

**SOMALILAND: ELECTIONS FOR THE LOWER  
HOUSE OF PARLIAMENT  
SEPTEMBER 2005**

Report  
by  
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# Preface

NORDEM, The Norwegian Resource Bank for Democracy and Human Rights, was asked by the Norwegian Ministry of Foreign Affairs to identify a team of three experts who could carry out an assessment of the Elections for the Lower House of the Somaliland Parliament in the autumn of 2005. NORDEM nominated election expert Ms. Ragnhild Hollekim, political scientist and Somaliland expert Dr. Stig Jarle Hansen and diplomatic expert Mr. Geir Moe Sørensen for the assignment.

Members of the team stayed in Somaliland between September 3 and October 5, 2005. The objective of the mission has been to conduct a comprehensive analysis of the electoral process, assessed against international standards, among these Article 25 of the International Covenant for Civil and Political Rights (ICCPR) of 1966 in which eight democratic principles are established: periodic elections; universal and equal suffrage; right to stand for public office; right to vote; secret ballot and genuine elections allowing for the free expression of the will of the people. Key elements considered were degree of impartiality shown by Electoral Administration, freedom to assemble and express views, fair access to state resources, fair access to media, specifically public media, universal franchise offered to voters, issues concerning the democratic nature of elections such as campaign violence, rule of law, legislative framework and the electoral environment and the conduct of the polling and counting of votes. The team has followed the methodology for good observation practice outlined in the NORDEM Manual for Human Rights Monitoring; Election Observation.

The NORDEM team operated independently from other international observers.

The team would like to thank the Somaliland Government, the National Election Commission and electoral office holders, politicians, the NGO and media representatives and all others who willingly shared information and impressions during the course of our stay. Last but not least, we would like to express thanks for the hospitality of the Somaliland people.

The report is based on the observations made by the Norwegian observers. All opinions expressed in the report are the authors' responsibility and do not necessarily reflect the views of the Norwegian Centre for Human Rights.

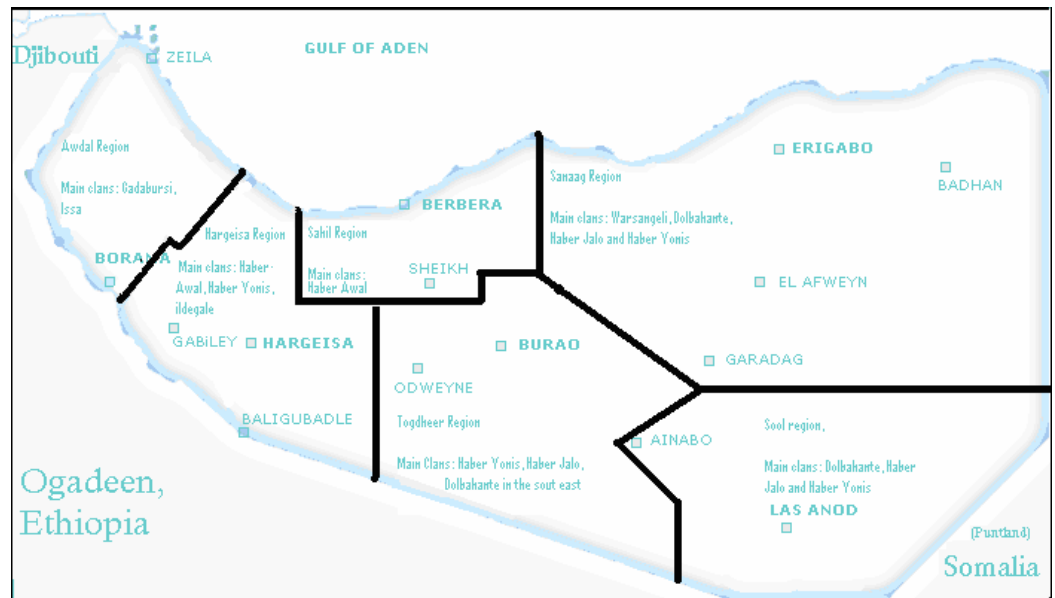
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# Map of Somaliland



