

**Federalism and Decentralization - Options for Somalia**  
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Mr. Nur Hassan Hussein, Prime Minister of the TFG, Mr. Sharif Hassan Sheikh Adan, Chairman of the CC of the Alliance for the Re-liberation of Somalia, UN officials, experts & Somali delegates, may peace and God's mercy be upon you!

In this presentation I am not going to make a legal argument, but I like to outline the historical, socio-cultural, geographical and political aspects that have given rise to the emergence of the four main governmental structures, namely, the confederal, federal, consociational and unitary systems which are used by diverse countries in the world. I will also briefly consider Somalia's experience with the unitary system in successive periods and finally compare the unitary system with the federal one in the Somali context while attempting to identify some issues for and challenges to these two governing structures.

## **1. Main Systems of Government**

According to the international political and legal theories and practice, confederal, federal, consociational and unitary systems of government, as noted above, are the four main forms (also called structures of government) which are used by various countries around the world. As we will see in the coming paragraphs, each system is a product of particular historical, geographical, racial, cultural, linguistic and religious circumstances and peculiarities of nations. No nation has adopted a system of government out of the blue or for a love it. But due to these determinant factors some nations have chosen a confederal, federal, consociational, or unitary system. Here are some brief introductions and historical perspectives how and where these systems developed, applied and transformed with the passage time and development of nations.

### **1.1 The Confederal System**

A confederation is a governmental structure whereby two or more independent states enter a treaty for reasons of mutual trade, defence, political rapprochement and/or geographical necessity. They set up common commissions or secretariat to work out their mutual interests while each state in the confederation has its sovereignty and government - head of state, legislature, army, money, flag and passport.

If we look back into history most confederations emerged in Europe and America. The united Provinces of the Netherlands (a confederation) existed from 1579 to 1795; the Swiss Confederation Switzerland from 1789 to 1848; the German Bund (a confederation) from 1815 to 1866; the American Confederation from 1781 to 1789<sup>(1)</sup> Eventually over time and with the progress of societies such confederations had developed into either a federal state (e.g. USA, Germany), consociational federal state (e.g. Switzerland) – a loose system where the central government is weak and constituent provinces (called cantons) with ethnic, cultural, linguistic and religious diversity retain their sovereignty; or to a decentralised unitary state (e.g. The Netherlands). In Africa a confederation called Senegambia emerged between Senegal and Gambia and it aborted in the 1980s.

The confederations sprang within one country's borders but today there are no modern confederations at national level but global, continental, regional and sub-regional levels like the United Nations organisation (UNO), Islamic Conference (IC), Organisation of American States (AOS), African Union (AU), European Union (EU), South East Asian Nations (ASEAN), League of Arab States (LAS), and the Inter-Governmental Agency for Development (IGAD) in East Africa for the purpose of co-operating and co-ordinating economic, social, security, and technological matters between member states.

## **1.2 The Federal system**

A Federal state is a highly decentralised form of government in which two or more independent states or provinces agree to form and share a central federal government and institutions while retaining some of their powers. The federal state is mostly premised on 'geographical devolution with guarantees for the autonomy of the units.'<sup>(2)</sup> The federal constitution defines and distributes these powers and functions between the central state and the constituent states or provinces with the necessary guarantees. Normally, the federal government powers and functions include national defence and security, monetary and economic regulation, nationality and immigration, national symbols (e.g. flag and emblem) and foreign relations while the constituent units have powers to run trade and economy, education, health and policing. The latter also have the say to question the federation and dissociate from it if they wish so.

Now there are fifteen federal states in the world. One in Australia, four in the Americas - Canada, Brazil, Mexico and the United States; five in Europe - Belgium, Germany, Russia, Bosnia-Herzegovina and Switzerland (the last two have consociational system where the central powers are either rotated or divided between ethnic groups). In Africa three federations were formed in Cameroon, Nigeria, and Uganda and only the Nigerian one has survived. In Ethiopia an ethnic based federal system of government was adopted in 1994. So the Ethiopian and Nigerian federations which are fragile and yet to be consolidated are the only ones existing Africa. In Asia two federations that emerged in India and Malaysia still survive with underlying tensions. In the Middle East a federation called the Arab Republic was formed between Egypt and Syria in 1958 and it fell apart in 1961, and again in 1971 Egypt, Libya and Syria announced a Federation of Arab Republics that finally broke up in 1973. In the Middle East there is one monarchic federation, i.e., the Federation of Arab Emirates. But some countries with ethno-cultural and religious diversity use the unitary system rather than federal one (e.g. Britain, Kenya).

