

Chapter 3: Opening the Political Space: A Boost for Somaliland Democratic Process

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I. The Context

One cannot emphasize more, how challenging it is to start a state and its governance institutions anew from the legacy of a state which was based on totalitarian principles and practices and to build a democratic system out of its rubble. Somaliland inherited, from the defunct system, a legacy of dictatorial mindset in all aspects of state behavior; it was after all the only state that had the profoundest imprint on the lives of the Somaliland people and their relationship with the state. So, in building this new state, the question of how much democracy is healthy enough for the people in the prevailing situation often lingered in the minds of those involved in the early process of crafting the new state institutions and laws. Article 9 of Somaliland's new Constitution attests to the conflict in the minds of the early leaders. While in 9(1) the Constitution adopts the multi-party political system, in the next section 9(2), it limits the number of political parties to not be more than three at any time. Therefore, to satisfy that limitation, which itself is a Constitutional contradiction in regards to other provisions guaranteeing fundamental rights of citizens, the country has to undergo, what under normal circumstances should be considered an unnecessary exercise of a two-stage process for citizens to form political parties: a) to register political associations, which will compete in the local elections. B) The top three winning associations will qualify for national political party status. These three political parties can field candidates for the two houses of parliament and presidential elections. Somaliland copied this system from Nigeria, which was also at that time moving from dictatorship to democracy, but for Nigeria it was one time process, whereas Somaliland is still shackled to the system, because of the Constitutional limitations on the multi-party system.

The political Associations/Parties Registration Law No 14 was passed in 2000 to provide the legal framework of the above process. It provided for a seven-member Registration Committee which administered the registration process as well as the process of qualifying the three successful parties. During the first cycle six associations fulfilled the criteria to compete in the local election. So, in December 2002, the first batch of three parties was crowned as national political parties, using the awe-inspiring designation of "Xisbi Qaran". UDUB became the largest and later the long-term ruling party, Kulmiye, became the bulwark of an opposition party and eventually after an uphill battle of ten years unseated UDUB and succeeded as the ruling party of Somaliland and finally UCID remained to be the underdog and eventually disintegrated.

True to the nature of most of the first generation of laws passed in Somaliland, Law No 14/2000 became a masterpiece of ambiguities. It lacked any clarity of whether the successful parties won a permanent status in occupying the three Constitutional slots open for multi-party system in Somaliland or whether or not there is room for new aspirants to join the exclusive political party club. The three original occupants of the constitutional slots interpreted the law as having won permanent status and encouraged challengers to join them, whereas some of the most ambitious members of the elite fought vociferously against this status to the level of rebellion which landed some of them in prison for few months.

This rebellion was only the tip of the iceberg of a widespread popular discontent with the way the political party culture is developing. UDUB was evolving as replay of the defunct regime's Somali Socialist Party. The party grass root structures were dismantled to be run only by then President as its Chairman aided by a select group of Ministers and a secretary General in the payroll of the state. All its officials and activities were funded through the coffers of the state. The wide grass-root base which the party built in its formative years was completely disenfranchised, so much so that in its last congress, the President and his inner group drew up an ad hoc list of loyalists as delegates, and at the same time barred from the occasion many of its founding key members who were not considered loyal enough to the president.

This congress was in fact worse than what used to happen in the Somali Socialist Party situation, because the latter was at least professional in following its Constitutional procedures. In the UDUB case, instead of the Congress electing the Central Committee of the Party and its Officers as its Constitution mandated, the Chairman asked for a waiver requesting that the congress authorizes him to appoint the Central Committee and Officers of the party at a later date of his discretion and so with a show of hands the Congress passed its powers to one man, the Chairman with no conditions attached to it whatsoever.

The democratic deficit levels of the other two parties were also a major concern to the public, but they were not as blatantly against the institutionalisation of the party system as UDUB was.

In the case of Kulmiye for instance, in the run-up to its pre-election congress, it was practically a national movement and genuinely as democratic as it can go in the Somali context, except when it came down to the election of the party officials. There was only one candidate and no competition for the Chairman position. Instead, there was a competition for the two deputy positions and the secretary general. However, during the follow-up congress meeting to elect the party candidates for the president and the vice president positions, the party split, losing a whole group of its founders and heavy weights, apparently due to a disagreement over some matters regarding the type of electoral procedure being followed to elect the vice presidential candidate. In the case of UCID, its internal conflict surfaced when the third congress was due. It was claimed that the Chairman made a pledge to the party in his second candidacy bid that he will not run for a third time, however, when the third congress was due he reneged this pledge and this became a national drama, where a court ruling ensued between a breakaway faction, which in fact looked like the whole party breaking away, and the Chairman. Eventually as a result of the court ruling, the breakaway faction formed a new political association with the name Wadani (the National Party) and the Chairman kept UCID.

