Nur, accompanied by Lieutenant Abdullahi Adam "Congo" in his capacity as an advisor to Egal. With the government of Abdullahi Issa Mohamud (the final government of the 1956-1960 trusteeship period in Italian Somaliland), the delegation discussed the idea of unity between the two regions. The Mohamud government proposed to the Somaliland delegation that the country remain independent for a while,²⁹ describing the idea of unity as "hasty" and "premature".³⁰ However, the Somaliland delegation decided to establish an unconditional and unrestricted union.³¹ Ultimately, during this conference, the decision was made to merge Somaliland and Italian Somaliland into one country on 1 July 1960, with its capital in Mogadishu.

Egal left on 2 May 1960 to attend a constitutional conference in London, also attended by Hall. This meeting set the date for Somaliland's independence as 26 June 1960, with the British reiterating their support for the unification of the two Somali regions.³² The SNL's electoral campaigns were based on promises of that union, in line with popular opinion at the time.

On 26 June 1960, the protectorate of Somaliland gained independence and Hall, as the last British governor of the protectorate, formally handed power over to Osman Ahmed Hassan, the first local governor. In its first session, the governing council of Somaliland voted by an overwhelming majority in favour

²⁵ "Motion made, and Question proposed", *Foreign Affairs*, 4 June 1946, accessed on 7/3/2023, at: <http://bit.ly/3yfwvVq>

²⁶ Historical sources suggest that the British encouraged the latter to subvert the Italian presence in the south.

²⁷ *Ibid.*

²⁸ Eugene Cotran, "Legal Problems Arising out of the Formation of the Somali Republic," *The International and Comparative Law Quarterly*, vol. 12, no. 3 (July 1963), p. 1010.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² As Lewis points out, the British encouraged the idea of Somali nationalism because India's independence in 1947 had greatly reduced the strategic importance of the British presence in Aden and, hence, of British control of the Somaliland coast. As a result, the British government announced that it would not oppose unification with Italian Somaliland, should it be desired by the Somali nationalists. See: Lewis, *A Modern History of Somalia*, p. 152.

of the union with Italian Somaliland, which gained independence four days later, on 1 July 1960. Thus emerged the Somali state, composed of two different colonial regions and intending to annex the remaining regions. In addition, the flag of Somali independence raised in Hargeisa centred a white five-pointed star symbolizing the five regions of Somalia.

The Birth and Death of the Somali Republic (1960-1969)

The nationalist political elites achieved the dream of establishing a nation-state consisting of both British and Italian Somaliland following independence as part of a vision for a Greater Somalia that included the five Somali regions. However, this dream soon collided with the contradictions inherent in the African regional context, where colonial borders had become sacrosanct. Two of the regions that Somalia sought to annex were located within the borders of neighbouring countries. The nationalist political elite found themselves faced with the problem of building a nation-state based on democratic citizenship in a society divided by clans, as well as the technical and legal challenges resulting from the unification of two governing administrations with different colonial backgrounds. It took three years to fully merge the administrative, legal, judicial, police, and military institutions of the two systems and to unify the language of state institutions.³³ These challenges were exacerbated by a lack of basic infrastructure; there was no telephone line between the north and the south, and no regular air services besides police aircraft.³⁴

As a result of these challenges, the independent state was unable to build a stable establishment, as clan divisions and border conflicts with neighbours remained an existential threat, persisting throughout the period of unity between the two regions. The crisis in the emergence of the Somali state, the procedural complexities, and the legal and political problems that accompanied the process of unification between the north and the south planted the seeds of failure for the project to establish a unified Somali Republic.

How did the national elites fail to create an imagined Somali national identity that transcends clan affiliations and the traditional social structure, instead allowing Somalia to be governed by loyalties and rivalries that triggered conflicts between clans? These conflicts would be exacerbated when Siad Barre's regime seized power through a military coup, with the unity of the two regions collapsing as a bloody conflict raged in the early 1990s.

1. The Shaky Foundations of the Unified State

Throughout the process of establishing the Somali Republic, the political clan remained a dominant feature of the partisan elites, even as they regurgitated the slogans of Somali nationalist rhetoric. Abdalla Mansur calls the political clan "the cancer of the Somali state"³⁵ – a practice that, as mentioned earlier, has its roots in the British colonial rule when the British attempted to apply a strategy of equitable representation of clans in government, public positions, and services in Somaliland. They failed to achieve any such balance, however, when some clans obtained more important positions in administration, especially in the post-colonial state, indicating a structural defect in the organization and understanding of modern political action, as well as the very idea of the modern state itself.

The legal, cultural, and political problems faced by the independent state can be summarized as follows:

³³ The Somali language had no official script until 1972, and the post-independence bureaucracy has been compared to the "Tower of Babel", whereby English, Italian, and Arabic were all haphazardly employed as official languages. See: Hussein M. Adam, "Formation and Recognition of New States: Somaliland in Contrast to Eritrea", *Review of African Political Economy*, vol. 21, no. 59 (March 1994), p. 21.

³⁴ Lewis, *A Modern History of Somalia*, p. 171.

³⁵ Abdalla Omar Mansur et al., "Country to a Nation, The Cancer of Somali State", in: Ali Jimale (ed.), *The Invention of Somalia* (Lawrenceville, NJ: The Red Sea Press, 1995), pp. 107, 116.

a. Legal and Constitutional Challenges

• The Problem of the Union of Somaliland and Somalia Law

At the Mogadishu conference on 16 April 1960, the representatives of the Somaliland protectorate government and the regional government of Italian Somaliland reached a decision to unite the two regions on 1 July 1960.³⁶ A clause was added to the constitution stating that "the existing President or Vice President of the Legislative Assembly of Somalia shall preside over the National Assembly of the Somali Republic for the purpose of taking the oaths of allegiance in accordance with subsection (1) hereof and for the purpose of electing the first President of the National Assembly only."³⁷ The Somaliland Legislative Assembly approved the "Union of Somaliland and Somalia" draft law unilaterally, a day after it gained independence.³⁸ It consists of 27 clauses and stipulates in Article 1 (a) that "[t]he State of Somaliland and the State of Somalia do hereby unite and shall forever remain united in a new, independent, democratic, unitary republic the name whereof shall [sic] the SOMALI REPUBLIC".

