

Strong Case for Somaliland Recognition
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Talks or no talks our Sovereignty is neither for discussion nor compromise . . . Following the costly reclamation of our independence and in view of Somalilanders' desire for self-rule, we do hereby ask the world to respect our people's decision and recognize Somaliland as a free country with full membership at the United Nations.

President Ahmed Mohamed Mohamoud (Silanyo)

The Republic of Somaliland reasserted its independence from Somalia on May 18, 1991. Since then Somaliland has demonstrated the characteristics of a robust democratic state: government composed of three branches—the executive, the legislative and the judicial—to ensure the separation of powers; numerous free and fair elections at both the national and local levels; three contending political parties; free media; freedom of association, assembly and speech; its own currency and passport. Therefore, the people of Somaliland are rightly anticipating from the international community to grant their well-deserved recognition.

In addition to its unmatched democratic triumph in the Horn, Somaliland has satisfied all the requirements of statehood: first, the union between Somaliland and Somalia was, and still is, legally nonbinding; secondly, Somaliland fulfills the prerequisites of statehood under international law; thirdly, Somaliland satisfies Article 4(b) of the African Union Charter regarding the legality of its border; fourthly, Somaliland's case for recognition resembles other breakaway states around the world; and lastly, the political reasons, rather than legal reasons, that hinder Somaliland's recognition.

Legally Non-binding Union

Some individuals erroneously claim that Somalis were one unified nation before the arrival of European colonies. This explanation is unsubstantiated at best and fictitious at worst when one closely examines the historical trajectory of Somaliland and Somalia. Prior to the colonial era, Somaliland and Somalia were two separate territories devoid of any form of unifying authority or association. Any contact between the two territories was virtually nonexistent, as Somali history, poetry and folklore repeatedly attested. Nevertheless, the recent unprecedented hasty merger between the two independent states (Somaliland and Somalia) was enthused by three interrelated factors. The first factor was the realization of diverse Somali clans having common language and religion with *other* distant clans. The second cause was the annexation of the Reserved Area and *Haud* to Ethiopia in 1954, which assisted provoke Somali resentment against European colonies and Ethiopian occupation. The third aspect was Somaliland's delusional pursuit of the hollow dream of "Greater Somalia" irredentism.

After Somaliland gained its independence on June 26th, 1960, thirty-five states (including the U.S., the UK, Egypt) recognized it as a sovereign state. Alas, Somaliland had enjoyed only five days of statehood. Delegates from Somaliland and Somalia agreed upon the

unification of the two independent states. On June 27, 1960, the Legislative Assembly of Somaliland immediately crafted and passed the *Act of Union* and sent it to Somalia anticipating excitedly that their counterpart would follow suit. However, the representatives of Somalia have never signed the treaty. Rather, on June 30, 1960, Somalia crafted their respective *Atto di Unione* treaty, which was drastically different from that of Somaliland. Neither Somaliland's *Act of Union* nor Somalia's *Atto di Unione* was ever signed or formalized, which rendered the treaty null and void under international law.

What took place was that the elected Provisional President issued a presidential decree intended for the formalization of the union between the two independent states. However, the presidential decree was not signed into law either. Under Article 63(3) of the new Constitution, a presidential decree ought to be presented to the National Assembly for conversion into law within five days of its publication. If the decree is not signed into law within five days "it shall cease to have an effect." Therefore, the union of Somaliland and Somalia does not have any legal legitimacy. This helps smooth the progress of Somaliland's quest for recognition. However, this is not the only requirement that Somaliland needs to satisfy. Under international law, there are certain prerequisites that an aspirant state ought to fulfill.

Prerequisites for Statehood under International Law

On December 26, 1933, a convention held in Montevideo, Uruguay titled *Montevideo Convention on the Rights and Duties of States* established the standard definition of statehood under international law. The Convention stipulated four prerequisite elements that an aspirant state ought to possess: (a) a permanent population, (b) a defined territorial boundary, (c) a government, and (d) an aptitude to enter into relations with other states. Accordingly, any applicant state that manifests the aforesaid four elements is considered, under international law, a sovereign state. In light of Montevideo standard, let us examine whether Somaliland fulfills the aforesaid four prerequisite elements for statehood.