## Executive Summary

Somaliland, a war-torn region and since 1992 a self-declared state that has not received international recognition, has with limited foreign assistance managed to establish peace and stability over the last nine years.<sup>1</sup> A system of governance has been adopted, District Council Elections were conducted in December 2002, and a Presidential Election held in April 2003, important moves towards further democratic development in a region that has little experience with this governing form. The recent Election for the Lower House of Parliament further supports democracy building in Somaliland and was a genuine effort to conduct a democratic electoral process. In spite of limited resources (logistical challenges included) and little experience, and a process falling short of several international standards for elections, the representatives of the Lower House of Parliament in Somaliland have for the first time been chosen by the ballot in an election that took place in a peaceful and largely competitive environment. In parts of Sanag, Sool and Toghddeer (disputed areas in regions bordering Puntland) voting could not take place, both because of variable support for an election and security reasons.

The election was conducted under a legislative framework that to a certain extent can provide for the conduct of democratic elections. There are important elements that need to be addressed to ensure full compliance of the legislative framework with international human rights and democratic standards. Constitutional provisions based on religion resulting in unacceptable disenfranchisement on the part of the electorate need to be removed so as to secure non-discrimination practices and equal rights for all citizens.

There is a constitutional provision limiting the number of political parties in Somaliland to three. There are no provisions for a review or an opening for new parties to enter the competition for political power. A principle such as freedom of organization is therefore not properly adhered to, and allowing three political parties only and for an indefinite time period limits political plurality and choice for the electorate at large. There are further gaps and contradictions in the Election Law, also due to last moment changes in the spring of 2005, and a lack of a final legal review of the text.

No census/voter registration or delineation of new constituency borders had been conducted for this election. With the available resources, this seemed at the time impossible to conduct. A strict demand for voter registration would also inevitably have led to yet another postponement of the election for Lower House of Parliament. However, this meant that the NEC for the 2005 Parliamentary election had neither the information to stipulate voter turnout, nor the tools to assure reasonably equal numbers of voters behind each seat in Parliament. No ID cards meant there were no formal means of establishing who was eligible to vote on Polling Day. In order to secure that a much-awaited election for the Lower House of Parliament could take place as planned in 2005,

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<sup>1</sup> Between the second declaration of independence and 1996 there were several serious wars.

the amended Election Law allows this election only to take place before a population census and a voter registration are conducted.

The Election Administration at all levels faced a number of administrative and logistical challenges, due to limited resources and little experience with elections. The NORDEM team found the National Election Commission (NEC) to be working in an impartial/independent manner, and taking context into consideration, also for part of the process with reasonable efficiency (for reconciliation/counting and tabulation process, see separate paragraph below).

The nomination process (with verification of fulfillment of relevant conditions, according to the House of Representatives Election Law, left to the parties and the NEC) was for the most part quite heavily influenced by clans, and clan support (also financially) seemed to be necessary to successfully run a campaign and finally win a seat. This contributed to imbalances in the resources available to candidates, making it difficult for some candidates more than others to fully reach the electorate.

Parties and candidates were for the most part able to campaign freely and actively and the fundamental freedom of expression was respected. Cases of interference and intimidation from government authorities/the incumbent party were reported, but these were relatively few in number and did not, as far as the NORDEM team observed, to a large extent inhibit campaign work or cause serious injuries or casualties.

There were frequent reports of the use of state assets (mostly cars) by the incumbent party UDUB and on several occasions the NORDEM team also observed this. The incumbent party at times resorted to extremely negative language (black PR) during campaign speeches.

On Polling Day, voters turned out in large numbers and in a peaceful manner, eager to cast their votes. The increase in voter turnout since the 2003 Presidential Election was approximately 35%. Together with a hard working polling staff, party agents, domestic observers and security personnel, everyone was eager to make the election a success. A number of polling stations opened late (1/2 hour – 1 hour) due to late deliveries of materials from the District Election Office. Voting took place in an open and transparent manner. Procedures were followed to some extent, but were also often departed from, most likely due to pressure on resources (too few staff) and lack of experience/sufficient training. There was extensive (illegal) transport of voters on Polling Day and widespread attempts at double (multiple) voting. The NORDEM team questions to what extent attempts at double voting succeeded in the end.