On 30 June 1960, the Constituent Assembly of Italian Somaliland approved another bill, called "The Somalia Act of Union", consisting of three articles. Thus, the two legislative assemblies approved two different documents. At midnight on 30 June 1960, the Speaker of Italian Somaliland's National Assembly, Aden Abdulle, declared the independence of his country in his capacity as the interim president. On the same night, the constitution was promulgated by presidential decree to take effect immediately.

In the first joint session of the unified legislative assemblies in Somaliland and Somalia, Aden Abdulle was elected interim president of the Republic on 5 July 1960, after standing uncontested, with 107 out of 130 votes available from the unified assemblies. However, it is worth noting that in this session no official unification law was signed, contravening the stipulations of the constitution.³⁹

The existence of two different laws of unification was legally problematic for multiple reasons. First, the Somaliland-Somalia union law was drafted in the form of bilateral agreements, but neither was signed by the representatives of both regions. Second, "The Somalia Act of Union" promulgated by the Italian Somaliland Government was approved "in principle" but never ratified by any legislature – whether unilaterally by its legislative assembly or by the joint legislative assembly – and remained a presidential decree, signed on 1 June by the Interim President of the Republic. Because it was never turned into law according to Article 63 of the Constitution,⁴⁰ it never officially entered into force.

In an attempt to overcome this legal dilemma, the Joint Legislative Assembly, seven months after the date of union, repealed the "Union Law of Somaliland and Somalia" and issued in its place another law, the "Act of Union", dated 31 January 1961. It was adopted retroactively, starting from 1 July 1960,⁴¹ but some jurists objected to this step, citing the principle of "non-retroactivity of the law".⁴²

• The Unified Constitution

On 21 June 1960, the Constituent Assembly established following unification adopted a constitution that entered into force on 1 July 1960 as the official constitution of the Somali Republic. Article 3 (1) of the constitution stipulated that it had to be submitted to a popular referendum within one year. A referendum was

³⁶ Cotran, p. 9; I.M. Lewis, "The Somali Republic: An Experiment in Legal Integration", *Africa: Journal of the International African Institute*, vol. 32, no. 3 (July 1962), pp. 219-238.

³⁷ "Supplement No. 2: The Union of Somaliland and Somalia Law", *The Somaliland Gazette*, vol. 1, no. 3 (Hargeisa: 5 July 1960).

³⁸ Ibid.

³⁹ Cotran, pp. 10-11.

⁴⁰ Ibid., pp. 12-14.

⁴¹ Proponents of Somaliland's secession use this argument as evidence of the fundamental illegitimacy of the union. This is examined in the third section of the study.

⁴² Cotran, p. 12.

held on 20 June 1961, yielding an overwhelming majority in favour of the constitution, despite campaigns launched by political parties in the north to boycott the referendum on the pretext that they did not have the opportunity to participate in its preparation and discussion, which was ultimately limited to southerners.⁴³ Remarkably, it was the SNL that led these calls for a boycott.⁴⁴

b. Cultural Challenges and the Crisis of Nation-Building

In preserving the sources of its traditional frameworks, the Somali Republic faced a major cultural and intellectual challenge. The nationalist Somali political elites had failed to establish a modern nation based on citizenship and loyalty to a centralized political authority. Nationalist discourse had taken a gamble on language, religion, and ethnicity to build a modern nation-state. But these are pre-societal elements of mechanical solidarity as opposed to the organic solidarity necessary in the context of building a nation-state, revealing the limitations of Somali national discourse. The same party elites who adopted a nationalist ideology failed to bring about the cultural and intellectual transformations necessary for members of society to make decisions based on the legal individual. In their failure to realize this, the national elites leant on a utopian, populist discourse that was totally divorced from the political reality, inadvertently providing a space for sub-identities to compete over control of state institutions, translating into a political clientelism dominated by the demand to keep the clan base content.

Nation building as a direct source of loyalty and as a foundation for the individual is not a matter of will in the context of the so-called third world. Rather, as Burhan Ghalioun explains, nationalism is a historical issue: the embodiment of a historical social process created by culture, economy, and politics combined. The people of Europe witnessed this process as a historical fact.⁴⁵ In his thesis, Benedict Anderson explains that the origins of national consciousness in Europe emerged with the advent of the printing press that spread in the period from 1500-1550, during which about twenty million books were printed, which put an end to the exclusivity of scriptural languages such as Latin. Capitalist entrepreneurs searched for new markets in the masses who spoke local vernaculars, which helped nurture a national awareness among locals by deliberately publishing literature and poetry in their dialects. This soon led to an alliance between Protestantism and print capitalism, under the influence of the tide of religious reform, resulting in the decline of the Church and the emergence of the first important non-monarchical European states in what is now the Netherlands.⁴⁶

Anderson also argues that what he calls the "last wave" nationalisms that emerged in Asia and Africa after WWII represented a reaction to global imperialism, forming an ideology that combined popular and official nationalism because of the abnormal problem of states created by colonialism after drawing arbitrary borders based on the interests of the colonizer, not on the social and ethnic structure of the local population, which has also been dubbed "colonial nationalism".⁴⁷ Considering how nationalism emerged through colonialism in Somalia, it becomes clear how much this case resembles other British colonies in India and elsewhere. Anderson aptly discusses the "notorious" 'Minute on Education' by British politician Thomas Macauley, who argues that, in India, introducing a "thoroughly English education system [...] would create 'a class of persons Indian in blood and colour, but English in tastes, in opinions, in morals and

⁴³ Paolo Contini, *The Somali Republic: An Experiment in Legal Integration* (London: Cass Library of African Law, 1969), p. 9.