To recap, there are altogether there 15 federal states - three in the Americas, five in Europe, two in Asia, two in Africa and one in the Middle East which means only 29% out of the 195 countries in the world.

## **1.3 The Consociational System**

The consociational system is a loose federal government for ethno-culturally, linguistically and religiously fragmented societies. The purpose of the use of this form of federalism is to insulate and keep at bay sharp differences and competition between these communities from consociational federal government run by mature elite politicians elected and delegated by the respective communities. For example, Switzerland has such various ethno-cultural and religious population groups (German, French, Italian, etc.) where the Swiss Federation is run by a federal assembly and executive collegiate council elected and delegated by the ethnic provinces known as cantons with the members of the former two rotating the post of president on ethnic basis every year.

## **1.4 The Unitary System**

The unitary system of government has been the first, basic and is the most dominant one currently used in the world. There are at least four types or variations of the unitary system: **a)** a highly centralised type in which the central government or head of state has all the powers and controls the country, that can be an absolute kingdom, dictatorial military or civilian one party regime (e.g. Somalia in 1969-1991); **b)** a centralised type which usually practises partial liberal democracy and avails most of the powers for itself but delegates some petty powers and functions to municipalities (e.g. Somalia in the 1960-1969); **c)** a decentralised type that often practises liberal democracy and devolves adequate autonomous decision-making roles and powers to regions and districts to plan and carry out their social and economic affairs (e.g. UK, Netherlands); and **d)** a fourth type that either espouses to partial democracy or democracy and is premised on confessional (religious) consociation in which the high posts of central government are apportioned between communities divided on the basis of different religious, for example, Lebanon where the president belongs to Maronite Christians, prime minister to Sunni Muslims, and speaker of the parliament to Shi'a Muslims, etc.

## **2. Somalia's Experience with the Unitary System and Civil War Aftermath**

From the time of independence in 1960 the new Somali nation-state adopted a centralised unitary system of government based on western style liberal democracy. Since then Somalia has undergone through the following three different periods in terms of governance which have all failed invariably in the end due to power concentration and little or lack of democratic freedoms and justice.

### **2.1: 1960-1969 a Period of Centralised Liberal Democratic unitary State**

From 1960 to 1969 Somalia had applied a centralised unitary of government based on a western style liberal democracy defined in a constitution approved by a national popular referendum in 1961 which provided: **a)** individual and political freedoms, **b)** parliamentary centralised unitary state with three branches of government (legislature, executive and judiciary); **c)** pillar organs of state – civil service, police, and army built, at least theory, on meritocracy - competence, knowledge, and impartiality; **d)** free and fair general elections in which citizens elected and delegated political leaders in every four years; **e)** division of territory into administrative regions and districts governed by governors and district commissioners appointed by and accountable to the central government rather than the citizens in the regions and districts; and **f)** municipal city mayors and councils elected for a term of three years who ran the municipal duties and functions in cities such as – petty tax collections from the open markets, slaughter-houses, licence fee of shops and restaurants, family and population registration, house door numbers, etc. to pay municipal staffs and city public services like cleaning and hygiene, etc. This system also allowed a sort of free market economy. This type of centralised liberal democratic unitary government worked fairly well in the first seven years or so (1960-1967) after which tribalism, nepotism, and corruption crept into the system eventually causing socio-political and economic decline that in turn gave rise to popular discontent and yearning for change.