Serious lack of secrecy of the ballot was observed, with voting often taking place openly, where everyone present could see or hear the voter's choice. The reasons for this were mainly due to the fact that a large portion of the electorate is illiterate and in need of assistance, in combination with pressure on resources, such as too few staff. The integrity of the ballot is an important democratic principle, important also in Somaliland where voting by clan seems to be expected and may leave voters vulnerable to, at best, being frowned upon, at worst, more serious forms of intimidation.

In downtown Burao, the NORDEM team observed hundreds of voters being chased away at 6 pm while executing their constitutional right, waiting in line to vote. Incidents like this seriously limit democratic rights such as the full exercise of suffrage.

The counting and tabulation process turned out to be especially complicated and time consuming. Insufficient competence, and/or diligence and attention (also due to

exhaustion) devoted to the reconciliation of votes during counting procedures, caused many problems during the tabulation process. Seemingly, extensive recounts took place at district levels in all regions, resulting in preliminary results not being announced by the NEC before 15 October and final results by the Constitutional Court on 1 November, more than a month after Polling Day. The NORDEM team questions the large turnout of voters and the extensive support for the incumbent party (UDUB) in parts of the Awdal Region. There may have been factors affecting the final results also in other regions, but not to the extent that one would have expected a markedly different outcome.

The NORDEM team observed an open and outspoken free press in Somaliland. The free press has however very little coverage, and domestically based private broadcasting companies are still not allowed in Somaliland, as such limiting the plurality of the political debate. Somaliland National TV was heavily biased in favor of the incumbent party/government; Hargeisa Radio was more balanced but still to a certain extent favored the incumbent party in their news coverage.

Out of 246 nominated candidates, only 7 were women. In the end, only 2 women managed to win a seat in the Lower House of Parliament. Women in Somaliland carry major responsibilities, including to an increasing extent being the breadwinner of the family and were to an unreasonable extent marginalized in this election. The political parties' failure to support and propose female candidates, the patriarchal clan lineage system, the strong role of the clans in the nomination process and the need for clan support to successfully run a campaign were all effective obstacles for women seeking political influence through a seat in Parliament.

The civil society in Somaliland worked extensively to maintain peace, educate the electorate and increase the legitimacy of the election by training and deploying 600 domestic observers, succeeding in covering approximately 60% of the polling stations on Polling Day. Recognizing the challenges regarding successful voter and civic education in Somaliland and the NEC's and civil society's efforts to educate the electorate, voter education programs in general were not adequate for the 2005 Parliamentary Election.

A number of informal and formal complaints were filed, most of these addressed and solved orally and informally (and also often successfully) through an Election Monitoring Board. The Election Law does not clearly state what is regarded as an electoral offence. It is understandable that the complaint and appeal system has weaknesses, considering Somaliland's short history of institution building. Several serious concerns can be raised on this issue, such as the question of efficiency and proficiency, level of transparency and finally and most importantly, to what extent real action is taken. The political parties announced jointly on 23 October that they had decided to withdraw all complaints, both because they at large were pleased with how the election had been conducted and for the sake of the country "*the most important thing being the quest for (international) recognition*".

The NORDEM team's term of reference was to assess the electoral process only. It was not within the team's mandate to have an opinion on the question of international recognition for Somaliland.



## Somaliland: A Short Background

Somaliland's first legislative election was held while the area was still a part of the British Empire, in February 1960. However, the newly installed legislature subsequently declared its intention to unite with the Somali areas colonized by Italy, creating a Somali republic. This union was finalized only four days after Somaliland gained its independence.<sup>2</sup>

There was a substantial amount of euphoria in Somaliland for the idea of the union. There was also discontent, but this discontent was directed at the practical arrangements of the union itself. The political elite of Somaliland became integrated into Somalia, and all the leaders of the present day political parties have at previous stages either been high ranking civil servants or prominent politicians in Somalia.<sup>3</sup> A more general alienation from the concept of Somalia started during the later years of Siad Barre's military dictatorship (1969-1991). Centralization and expropriation policies estranged the largest clan in Somaliland, the Isaq clan. The large number of Somali refugees from Ethiopia settling in Somaliland, most of them with a different clan background than the original residents, strained both the economy and the environment in the region. All these factors, as well as religious prosecution, led to the founding of the Somali National Movement (SNM) in 1981, a rebel organization that recruited heavily amongst the Isaqs. The SNM quickly allied itself with neighboring Ethiopia.