⁴⁴ There were campaigns in some southern cities against the constitution. The Party for Defence of Democracy launched a boycott campaign in Beledweyne.

⁴⁵ Burhan Ghalioun, *The Sectarian System: From State to Tribe* (Doha and Beirut: Arab Center for Research and Policy Studies, 2017), p. 164.

⁴⁶ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, rev. ed. (London: Verso, 2016), pp. 37-40.

⁴⁷ Robert Aldrich, "Colonial Nationalism and Decolonisation," in: Robert Aldrich, *Greater France: A History of French Overseas Expansion*, European Studies Series (London: Palgrave, 1996).

in intellect'.⁴⁸ Anderson further quotes Macauley's observations that Indian magistrates were spending their formative years in England, returning to their country with the "social conventions and ethical standards" of the English, becoming social and moral pariahs in their societies, "as much [strangers] in [their] own native land as the European residents in the country."⁴⁹

It can thus be said the idea of Somali nationalism was a somewhat violent reaction to colonialism and its fragmentation of Somali historical land. However, the failure emerged in the culture of the national political elites in the independent state, unable to establish modern and inclusive national frameworks and instead reliant on clan politics in a way that perpetuated social division. This was embodied in the clan rivalry over control of state institutions and portfolios in the post-independence period and the formation of a unified state. The rivalries were inflamed when the southerners took control of the most prominent government roles and the northerners felt that they were living as second-class citizens compared to the southern clans. These sentiments were reflected in the rise of songs and poetry criticizing the unification process. The lyrics of one of those songs, "Let Me Remind You", published in 1964 and written by the poet and songwriter Ali Sugule (Cali Sugulle, 1936-2016) allude to the political and economic advantages the north would have enjoyed had it not joined with southern Somalia.⁵⁰

c. Political Challenges

Upon the establishment of the unified Somali Republic, a political challenge emerged in the shape of power-sharing arrangements between the north and the south in the new state. The south retained the country's capital of Mogadishu and two-thirds of the seats in parliament, with both the President and Prime Minister hailing from the south, thus maintaining a monopoly on the positions of authority. The administrative language remained Italian, while the new administrative capital was 2,000 miles away from Somaliland. Thus employment opportunities in public government sectors for citizens from those regions were virtually non-existent, especially in the absence of a road network linking the north and south. Consequently, Somaliland became a marginalized region within the Republic.

This problem only got worse as the prevailing political culture continued to barter with government positions. Despite a pluralistic party system, political parties did not compete in elections on the merits of ideological, political, or economic manifestos, but rather over their respective ability to appease their voter base through clientelism and bribery in the form of privileges such as government jobs and public services.

In an expression of the political challenges to continued unity, two events with serious implications occurred before the Somali Republic had completed its second year. The first was a coup attempt by officers from Somaliland on 1 December 1961. Disputes began to erupt between northern officers, graduates of the British Sandhurst College, and the Italian-trained officers in Mogadishu.⁵¹ Adam notes that:

Led by the popular Hassan Keid, northern officers felt corporate interests, personal ambition and regional grudges ignited following the precipitate union. This abortive military coup had unmistakable secessionist objectives; however, the people, not yet ready for a radical break with Mogadishu, opposed it and it failed. Paradoxically, the absence of a legally valid Act of Union assisted their defence at their trial. The judge listened to different arguments but decided to acquit them on the basis that, in the absence of an Act of Union, the court had no jurisdiction over Somaliland.⁵²

⁴⁸ Anderson, p. 91

⁴⁹ Ibid., pp. 92-93.

⁵⁰ Adam, p. 26.

⁵¹ Ibid., p. 25.

⁵² Ibid, p. 26.

This event revealed the fragility of unity between the two regions, not only socially and politically, but also from a legal perspective.⁵³

The second major event was the northern ministers' mass resignation from the national government in October 1962.⁵⁴ Egal, who had been Prime Minister of Somaliland prior to the union, resigned and, along with southern politician Sheikh Ali Jiumale, formed the Somali National Congress (SNC), a new opposition party. The first post-independence elections were held in 1964, but Egal's attempts to defeat the ruling party, the SYL, were frustrated by its nationalist discourse and its unequal resources. Thus, in the aftermath of the elections, he joined the SYL and supported former Prime Minister Abdirashid Ali Shermarke in his successful 1967 presidential campaign against the incumbent Aden Abdullah Osman. Egal consequently secured himself the position of prime minister, becoming the first northern politician to do so – two years before a military coup that killed the president and saw Egal himself imprisoned for ten years.⁵⁵

2. Military Junta Rule (Somali Democratic Republic 1969-1991)

On 15 October 1969, Abdirashid Ali Shermarke was assassinated by a police officer while visiting drought-stricken areas in the north-east of the country. While the National Assembly met on the evening of 20 October to choose a transitional president, Defence Minister and Commander of the Somali National Army, General Mohamed Siad Barre, was setting in motion a military coup that would unfold in the early hours of the next morning. The constitutional institutions were subsequently dissolved, the prime minister and other politicians imprisoned, and the country renamed the Somali Democratic Republic.⁵⁶

With society firmly in the grip of the military junta, northern grievances with the union would eventually intensify. But in its early years, the junta succeeded in attracting a measure of support from northerners, due in part to its progressive "scientific socialist"⁵⁷ ideology, but also to its revival of the greater Somali dream laid to rest by the civilian government in 1967. However, Barre's ambitions were also extinguished when a Soviet-backed Ethiopia inflicted a devastating defeat upon Somalia in the Ogaden War (1977-1978), and the regime's popularity and economy began to crumble. Around 250,000 refugees, mostly from the Ogaden tribes living in the Somali region of Ethiopia, were resettled in the north, largely among the northern Isaac clans.⁵⁸

Somalia's defeat annihilated Somali nationalism, an ideology that the Barre regime had relied upon as a populist discourse to refute clan rivalries and had exploited as a populist demagogic veil for the prevailing inequality. As Azmi Bishara indicates in his foreword to the Arabic translation of *Imagined Communities*,⁵⁹ this practice is considered both the secret of the appeal of nationalism and of its danger. Bishara thus distinguishes between nationalism and nationalist ideology; the modern individual, in his opinion, can be nationalist in affiliation while critical towards nationalism as an ideology, which is not an option under a non-democratic regime, such as Barre's. In a similar context, Bishara points out that nationalist systems are capable of competing with religious forces at the level of identity, as is reflected in Siad Barre's bitter struggles with the Islamist discourse that he worked to suppress.⁶⁰

⁵³ Cotran, p. 11.