Somaliland possesses permanent population in excess of 3.6 million people, of which 97.1% participated in the referendum on May 31, 2001 affirming the independence of Somaliland. Second, Somaliland occupies conspicuously definite territory with an area of 137,600 km². The country is surrounded by neighboring countries of Ethiopia to the west, Puntland to the east, Djibouti to the northwest, and Gulf of Aden to the north. Third, Somaliland has democratically elected government consisting of three branches: the Executive branch which comprises a President, Vice President, and Cabinet; bicameral parliament composed of The House of Elders (*Upper Chamber or Golaha Guurtida*), The House of Representatives (*Lower Chamber or Golaha Wakiilada*); and independent judiciary (*Maxkamada*). Through free and fair elections, Somaliland has successfully constructed the first democratic state of its kind in the Horn of Africa fusing traditional institutions with modern political institutions. Fourth, Somaliland has entered bilateral and multilateral relations and co-operations with other states such as relations with Ethiopia, Djibouti, Kenya, Ghana, UK, Belgium, France, South Africa, to name a few. This demonstrated vividly that Somaliland fulfills the Montevideo standard of statehood. Despite its legally nonbinding position and the fulfillment of statehood prerequisite under

international law, critics still raise the oft-repeated question concerning the legality of Somaliland's current border. The answer to critics' inquiry clearly lies in the African Union Charter.

Inviolability of Somaliland Border

Some people attempt to dispute the legality of Somaliland's border. They assert that the border between Somaliland and Somalia should be disregarded because it was created by colonial powers. This repetitive absurdity has numerous profound historical and legal blunders. Historically, as I have explained in my previous article [*What Went Wrong? Why southern Somalia Failed and Somaliland Succeeded?*](#) majority of Somalis were, prior to the arrival of European colonizers, nomadic pastoralists and few agro-pastoralists sparsely scattered over a large areas wherein miscellaneous rival clans inhabited and safeguarded their respective, defined and, sometimes overlapped, territory/ies. As such, Somalis were not united as one nation in pre-colonial era. Therefore, the border, or rather borders, between clans have existed prior to colonial epoch.

Legally, however, the border that exists presently between Somaliland and Somalia is defined formally by the African Union Charter. Article 4(b) of the African Union Charter in its Resolution AHG/Res. 16(I) on "Border Disputes Among African States" which "The assembly of Heads of State and Government meeting in its First Ordinary Session in Cairo, UAR, from 17 to 21 July 1964," solemnly adopted states that all member "States pledge themselves to respect the borders existing on their achievement of national independence." The clause stipulates that *the borders that existed at the time of independence should remain the official borders between African states*. Consequently, since Somaliland's border existed at the time of its independence, it is, according to the AU Charter, legally the official border between Somaliland and Somalia. This demonstrates that Somaliland satisfies Article 4 (b) of the African Union Charter.

Other Breakaway States

Reasserting independence is not a new phenomenon. There were, and still are, countless countries that reassert their independence from their respective union. Most, if not all, of the subsequent cases resemble Somaliland's quest for recognition. On July 09, 2011 Republic of Sudan declared its independence from Sudan; East Timor withdrew from Indonesia in 2002; on December 25, 1991, the Soviet Union dissolved into fifteen states, Latvia, Estonia, Lithuania, etc; Macedonia and Bosnia seceded from Yugoslavia; on 1990s the Socialist Federal Republic of Yugoslavia disintegrated into Slovenia, Croatia, Bosnia and Herzegovina, Macedonia, Montenegro, Serbia, Kosovo, Vojvodina; Eritrea seceded from Ethiopia; Senegambia was dissolved into Senegal and Gambia; The Mali Federation dissolved into Mali and Senegal. Therefore, Somaliland is not different from any of the aforesaid cases. It fulfills and satisfies similar requirements that permitted the aforesaid states to secede. If this is the case, why then Somaliland is not recognized yet?

Political Reasons

The preceding clarifications demonstrate vividly that Somaliland deserves recognition due to its historical as well as legal grounds. Nevertheless, this raises the subsequent question: if Somaliland was independent state in 1960; never united with Somalia legally;

regained its independence in 1991; satisfies all the requirements of statehood under international law; has its own borders according to the African Union Charter, why, then, is it not recognized by any state? The primary, or rather the *only*, rationale that Somaliland is not recognized hitherto is apparently political reasons, rather than legal reasons. The main concern of most states, especially African states, is an irrational fear of opening a Pandora Box of secessionist aspirations across the continent. However, this concern is unfounded due to the aforementioned breakaway states across the globe. It is high time therefore for the international community to recognize Somaliland.

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