In 1988 Ethiopia expelled the SNM. The SNM subsequently launched a desperate attack on Hargeisa and Burao, the two largest cities in Somaliland. In order to counter this move, Siad Barre's generals ordered the use of harsh reprisals towards the civilian population as well as the carpet-bombing of Hargeisa. Africa Watch estimated that some 50,000 to 60,000 civilians were killed, and that half a million fled across the border to Ethiopia.<sup>4</sup> Relatives of the victims joined SNM en masse, the bitterness towards the South increased and all non-Somalilanders were purged from the SNM. Many SNM members who previously had supported a continued union with Somalia now argued for independence. The final move towards cessation, a formal declaration of independence came after a southern fraction leader, Ali Madhi, declared himself president of Somalia in 1991 without consulting the SNM leadership.

The SNM faced enormous challenges. The Somali government had previously used some of the local clans against them, creating much conflict in the process. The SNM and the civilian administration that took over formally involved the traditional clan system in order to promote peace, and three large clan conferences (Shiir Beledios) were

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<sup>2</sup> Somaliland gained its independence 26 June 1960; it joined Somalia on 1 July of the same year.

<sup>3</sup> The current Minister of Finance, Hussein Ali Dualeh, participated in a coup attempt in 1961, aimed at restoring Somaliland independence, but he nevertheless held important positions in the Somali army, and in the Somali diplomatic services, both during the republic (1960-1969) and during the Siad Barre years (1969-1991). Dualeh (2002:1-103).

<sup>4</sup> Africa Watch (1990).

convened, all named after the city in which they were held.<sup>5</sup> While peace was elusive for the next six years, traditional leaders often solved the frequent conflicts and many of them built up a considerable popularity because of this. The last large Shiir Beledio was held in Hargeisa, the capital of Somaliland, in October 1996 to February 1997. This Shiir reelected Egal as president, and scheduled a transition from the clan system of governance to a democratic, party system. This also marked the beginning of a period of peace and stability in Somaliland. The current election might thus be seen as a stage in a transformation from a clan-based form of government, the so-called Beel system, into a more democratic one. Importantly, aspects of the Beel system, such as the role of traditional leaders in peacemaking in the nomination of candidates, and a general emphasis on achieving a fair distribution between clans, also influenced the 2005 elections.<sup>6</sup>

The people inhabiting Somaliland are Somalis. Somali traditions, customs and demography create challenges when holding elections. The majority of the Somaliland population still live a traditional nomadic way of life. Such nomads may at certain times be located in Ethiopia, and to a lesser extent in Djibouti, making it harder to conduct a census, as well as to correctly estimate the total size of the population. Moreover, no voter register exists.<sup>7</sup> This also makes it more difficult to plan for the distribution of ballot papers, establish the need for polling stations as well as where to allocate polling stations. Importantly, many of the nomads have well-known travel patterns following the seasons, and the traditional clan structure can be, and was, used to communicate with them. In the oral culture of the Somalis, word travels fast and is memorized through use of poetry, which also lessened the practical problems of conducting an election amongst nomads.<sup>8</sup> The distant relationship the nomads have with the state structures also means that purely political issues become less important to nomads, while the clan-based distribution of offices, as well as promises of gifts and material support, become vital strategies for gaining their support, a fact admitted to by prominent politicians themselves.

## Political Parties

The Somaliland Constitution limits the total number of political parties to three, partly because of Somalia's previous experience with multiparty elections in which party

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<sup>5</sup> The first of these meetings, the Burao Beledio in 1991 declared Somaliland independence and elected the SNM's leader at the time, Abdirahman Tuur, as Somaliland's president. Lacking funds, Tuur's administration attempted to disarm the various militias, and to establish control over potential sources of income. This, together with resistance from groups within the SNM, resulted in a war that ended only after traditional clan leaders had brokered peace. A second large conference, the Boorame Shiir Beledio of May 1993 elected Ibrahim Egal, the last Prime Minister of Somalia before Siad Barre took power in 1969, and also a non-SNM politician, as president, and laid the foundation for the constitutional arrangements in Somaliland. A second war ensued, as the new administration attempted to gain control over a potential source of income, the Hargeisa airport, and once again the move became interpreted as a move by one clan to control another; again traditional clan elders contributed to the solution of the conflict.