⁵⁴ Abdi Ismail Samatar, *Africa's First Democrats: Somalia's Aden A. Osman and Abdirazak H. Hussen* (Bloomington: Indiana University Press, 2016), p. 62.

⁵⁵ Adam, pp. 27-28.

⁵⁶ Ibid.

⁵⁷ Rossella Marangio, *The Somali Crisis: Failed State and International Interventions* (Roma: IAI, 2012), p. 1215.

⁵⁸ I. M. Lewis, "The Ogaden and the Fragility of Somali Segmentary Nationalism," *African Affairs*, vol. 88, no. 353 (1989), p. 573.

⁵⁹ Benedict Anderson, *al-Jamā'āt al-Mutakhayyala: Tāmmulāt fī Aṣl al-Qawmiyya wa-Intishārihā*, Thaer Deeb (trans.), Azmi Bishara (intro.) (Doha and Beirut: Arab Center for Research and Policy Studies, 2014), p. 23.

⁶⁰ Ibid.

Indicating the extent to which populist fervour had penetrated the Barre regime, the regime criminalized "tribalism" and the use of family names and adopted the title *Jaaalle* (comrade) among members of society. Getting rid of all manifestations of clanship became a top priority for the socialist government, as part of an expanded program called *Dabargoynta qabyalaadda* (Eliminate Tribalism). However, the 1978 defeat was an early indication of the contradictions of the national discourse and its inability to build a modern, democratic Somali state.

Meanwhile, the military junta failed to conduct any substantial development projects in the north, increasing resentment in those areas. Unfair distribution of public services led to the outbreak of political and military opposition from the north. In the early 1980s, it became clear that the Barre regime was systematically discriminating against the northern Isaac tribes. Popular dissatisfaction with the state culminated in student demonstrations in Hargeisa in 1981, which the regime met with murderous repression and extrajudicial executions.⁶¹ Subsequently, the Somali National Movement (SNM) was formed in 1982. The government responded to the threat posed by the movement by targeting civilians with extrajudicial killings,⁶² forced disappearances, arbitrary arrests, detention, and torture.⁶³ These attacks escalated with the escalation of the movement's activity in the north, and the regime targeted the cities of Hargeisa and Burao with indiscriminate air strikes that claimed the lives of more than fifty thousand people, in addition to displacing more than half a million refugees to Ethiopia and the internal displacement of a similar number.⁶⁴ For northerners, these atrocities served as further proof that leaving the union was the only solution to their repression.

3. The War on the North

In the aftermath of the war with Ethiopia, in 1978, some officers from the Somali National Army attempted a military coup attempt against Barre but failed. The officers, led by Abdullahi Yusuf who would go on to serve as President of Somalia in the Transitional Federal Government from 2004-2008, managed to flee to Kenya. Yusuf moved from Kenya to the Ethiopian border to establish the first armed opposition front seeking to overthrow the regime, the Somali Salvation Democratic Front (SSDF). Thereafter, the SNM, which established its political headquarters in Britain in 1981, was formed and soon moved into the Somali-Ethiopian cities and villages bordering Somalia.

Soon enough, the struggle against the Barre dictatorship became a common goal for many armed opposition factions. During this period, and a kind of extension of the Ogaden War, both Barre and Ethiopia's Mengistu Mariam were supporting armed movements against the other. In this context, Addis Ababa found an opportunity in the anti-Barre fronts to undermine the ruling regime in Somalia and began hosting the military bases of those armed fronts stationed along the Ethiopian-Somali border and providing them with weaponry and funding.

Barre and Mengistu met for the first time at the establishment of the Intergovernmental Authority on Development (IGAD) in Djibouti in January 1986, and the two parties launched negotiations aimed at normalizing relations. In 1988, an agreement was signed between the two, according to which Barre gave up his support for the Western Somali Liberation Front (WSFL), in return for Ethiopia expelling the SNM from its territory. However, before the agreement could be implemented, the SNM decided to move its forces across the Somali border and launch surprise attacks on government targets in the main cities of Hargeisa and Burao.

⁶¹ A student demonstration that broke out on 20 February 1982 sparked what would become a protracted struggle against the authoritarian regime, immortalizing this date in the national memory following Somaliland's secession. For more on that day and its symbolism, see the doctoral dissertation: Ebba Tellander, *The Wind That Blows before the Rain: Acts of Defiance and Care in Northern Somalia in the 1980s*, International Institute of Social Studies (ISS), Erasmus University, Rotterdam, 2022.

⁶² Renders, p. 60.

⁶³ Ibid., pp. 60-71.

⁶⁴ Ibid.

Barre responded with airstrikes and heavy artillery, committing war crimes against civilians whom he considered incubators for the armed movements and razing 90% of Hargeisa.⁶⁵ The genocide would be overshadowed by the civil wars that raged after the fall of the regime, but estimates put the number of resulting deaths anywhere from fifty to a hundred thousand.⁶⁶ Other reports claim that as many as two hundred thousand civilians were killed.⁶⁷ Furthermore, the genocide resulted in the establishment of what was at that time the largest refugee camp in the world along the Ethiopian border with Somaliland in 1988.⁶⁸ Some humanitarian organizations have described the genocide as the "Hargeisa Holocaust"⁶⁹ and the "Dresden of Africa".⁷⁰ But despite the devastation of the genocide, by 1988 the national movement had tightened its control over most of the north.