In such a backdrop, it is obvious why the demand for opening of the political platform for new entrants became a national agenda. Although, all three political parties were expected to naturally oppose the idea of losing their privilege as national parties, Kulmiye realized the popularity of the idea and took it as a campaign pledge. The Somaliland civil society took the idea as the most important agenda in advancing the democratic process in Somaliland. The Independent Scholars Group and the Somaliland Forum were the most vocal and persistent in their fight for the open political platform.

Arguably, the above weaknesses of the political parties should be understandable and to be expected considering Somaliland had no historical experience of the political party culture and these parties are only a decade old with only a few elections' experience behind them. In spite of such realities, since the limitation to multi-party system is enshrined in the Constitution, it could spawn a monopoly of the political platform by the first entrants. Moreover, the parties' internal democracy became questionable. There was also a perception that the three political parties were becoming clan turfs and hence creating a society where some are in the club and others feel to be outside it. That was contrary to the consensus on which the Somaliland state and central authority are built, which is an inclusive contract of all clans. And the only way to compete with the clan turf culture is to ensure that the democratic path is strictly adhered to, to minimize the fissions and fragmenting nature of the kinship system.

When Kulmiye won the election in June 2010, the issue of opening of the political platform immediately surfaced and the President Silanyo was demanded to honour his election pledge. Therefore, the President opted for the path of public consultation and appointed a national committee to make recommendations on the matter and so the process of opening the platform unfolded.

II. The Consultative Process⁹

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

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

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

⁹ Presidential Degree 15 March 2011

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

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

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

Most significant concerns from each of the "Yes" and "No" sides¹⁰ :

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

¹⁰ Consultative Committee Report 7 June 2011

2. For the “Yes” side, the most significant concern that emerged from the across country debates and which also many “no”- leaning voices shared with them was: the undemocratic culture of present political parties and the monopolistic character of the leadership positions. It was cited that there has never been any competition for the chairmanship and presidential candidacy of any of the three political parties. Their Congresses have hardly been democratic gatherings. The grass-root membership has no role or influence in the parties’ policy and decision-making processes and that they are capital-based, top-heavy and diaspora- dependent. Furthermore, instead of overcoming clan divisions in the society, the leadership of current parties perpetuates it and creates a fertile soil for entrenched clan political interests, which are a recipe for social disharmony and conflicts. The conclusion of this voice trend was that the present political parties cannot grow or contribute to the democratic process without being subjected to open competition, which is also their only salvation, if they are to survive as engines of political and democratic development in Somaliland.

The Outcome of the of the Committee Work

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

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

1. To open the political platform, for the registration new political associations and complete the process certifying 2nd batch of national political parties in the first local council election.
2. To complete implementation of the registration of new political associations and hold the next local council election within the next 18 months starting from June 2011.
3. To complete the amendments and filling the gaps in the laws and regulations of political parties, associations and the elections in time for the next local council election.
4. To build a standing committee to register the political associations and to be responsible for the oversight of the national political parties’ practice of internal democracy.
5. To address the flaws of the current registration system.

The President adopted the Committee recommendations and the process has passed fairly fast through the Presidency and was afterwards submitted to the Parliament to address it in its ongoing session. Some of the controversial issues that appeared afterwards are whether to form a separate Standing Committee as the case was in the first cycle or to give the mandate to the existing National Electoral Commission.

Lessons to be learnt from the consultation exercise for future similar undertakings

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

III. Further Deepening of Process of Democratization

The Law No 14 has been amended and a more advanced version of it is spawned by the process of opening the political space, although it still needs further harmonization of its articles and significant debugging efforts. Some of key additions include (see Somalilandlaw.com).

1. An independent Registration and Approval Committee (RAC) with an increased lifespan of two years and an extended mandate of taking the oversight role even after the successful parties attain their national status. This is a very important addition and the mandate will pass to the National Electoral Commission when RAC's two-year mandate expires.

2. The cycle of opening the political platform for registration of new political associations is now fixed to be every 10 years which is reflected in the validity of the license issued to the national political parties. This is a chance for the reinvigoration of the democratic process time and again, but it is on the other hand a cumbersome and expensive process, which could easily be done away with, if the political will is there, by removing article 9(2) of the Constitution.

3. Another important addition is Article 25 and most of the articles that follow it, in which most of the gaps of the original law No 14 are addressed including the important area of political parties' internal democracy, the required oversight from a mandated institution and the imposition of sanctions in case of breach of the law.