<sup>6</sup> See the section entitled "Clan, Nomination Processes and Electoral Participation" in this report.

<sup>7</sup> Because of the above-mentioned factors, the cost and challenges of creating such a register would also be relatively high.

<sup>8</sup> The daily milk transport into Hargeisa is very important. The clan elders use this transport in order to bring news out of the city.

fragmentation and small, regional, clan-based parties became a problem.<sup>9</sup> In this sense the limitation is an attempt to ensure that the parties have support in the whole of Somaliland, and to keep the parties from fragmenting.

The symbol of the governing party, UDUB (The United Democratic Peoples Party, the word also meaning pillar), is a Y resembling the pole that enables the tents of the nomads to remain standing, indicating that the party wants to be perceived as a pillar of Somaliland. Their focus on continuation within the governance structures, on stability and the advantage of their own experience, makes UDUB the closest Somaliland has to a conservative party, although the ideology is not defined in any party program, and the general ideological consciousness seems weak.

UDUB has several political factions, one surrounding the President of Somaliland, Dahir Rayale Kahin and his Vice President Ahmed Yusuf Yassin, the other group clustered around Suleiman Mahmoud Adan (Suleiman Gaal), Speaker of the Upper House. These two groups nearly came at odds during the spring of 2005, but the two groups are now well coordinated and harmonious.<sup>10</sup> The party could draw upon excellent oratories like the Minister of Information, Abdihlahi Mahammed Duale and an active campaign organization led by Muhammed Abdi Farah.

KULMIYE party (The Gathering/Solidarity) is led by veteran politician Ahmed M. Mohamoud “Silanyo”, former Minister of Planning (1969-1973) and Minister of Commerce (1973-1978, 1980-1982) in Siad Barre’s Somali government. From 1984 to 1990 Silanyo served as the leader of the SNM, making him the longest reigning leader in the history of the organization.<sup>11</sup> The party leadership includes several other leaders from the SNM, and this is actively used by many of the members of KULMIYE in order to promote the party.<sup>12</sup> KULMIYE is perhaps the most complex political party in Somaliland, with several politically defined interest groups operating within the party. Three such groups, a group around a core of old SNM Marxist officers nicknamed “Alanaas”, a religious group around the new M.P. Abdilazis Samale, and a group clustered around former members of an old NGO of legendary status because of its resistance towards the Barre regime, “UFFO”, are easily identifiable.<sup>13</sup> In Somaliland, this makes the party unique in the sense that it has well defined political factions transcending clan interests, however this might also open up for factionalism in the future. The ideology of the party is not clear. Statements of new members of parliament point in different directions as do statements of their leaders, but there is a particular stress on environmental protection in its party program.

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<sup>9</sup> Article 9 of the Constitution.

<sup>10</sup> This was during the impeachment discussions in May 2005. The impeachment procedure also created distrust between UCID and KULMIYE, as members of the former felt that the latter put Somaliland’s stability in danger.

<sup>11</sup> He is the only leader of the SNM still alive. Silanyo was also Minister of Coordination (1997-1999) and Minister of Planning in Somaliland (1999-2000).

<sup>12</sup> Its second leader is Abdiraman Aw Ali “Tolwa”, also a veteran of the SNM.

<sup>13</sup> Two of these groups, the Alanas group and the UFFO group lost members to other parties in this election.

The Justice and Welfare Party (UCID) remains the party with the most clear-cut ideology, claiming to be a Scandinavian-type social democratic party. This is perhaps influenced by the fact that a large number of its top leaders used to live in Scandinavia.<sup>14</sup> Regardless of this, many of the new party members seem to lack a conscious ideological commitment. The party attempts to deal with this by arranging workshops focusing on ideology, and the party hopes to send its new members on training sessions hosted by the International Socialist Union, of which it also hopes to become a member. The party is by far the most hierarchical of the three parties, and is tightly controlled by its leader, Faisal Ali Farah Warabe. It has a clannish base in the Ildegale sub-clan, but its appeal goes far beyond this clan. Because of Faisal Ali Farah's quite recent entry into politics, many Somalilanders who want to see "new blood" in the government choose the party. The two other parties are both led by politicians close to the late President Egal. UCID has a substantial number of returned diaspora Somalilanders amongst its candidates.<sup>15</sup>