Meanwhile, other armed movements in the south sought to topple Barre, including the United Somali Congress (USC) and the Somali Patriotic Movement (SPM), finally succeeding on 16 January 1991 when Barre fled to Nigeria. The SNM quickly announced the secession of the north on 18 May, while the rest of the country plunged into a civil war fought by the various factions that had overthrown Barre. Somalia consequently became the quintessential example of the "failed state".

Although the purpose of this study is not to detail the history of how Somalia disintegrated, it is crucial to highlight the fact that the unification of the north and the south in the context of independence was destroyed by the military state when it committed massacres in the north. As soon as the SNM took control of the north, it declared its independence unilaterally, reinstated the British colonial borders, and established the Republic of Somaliland.

The Secession of Somaliland: Context, Justification, and Obstacles

This section situates the secession of Somaliland in a historical context, presenting the various arguments that the secessionist narrative invokes, as well as the problems unearthed and faced by the process of separation.

1. The Historical Context

The Somali National Movement's objectives have been heavily debated. Was independence the ultimate goal of its armed action against the regime or had it initially sought to preserve the union? Its narrative in the early days was certainly one of a nationalist character, and it had come to understandings with southern factions and movements to adopt a type of federalism once the regime had fallen.⁷¹ In fact, many of the movement's leaders had initially declared that they did not support secession and had merely sought to overthrow the regime, not divide the country.⁷²

But the movement subsequently adopted secession as its main goal due to two decisive factors. The first was the brutality of the military government's campaign in the north, which had unified the ranks of the northerners against the political regime in Mogadishu. Second, a new national government in the

⁶⁵ Crisis Group, "Somaliland: Time for African Union Leadership," *Africa Report*, no. 110, 23/5/2006, accessed on 28/4/2022, at: <https://bit.ly/30YCqUL>

⁶⁶ Robert M. Press, *The New Africa: Dispatches from a Changing Continent* (Florida: University Press of Florida, 1999), p. 10.

⁶⁷ "Investigating genocide in Somaliland," *Al Jazeera English*, 20/5/2017, accessed on 28/4/2022, at: <https://bit.ly/3eZsntw>

⁶⁸ Anna Lindley, *The Early Morning Phonecall: Somali Refugees' Remittances* (New York: Berghahn Books, 2013), p. 34.

⁶⁹ Mohamed Haji Ingiriis, "We Swallowed the State as the State Swallowed Us: The Genesis, Genealogies, and Geographies of Genocides in Somalia," *African Security*, vol. 9, no. 3 (July-September 2016), pp. 237-258.

⁷⁰ Mary Harper, *Getting Somalia Wrong?: Faith, War and Hope in a Shattered State* (London: Zed Books Ltd., 2012), pp. 105-109.

⁷¹ A proposal submitted by SNM leader Ahmed Silanyo — the fourth president of Somaliland after the secession (2010-2017) — discusses a general framework for transitional governance after the overthrow of the regime. The proposal dated March 1991, that is, two months before the declaration of secession, is based on the adoption of a federal system between the north and the south. See a copy of the proposal: Ahmed M. Silanyo, "A Proposal of the Somali National Movement," London, March 1991, accessed on 5/9/2022, at: <https://bit.ly/3it7YPw>

⁷² "BBC and SNM 1988. Waraysi Axmed Siilaanyo," YouTube, accessed on 28/4/2022, at: <https://bit.ly/2ZF7FI0>

capital was announced unilaterally in January 1991, without consulting the SNM. These two factors would be enough to achieve a consensus among the SNM leaders on the matter of secession, so the movement held a series of meetings and conferences for Somaliland clans. The first national conference was held in the city of Burao in May 1991, attended by the leaders of the movement's armed wings as well as northern sheikhs and clan leaders. Three main items were announced during the conference: 1) the declaration of Somaliland's independence from Somalia and the reinstatement of the colonial borders of the British territory of Somaliland; 2) the consolidation of peace between the northern clans; and 3) the formation of a transitional government for a period of two years that would guarantee these clans fair representation.⁷³

It is worth noting that southern political elites did not react to this dangerous development in the north, with the exception perhaps of the Islamic Movement in Somalia (Muslim Brotherhood) which issued a statement from its office in Canada rejecting "attempts to divide the country to serve the agenda of the nation's enemies".⁷⁴ The rest of the country had fallen under the control of warlords who emerged from the factions that overthrew the military regime, and civil wars spread throughout the South. No government was established in Somalia until 2000, when the Somalia National Peace Conference was held in Arta, Djibouti and Abdiqasim Salad Hassan was elected the first transitional president since the overthrow of the regime. But he failed to stabilize the capital and liberate it from clan militias and warlords, remaining abroad until the end of his electoral term (2000-2004). A second election was subsequently held in Mbagathi, Ethiopia and Colonel Abdullahi Yusuf was finally chosen as the country's second transitional president (2004-2008). During his term he was able to enter the capital Mogadishu, with the support of Ethiopian forces.

Meanwhile in Somaliland, as the two transitional years of SNM rule drew to a close, a civilian government was elected with the participation of the Guurti (House of Elders), made up of 82 sheikhs representing the northern clans. They chose Egal as the new president, during whose term the national constitution was drawn up and a constitutional referendum organized, until he died in office in 2002. Many considered his death a test of whether Somaliland could continue on as a separate entity, as well as of its political cohesion, but his deputy Dahir Riyale immediately assumed power in accordance with the constitution.