### **2.2. 1969-1991 a Period of Highly Centralised Revolutionary Authoritarian Unitary Government**

Taking advantage of the prevailing climate of social-economic and political uncertainty and popular disenchantment as well as the assassination of the president of the country, Mr. Abdirashid Ali Sharmarke (on 15.10.1969), the army took over the power in a coup d'état on 21st October 1969 under Supreme Revolutionary Council (SRC) made up of 25 officers led by the commander of the army Major General Mohamed Siad Barre. The first step taken by the SRC was to scrap the country's constitution and abolish the civilian government, political parties and trade unions and social organisations and all sorts of individual and political freedoms. The second step was to declare and adopt 'scientific socialism' as the political system of the country. The third step was to carry out sweeping nationalisation of all the economic, financial and services sectors (export and import trade, factories, banks, insurances, land, etc.) in a campaign geared to mobilise and organise the material and human resources of the country in a national self-reliance policy in order to create and implement developmental social and economic programmes aimed to increase agricultural production, construction of public infrastructures, up-grade and expand public services like education, health, security, social justice, writing the Somali script and carrying out nation-wide literacy campaign, creating employment for tens of thousands of people, and rehabilitating the country's severe economic straits and deficit and its bad image of 'graveyard of aid'. In a word, the nation has undergone revolutionary socio-economic uplifting changes which enhanced its capacity at home and image abroad in the first seven years or so(1969-1996).

But gradually losing its revolutionary vigour, sense of patriotism, and confidence in the people the military regime began to resort to: **a)** more and more control of public and private life and excessive surveillance and repression over citizens; **b)** scrapping the meritocratic and non-partisan system on which the state pillar organs were founded – service, judiciary, police and army and purging of most of the senior civil servants, judges, police and military officers accusing them as reactionary and disloyal to the Revolution and socialist ideology, and **c)** corruption, nepotism and tribalism more than the previous civilian regime. This resulted in stagnation of the economy, public services, rising unemployment and runaway inflation which decimated the valuation of the Somali shilling and in turn salaries and other earnings, especially after the 1977-8 war with Ethiopia. That prompted deep and pervasive popular dissention which drove the people to take up arms against the regime causing its downfall and disintegration of the central government in 1991. Divided into opposing clans, the armed opposition factions that toppled the government failed to agree to form a national government and control the country. This led to horrible civil war, anarchy, death and destruction, loss of government, and territorial and social fragmentation of the nation which still prevail.

### **2.3: From 1991-this day a Period of Civil War and Centrifugal forces**

Unfortunately, the period from 1991 – to this day, has gone down in the history of Somalia as a black period in which destructive and centrifugal forces have emerged from within - loss of national central government, destruction, division, fragmentation, and humiliation making the Somali nation vulnerable to interested and contending foreign interventions. The painful aftermath of this period can be summarised as follows:

- a)** declaration of Somaliland in 1991 by the northern regions as country separate from the rest of Somalia;
- b)** formation of Puntland Regional State by the north-east regions in 1998 with pro federal intentions;
- c)** Setting up of a bicameral regional Council by Digile and Mirifle in 1995 and aborted in 1996, and formation of an aborted South-west Regional State 2000 in Bay-Bakol by the Rahanwein Resistance Army (RRA) with federalist sentiments;
- d)** Formation of Galmudug Regional State 2005 in southern Mudug and part of Galgadud region with no indication whether it is pro federal or not;

- e) south-central regions have remained in perpetual strife and chaos under various conflicting warlords until 2006 except the brief period of June-December 2006 when the Islamic Courts Union (ICU) ousted them and restored much appreciated peace and security in these parts of the country until the ICU was overthrown by the invading Ethiopian Army in alliance with the TFG;
- f) Formation of the ‘Transitional Federal Government (TFG)’ in Kenya 2004 that adopted a ‘Transitional Federal Charter’ under strong foreign influence and the TFG’s inability to assert its authority in any part of the country much less to implement a federal system, and
- g) Foreign forces intervention and occupation in the capital Mogadishu and some other regions in support of the TFG and fighting against the anti-occupation insurgents – that have created ‘**The worst humanitarian crisis in the World**’ according to the UN as well as unprecedented radicalisation of the masses.

### **3. Comparison Between the Unitary and Federal Systems in Somali Context**

Having lost both its central government and centralised unitary system in 1991, afterwards Somalia has been without an effective central government and discernible system of governance. Since then, this question ‘after the centralised unitary system failed, what governing system Somalia needs or is suitable to it?’ has been in the air. However, apart from the unelected TFG’s adoption of a ‘Transitional Federal Charter’, the problem is that there has not been a significant formal or informal forum whereby Somali intellectuals (including jurists), politicians, etc. have, in their own terms, freely debated about an alternative national political system. But early in the 1990s driven by the horrors and emotions of the civil war some Somalis simply entertained the idea of federalism and put it across to the international community to design a system for Somalia. That is why in the 1990s, the UN and EU have, on behalf of the Somalis, taken an initiative to co-sponsor a panel of European experts to look for a suitable governing system for Somalia who came up with ‘**A Study of decentralised political structures for Somalia – A menu of Options 1995**’<sup>(3)</sup> which proposes, among other things, that Somalis may either choose a confederal, federal, consociational, or decentralised unitary system.