However, in another perspective, despite the adequacy of the legal instruments, the quality of membership of the new RAC was less than adequate, which reflected in its subsequent performance in the registration, screening and eventual certification of the new political associations. It was as a mediocre, sloppy and far from fair process. In addition, the deposit required from new political associations was raised from around \$400 in 2002 to close to \$27,000 in 2012. No reason has ever been given, but the guessing game concluded, that it was designed to deter less wealthy aspirants to register and hence should reduce the number of applicants, but that did not work - 15 new associations have registered themselves and paid the hefty fees.

The RAC had the opportunity to follow the strict criteria available to it, before it collected the fees and hence to ensure that those going to pay will eventually have the opportunity to compete in the election. The following criteria was quite adequate to weed out the imposters and political speculators: 1. Requiring 1000 genuine members in each region is not an easy job to accomplish if properly registered and screened; establishing functioning centres in all six electoral regions, which could be extended to districts and localities if competition is fierce could also easily test the popular base and the national reach of the organizations; scrutinizing the internal democratic process of the competing organizations by following up their congresses and internal election processes could easily weed out the one-man show organizations; scrutinizing the source of funds of the organizations would ensure that organization are not externally driven agents; screening their Constitutions and by laws will ensure, their compatibility with the Somaliland Constitution and other national laws; and finally payment of the hefty fees. These are more than adequate criteria to give opportunity to the genuine political associations to shine, if properly administered.

Above all the greatest unfairness in the process is the advantage given to the existing parties, which were totally left off the hook to compete in the qualifications process except for holding a congress. Also, they were not required to pay the hefty fees. Furthermore, the mediocre performance of RAC has marred the results of the process. Having 15 new

contestants¹¹ seemed to be a prophecy fulfilled for those who are haunted by the 1969 election experience and could almost discredit the whole efforts of all different actors and branches of government that made possible for the process to reach this stage. Cutting the number to 6 new entrants and existing three was a bitter pill for RAC to swallow and to shoulder the blame. This naturally caused uproar from those disqualified and left a host of unanswered questions on the fairness and democratic credentials of the process. After the dust settled the successful candidates in the process of screening to compete in the upcoming local elections became: WADANI, DALSAN, NASIYE, UMMAD, XAQSOOR and RAYS.

Lessons to be drawn from the Opening of the Political Space Process:

- 1) Somaliland people have shown time and again that they are ready to go all way to improve their democratic process, but it is rather the leadership that waivers and needs to muster the necessary political will to move forward as it did in this case. Amending selected articles of Constitution and addressing the Guurti case are two current issues in point.
- 2) There are no major entrenched interests, clan or otherwise, in Somaliland, that can block or derail any initiative, which deepens the democratization process and consolidates peace and state building gains.
- 3) There are serious challenges in the professional capacities available for the system through which the preparation and harmonization of draft laws are processed. This is demonstrated by the number of times (three times in less than 12 months) the Executive has submitted Law No 14 for amendment to the Parliament and the ease with which incomplete drafts sail through the legislature.
- 4) RAC's performance in executing the first cycle of its mandate – the screening of new political associations – was far short of professional standards and this could happen in the oversight function of its mandate if not provided with more substantive support especially from the civil society.
- 5) The political associations and parties are progressively moving away from national issues-based political agenda and now concentrate more on institutionalizing clan mobilizations with no national agendas needed. This would have negative influence in the stability, democratization, and state building processes in Somaliland. In the Constitution and other laws exclusive clan parties are prohibited, however, there are no legal provisions which address their activities to mobilize exclusive clan conferences and meetings and the use of clan inciting rhetoric. A balance needs to be drawn between the national and clan level activities of political entities.

¹¹ WADANI, DALSAN, UMADDA, NASIYE, XAQSOOR, RAYS, NUUR, DAMAL, HORYAAL, NDP,

BADBAADO, GURMAD, UDHIS, JAMHUURIGA, SSCD

Recommendations

1. To ensure the strengthened law No 14 provisions regarding the oversight of political parties are applied. The focus should be on internal democracy of the parties.
2. The system of screening political parties should be appraised and its loopholes and weaknesses mended while still fresh in the memory of involved actors and the public.
3. The pending local election is creating a bottleneck on the unfolding Democratisation process: the certification of the national parties is pending; the start of civil registration is unclear, the dates and schedule of other national elections are still up in the air and above all a credible opposition is still not in sight. So there is an urgent need to go on with the pending local elections, which will no doubt remove the knot in the process.
4. The central government needs to plan election costs in its budget as part of the national development expenditure. The international community has stepped in during need but should not be expected to create a long term dependency on the matter.

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