Since then, Somaliland has known smooth transfers of power, through direct presidential, parliamentary, and municipal elections in an atmosphere of partisan plurality. Successive governments in Somaliland have presented their ability to host peaceful elections as evidence of the success of the state project and its eligibility to gain international recognition as an independent state.⁷⁵ Official discourse in Somaliland is based on the most common, albeit oversimplified, definition of the state provided by the Montevideo Convention on the Rights and Duties of States, the basic criteria of which are: (a) a permanent population; (b) a defined territory; (c) a functional government; and (d) the capacity to enter into relations with the other states. The separatist narrative argues that Somaliland meets these criteria, but as many global examples demonstrate, meeting this standard does not automatically confer recognition as an independent state. Somaliland is proving to be a bleak example of this.⁷⁶

⁷³ This conference successfully implemented its decisions, especially with regard to the disarmament of armed militias, helped by the presence of the House of Elders (Guurti), a traditional parliamentary institution made up of clan leaders representing each Somaliland clan, established in 1989, which took over the reins of power from the SNM. The Guurti achieved a smooth democratic transition in Somaliland, aided by the lack of external interference. See: Sarah G. Phillips, *When There Was No Aid: War and Peace in Somaliland* (Ithaca, NY: Cornell University Press, 2020).

⁷⁴ In its statement dated 19/5/1991, the movement accuses Israel and Ethiopia of being behind this separation, without reference to any evidence for such an accusation. The movement describes the secession as a real tragedy for the Somali people, an implementation of the colonial agenda against the Somali people. In its statement, the movement called for besieging the separatists and taking a unified stance towards them. See: "Bayān min al-Ḥaraka al-Islāmiyya fī al-Ṣūmāl Ḥawḷ Muḥāwalat Taqṣīm al-Bilād," 19/5/1991, accessed on 7/3/2023, at: <https://bit.ly/3cW3Jbu>

⁷⁵ "The Economist Explains Why Somaliland is East Africa's Strongest Democracy," *The Economist*, 13/11/2017, accessed on 28/4/2022, at: <https://econ.st/2YUzrC6>

⁷⁶ Joshua Keating, "When is a Nation not a Nation? Somaliland's Dream of Independence," *The Guardian*, 20/6/2018, accessed on 28/4/2022, at: <https://bit.ly/2Ar1xeG>

2. Justifications for Secession

Calls for secession in Africa are not dealt with explicitly and publicly due to the African Union's sanctification of the colonial borders and its complicated history of dealing with separatist claims.⁷⁷ Subsequently, Somaliland has demanded secession based on several alternative historical, legal, and political justifications. These justifications and claims can be summarized as follows:

a. Restoration of Sovereignty

This claim is based on a region's right to revive the colonized peoples' right to self-determination or restore their lost sovereignty, in a process dubbed "restorative secession" by legal researcher Dirdeiry Mohammed Ahmed.⁷⁸ This argument that is built on the premise that Somaliland once existed as a sovereign state and is accordingly entitled to withdraw from the unified Somali state and restore its original borders. The legitimacy of this claim is rooted in the fact that African states were considered the legitimate heirs to the borders drawn by colonialism. From that perspective, Somaliland is legally an independent, sovereign state, which gained independence from Britain on 26 June 1960 as a post-colonial entity. Somaliland has consistently reiterated, in its official discourse, that the premise of its claim to independence is based on the agreed-upon borders of the independent state of Somaliland in 1960.⁷⁹

Yet, according to some legal experts, this argument lacks any legal basis given that "reversion to sovereignty [the principle that a state which has lost its sovereignty has the right to restore it] has no application".⁸⁰ James Crawford explains this by saying that "whatever the validity or usefulness of reversion as a political claim, there is little authority and even less utility for its existence as a legal claim".⁸¹ Thus, a country cannot simply restore its sovereignty after having merged with another, except in accordance with the agreement of both countries. Likewise, a country does not lose UN membership even after having voluntarily withdrawn or merged with another country (such as Syria after its merger with Egypt).⁸² Dirdeiry Ahmed makes the observation that Somaliland would have gained some legal weight if it had secured UN membership during the short period in which it enjoyed sovereignty. Despite the recognition Somaliland had gained from 35 member states, including the five permanent members of the Security Council, it was not given a seat in the United Nations during those initial five days of independence.⁸³

b. The Illegality of the Union

It has been argued that the merger of Somaliland and Somalia was never legally binding,⁸⁴ an argument accepted by the 2005 report of the African Union Fact-Finding Mission. The mission, which was sent to the region at the behest of the Somaliland government, wrote in its report: "The fact that the 'union between Somaliland was never ratified', and also malfunctioned when it went into action from 1960-1990, makes Somaliland's search for recognition historically unique and self-justified. As such, the African

⁷⁷ Dirdeiry Ahmed, for example, talks about the AU's "wall of silence" as a strategy to deal with secession claims, deliberately leaving the demands of the separatist region out of the agenda in its official meetings. See: Dirdeiry Mohammed Ahmed, *al-Hudūd al-Afrīqiyya wa-l-Infīṣāl fī al-Qānūn al-Dawī* (Beirut: Al Jazeera Centre for Studies and al-Dar al-Arabi lil-Ulum, 2017).

⁷⁸ Ibid., p.213.

⁷⁹ Ibid., p.227.

⁸⁰ Charles H. Alexandrowicz, "New and Original States: The Issue of Reversion to Sovereignty," *International Affairs* (Royal Institute of International Affairs), vol. 45, no. 3 (July 1969), pp. 473.

⁸¹ James Crawford, *The Creation of States in International Law* (Oxford: Clarendon Press; Oxford University Press, 1979), p. 699.

⁸² Syria gave up its seat in the UN General Assembly when it merged with Egypt in 1958, and when it withdrew from the union in 1961, it applied to resume its membership in the international organization without the need for a new recommendation from the Security Council, and without a resolution. Under Article 4(2) of the UN Charter, The President of the General Assembly asked at the outset of the meeting whether there was any objection to Syria regaining its seat, and, when no one objected, invited the Syrian delegation to join the session without any procedures. See: Ahmed, p. 230.

⁸³ Matt Bryden, "The 'Banana Test': Is Somaliland Ready for Recognition?," *Annales d'Ethiopie*, vol. 19 (January 2003), pp. 341, 342.

⁸⁴ See: Ahmed, p. 230.