To my mind, confederation, consociation and federation are alien concepts which are neither desirable nor feasible in the context of the all-round Somali nation’s homogeneity and absence of the aforesaid ethno-cultural, religious and linguistic diverse ingredients for federalism. But mindful of the above-mentioned regional secessionist and federalist developments, I like to discuss about a decentralised unitary system and a federal one comparing them with one another and listing their respective pros and cons to their suitability and applicability in Somalia’s socio-cultural peculiarities and in the light of recently changed realities of its political landscape.

#### **3.1: Identification of the Pros and Cons of a Decentralised Unitary System**

I could identify these pros and cons to a decentralised unitary system:- **The pros:** a) Somali nation’s all-round homogeneity, c) contiguous common land and transhumance defying boundaries affecting basic livelihoods of 60-70% unsettled population, b) restoration and consolidation of strong national central government and institutions, c) strong national defence, d) single national citizenship and immigration policy, e) national economic and monetary policy, and h) strong national foreign policy. **The Cons:** a) secession of Somaliland and some other federalist sentiments, b) south-central regions which though remaining in the former status of individual administrative regions are in volatile, complex and uncertain

situation, **c)** transient absence of organised national political elite, and **d)** excessive and contending interested foreign interventions and influences.

### **3.2: The Pros and Cons of a Federal System**

As for federalism I could identify the following issues for and challenges to it:- **The Pros:** **a)** incentive for seceded Somaliland and some federalist sentiments. **The Cons:** **a)** Somali nation's all-round homogeneity, and **b)** danger to the nation's defence and sovereignty, **c)** contiguous common land defying boundaries and transhumance affecting livelihoods of 60-70% unsettled population, **d)** south-central regions which though remaining in the former status of individual administrative regions are in volatile, complex and uncertain situation, **e)** absence of underlying diverse ethno-religious and linguistic ingredients for federalism, **f)** transient absence of organised political national elite, and **g)** excessive and contending interested foreign interventions and influences.

**My viewpoint** - reckoning with that the current painful civil war emotions and mistrust will subside with its cessation and absence of deep-seated ethno-cultural and religious differences in the Somali society, my viewpoint is that a decentralised unitary system (with regions or provinces exercising substantial constitutionally guaranteed autonomous powers) is the most appropriate and applicable governing system for Somalia to remerge as a respectable and strong nation-state. However, taking into account the aforesaid secessionist and federalist instances in parts of the country, federalism is another option that Somalis may consider and debate about when choosing and designing national constitution for the country.

Either option needs serious, inclusive, informed and exhausting nation-wide debate accessible to and participated by a considerable representative number of Somali intellectual, political, civil society, religious and traditional elites in the country and in the Diaspora in a free Somali owned and led process and atmosphere to avoid any imposition of a system by a government unelected and un-delegated by the people or by external actors with vested interests in Somalia especially certain neighbouring countries. This means that the current interested and contending external interferences and influences have to cease to allow the Somalis to develop a genuine and democratic discussion process to choose the kind of system and constitution they think are appropriate for them – which reflect their nation's socio-cultural particularities, faith, national interest and destiny. What the international community (e.g. Arab League esp. Gulf countries, EU, USA) can do for the Somalis is to help provide them logistical, expertise, and facilitation resources pooled under the auspices of the UN while interested foreign interferences should be avoided from this process. Meantime, any so chosen system and relevant draft constitution must be, before implementation, ultimately submitted to a national popular referendum to give it a democratic and legal legitimacy.

Finally, I like to take this opportunity to congratulate the Special Representative of the UN Secretary-General for Somalia, Mr. Ahmedou Ould-Abdallah, for holding this conference and his tireless endeavors towards peace and reconciliation in Somalia especially in securing peace agreement between the TFG and the Re-liberation Alliance for Somalia in Djibouti. I also express heartfelt thanks and deep gratuity to His Excellency President, Ismail Omar Guelleh, the government and people of the Republic of Djibouti for their brotherly unreserved and constant solidarity and support to the Somali people in this period of turmoil and in hosting the UN led peace process and many others in the past. Lastly, I thank the Kenyan government in hosting this conference.