Union should find a special method of dealing with this outstanding case".⁸⁵ This argument does not hold up well to scrutiny however: in practice, the procedures to unify the two regions were completed, and the state continued to exist as a single national entity for more than two decades, regardless of any legal shortcomings associated with the initial steps of the merger. But the argument persisted because it provides a convenient legal exemption from the AU Constitutive Act prohibiting any secessionist claims on the continent, whatever the justification.⁸⁶

c. "Remedial" Secession

The discourse of successive Somaliland governments has repeatedly laid claim to the right to secede based on the population's exposure to excessive human rights violations, coupled with a lack of representation in the national government established after unification. This argument is bolstered by the northern rejection of the referendum on the unified constitution, the coup attempt by the northern officers, and the resignation of northern representatives from the unity government. Furthermore, the war waged by the military regime against the Somaliland region is often cited as a claim for the right to secession based on the theory of suffering, which "postulates that if a people keep up guerrilla warfare for long enough, they will be rewarded with statehood". Relatedly, remedial theory "upholds the right to self-determination in cases where serious and persistent violations of human rights exist [...] and no remedy except self-determination is feasible"; this was used to justify the secession of South Sudan.⁸⁷

d. Constitutional Claims

Somaliland held a popular referendum on the 2001 constitution that asked voters whether they agreed that "Somaliland should be an independent, sovereign state", with 97 percent of the respondents voting in favour of independence. Article 1 of the constitution states that Somaliland is a "sovereign and independent state". Although critics question the integrity of that constitutional referendum, given that it was conducted by the separatist claimants themselves, this controversy has the potential to be resolved by holding a popular referendum on secession under international supervision.

The above has outlined the complexities of the political, legal, and human rights-based claims invoked by the proponents of Somaliland's secession, highlighting the intersection of colonial history with the intricacies of the formation of the post-colonial African nation-state, combined with the principles of the right to self-determination guaranteed in international law. As such, Somaliland's unique intricacies call for a completely fresh approach in dealing with the matter.

3. Ramifications of Secession

The separation process is complicated by many unresolved obstacles and problems, including:

a. The Border Dispute to the East

Border disputes constitute a major problem for post-colonial African countries, as reflected in the frequent military conflicts on the borders of Somaliland and the autonomous Somali federal state of Puntland over the Sool and Sanaag regions. The dispute is both a remnant of European colonialism and a legacy of the complications arising from the collapse of the central state and Somaliland's unilateral declaration of

⁸⁵ "Resume: AU Fact Finding Mission to Somaliland (30 April to 4 May 2005)," African Union, 2005, para 8, accessed on 4/9/2022, at: <https://bit.ly/3F0SbEF>

⁸⁶ "Constitutive Act of the African Union," accessed on 7/3/2023, at: <https://bit.ly/3KWMgnU>

⁸⁷ Redie Bereketeab, "Self-determination and Secession a 21st Century Challenge to The Post-colonial State in Africa," The Nordic Africa institute, 2012, p. 10.

secession. Accordingly, the conflict is multi-dimensional and intersects with political, clan, regional, and national dynamics.

The outbreak of the conflict dates back to the collapse of the central state in Somalia in 1991, when Somaliland and Puntland set out on different trajectories in the face of the new reality. The former unilaterally declared independence in 1991, asserting its "right" to administer Sool and Sanaag as part of its historical territory. Meanwhile when Puntland declared itself an autonomous state of Somalia in 1998, before the country had adopted a federal system, it claimed the region as part of its territory.

While Somaliland's claim is based on sovereignty over the two regions within the colonial borders as a British protectorate, Puntland's claim is based on clan ties in the region; the two main clans that live in Sool and Sanaag (Dhulbahante and Warsangali) and the main clan in Puntland are two branches of the greater Darood/Harti clan. Thus, Puntland mobilizes clan loyalties against secession as a non-representative project. In addition, Puntland presents itself as the defender of a unified Somalia. Former President of Puntland Abdiweli Gaas, in a speech delivered on 23 June 2016 before the Puntland Parliament, based in the regional capital of Garowe, rejected the legitimacy of colonial borders as a guideline in the conflict, adding that Puntland has a "sacred duty" to forcibly "liberate" the disputed areas.⁸⁸

Disputes over disputed territories have led to divisions within the Dhulbahante and Warsangali clans, from which, in turn, complications have arisen in administering Sool and Sanaag, further militarizing intra-clan conflict in the region, which has often escalated into fighting between Somaliland and Puntland forces.⁸⁹ Starting in 2007, Somaliland launched multiple military offensives to expand its authority eastward, seizing a series of towns and villages in Sool, including the provincial capital, Las Anod. However, rather than resolving the conflict, the move only served to exacerbate it. The two parties continue to weave relations with the political elites of the two clans by granting them high positions in their respective governments, in addition to registering civil servants and members of the army in those areas. The political elites of the two clans switch back and forth between the governments of Somaliland and Puntland to try to maximize their gains. Since 2012, local clan entities demanding autonomy have emerged, such as the Maakhir of the Warsangali clan and the Khatumo of the Dhulbahante clan, with the primary aim of providing better services to the people of the border areas than those offered by the governments of Hargeisa and Garowe.

The unstable situation in these regions undercuts the dominant Somaliland narrative and its claim to independence, which is based on historical colonial frontiers that the border dispute directly affects its ability to maintain. Furthermore, politicians and activists from the eastern regions who reject secession remain a serious obstacle to international recognition. A sustainable solution requires a just and satisfactory formula for the people of both regions and their increased involvement in the political process and development projects in Somaliland. In any case, these territories will remain the arena in which national identity is determined, from which the future political system of the Somalis will be formed – whether as two states or as one.

b. The Opportunism of the Northern Political Elites

Since the end of the Cold War, power-sharing has become the standard approach to ending civil war. As Katia Papajiani argues, "power-sharing arrangements are almost inevitably an element of peace agreements, especially in situations where conflict arises from minority ethnic, linguistic or religious grievances".⁹⁰ In Somalia, the 4.5 formula was adopted at the Arta Reconciliation Conference in Djibouti in 2000 as a

⁸⁸ "Qubanaha Maanta Jun. 23, 2018," Voice of America Somali Facebook page, 23/6/2018, accessed on 4/9/2022, at: <https://bit.ly/3Be4AnI>

⁸⁹ "Somaliland's Bihi Puntland's Gaas Trade War of Words Over Tukaraq Fighting," *Radio Dalsan*, 15/5/2018, accessed on 7/3/2023, at: <https://bit.ly/3STGjtl>

⁹⁰ Katia Papagianni, "Power-sharing: A Conflict Resolution Tool," *Africa Mediators' Retreat*, 27/4/2007, pp. 23-33, accessed on 7/3/2023, at: <http://bit.ly/3kVTldJ>

power-sharing mechanism.⁹¹ The quota divides seats in parliament and various government positions equally among four major clans – namely the Hawiye, the Darod, the Dir, and the combined Digil and Mirifle – in addition to a fifth quota allotted to the remaining minor clans and communities including the Midgaan, the Yibir, the Bantu, the Jareerwayn, the Xamarwayn, the Baraawe, and the Benadiri.

This formula, despite its many flaws, guarantees the participation of northern politicians in the Somali political process, enabling political opportunism among the politicians from the disputed eastern regions and from some other regions in Somaliland. When they fail to secure parliamentary or party positions in their regions, they can easily revert to the quota system in Mogadishu, where the 4.5 formula virtually guarantees them a chance to represent the northern Dir tribes. They are further facilitated by a "political marketplace" driven by "marketized political relationships" and "the monetisation of patronage".⁹² This Machiavellian practice undermines the right of secession claimed by the political elites in Somaliland.

c. The International Community's Rejection of the Secession Process

While countries such as Denmark, the United Kingdom, South Africa, Ethiopia, Djibouti, Belgium, South Sudan, Kenya, the United Arab Emirates, and Taiwan have opened up consulates or representative offices in Hargeisa, no country has yet recognized Somaliland as an independent state. International recognition eludes Somaliland for several reasons, most notably because of the reigning bias, especially in the US, that has prioritized the restoration of security and stability and the project to combat terrorism in Somalia over the past two decades. The US believes that recognizing the independence of Somaliland will weaken these efforts and also considers the issue an African matter. For its part, the AU fears that the recognition of Somaliland would spur the emergence of more secessionist cases on the continent. The political map of Africa has not witnessed any change over the past fifty years, with the exception of two cases of secession: Eritrea in 1993, and South Sudan in 2011, both of which followed protracted civil wars. In contrast, more than twenty countries emerged in Europe and Asia during the quarter century that followed the end of the Cold War.

Conclusion

This study has dug deep into the roots of Somaliland's unilateral secession, mapping out the political and historical context and the trajectory of the region from colonial rule, through the establishment of a unified Somali state, until the demand for independence. Somali history has never known a centralized political authority that has ruled the Somali region in its entirety. Prior to European colonization, Islamic and tribal sultanates were confined to specific regions, then Portugal's military exploits starting in the 16th century and colonialism posed an existential threat to those sultanates. Thus, when the unified Somali nation state was established, it struggled with the challenge of nation building, for which the national elites failed to properly lay the foundations.

The paper has argued that these complexities are the seeds that sprouted the rapid failure of the Somali state, in addition to the geopolitical complications resulting from sacrosanct African borders that are impervious to regional and continental conventions: this constituted an insurmountable obstacle to the stability of the Somali state and its regional relations. By claiming two territories that fall within the scope of the sovereignty of neighbouring Kenya and Ethiopia, Somalia became entangled in regional wars that exhausted the economic and military capabilities of the state, leading to its disintegration. When the

⁹¹ Afyare Abdi Elmi, *Understanding the Somalia conflagration: Identity, political Islam and peacebuilding* (Chicago: Pluto Press, 2010), p. 29.

⁹² Alex de Waal, "Somalia's Disassembled State: Clan Unit Formation and the Political Marketplace," *Conflict, Security & Development*, vol. 20, no. 5 (2020).

Somali state was pulled into the grip of the military junta, clan divisions flared up and Siad Barre's regime dragged the country into a devastating war with Ethiopia, renewing social and political discord. Thus, the secession of Somaliland surfaced as an inevitable result.

Somaliland's elites and successive governments have made political, historical, legal, and human rights-based claims to justify the secession process, which this paper has scrutinized, arguing that a special approach is required to deal with this truly unique case. Despite the constant stream of praise it receives for its democratic political model, Somaliland stands alone, grasping for recognition amid international forces pushing the country to re-join the Federal Republic of Somalia. The US and other Western powers prioritize the restoration of a functioning state in Somalia, quelling terrorist groups, and ridding the country of warlords who control the political system outside the confines of the law. Somaliland has exhausted its means of legal recourse: the international community hands the responsibility of recognizing Somaliland's independence to the AU, and the AU resolutely clings to its traditional rejection of any secession attempts on the continent. These approaches have clearly turned stale, and a new attempt to deal with the issue in a way that takes into account all of its historical, political, and legal complexities is necessary to ensure a fair outcome.

It is important to note that Somaliland and Somalia have been conducting routine and intermittent negotiations for eight years, held in the capitals of neighbouring countries and other states in East Africa. In the absence of any intervention by the AU, the main gatekeeper of sovereign changes on the continent, or any other international party, however, this conflict is likely to continue. In this context, the best option for Somaliland may be to seek recourse to the International Court of Justice, the highest judicial body of the UN. This is the route taken by Kosovo and it is likely that if the ICJ were to hear the case, Somaliland's claim to independence would be approved. Somaliland's President, Muse Bihi Abdi, confirmed in his speech to mark Independence Day in 2020 that the country is ready to present its case to the ICJ if negotiations do not lead to independence.

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