Traditionally, political life in the region has been troubled with fragmentation and lack of party discipline.<sup>16</sup> There are several reasons to fear for the party discipline within all three parties. One such reason can be the nomination process itself. None of the parties could adequately support their candidates, and candidates interviewed in connection with this report in general estimated that it was necessary to spend USD 30,000 in order to run a successful campaign, money they had to raise for themselves. This is problematic, also because it limits the participation of poorer candidates. It may also create fewer incitements for party loyalty. Additionally, all three parties are relatively young; the oldest, UDUB, is from 2001. Formal procedures are fresh, and there is little experience with party discipline.<sup>17</sup> Thirdly, the ideological foundation of all three parties is weak, although one of them, UCID, has a somewhat clearer ideology. Fourthly, the importance of clan factors in the nomination process means that clan loyalty still runs strong, perhaps more so than party loyalty.<sup>18</sup> The estimated need for USD 30,000 in order to be able to campaign efficiently contributes to the clan factor, as the clan becomes one of the most efficient channels for fundraising.<sup>19</sup> Establishment of a stronger party structure and if possible a certain amount of public funding could imply softened economic links between candidates and the clans. The

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<sup>14</sup> UCID's leader Faisal Ali Farah used to live in Finland; the party's third chairperson, Amina H Mohamoud Warsame, used to study in Sweden; the Agricultural Secretary Dr. Cabdiraxmaan Jaamac Ducaale, has a Masters degree from Norway.

<sup>15</sup> Faisal Ali Farah estimates that as much as some 30% of UCID's candidates were from the diaspora. Interview with Faisal Ali Farah 04/09 2005.

<sup>16</sup> In the 1969 Somali elections there were sixty-four parties, itself a sign of fragmentation. All of these parties dissolved after the election, as party leaders joined the governing Somali Youth League en masse; party discipline was thus non-existent (Metz 1992).

<sup>16</sup> Its second leader is Abdiraman Aw Ali "Tolwa", also a veteran of the SNM.

<sup>16</sup> Two of these groups, the Alanas group and the UFFO group lost members to other parties in this election.

<sup>17</sup> This is illustrated best by the example of KULMIYE's Ibrahim Muhammed "Deganwheine" endorsing a candidate from an opposing party (UCID), Mohamed Farah Qabile.

<sup>18</sup> See the section "Clan, Nomination Processes..." and collective boycotts of the election in this report.

<sup>19</sup> Illustrated best by the rebellion of all of KULMIYE's Issa candidates and half of UDUB's against the official party line of their respective parties.

independence of candidates is also to a considerable degree dependent on the level of remuneration in the Lower House of Parliament.

## System of Governance

The National Charter, adopted by the Boroma Conference in 1993, established a governmental system consisting of an Executive Branch with a President, a Vice President and a Council of Ministers, a Legislature, comprising a Parliament with an Upper House of Elders (Guurti) and a Lower House of Representatives (HoR) as well as a Judiciary. A provisional Constitution was drafted by the Hargeisa Conference in 1997, introducing a party system with a party-based elected Executive Branch and a multi-party elected House of Representatives. The Constitution also provided a decentralized local government of multi-party elected District Councils. There are so far no provisions for how to elect and select the representatives for the Upper House of Elders. The Constitution (with amendments) was approved in a referendum on 31 May 2001.

### The Executive Power

The President and the Vice President are to be elected by direct vote every 5 years. The President is Head of State and holds the leadership of the general policy of the government. Main areas of competence are to propose laws and budgets, national security (armed forces) and the appointment of cabinet ministers and senior officers of the state. The first general election for president in Somaliland took place in April 2003. Presidential candidate Dahir Rayale Kahin from UDUB won the Presidential seat with a majority of 80 votes over the main opposition party KULMIYE and their Presidential candidate Ahmed M. Mahamoud Silanyo. This extremely narrow result, a number of contested boxes, a non-transparent tabulation process and finally, a court decision with no public reasoning behind its judgment, raised serious questions concerning the legitimacy of this part of the process as well as the final results.<sup>20</sup>

### The House of Elders and the House of Representatives

The House of Elders (HoE), also known as the Guurti, is a constitutional formalization of the traditional Council of Elders. The current representatives of the House of Elders were selected through negotiations among members of each clan. According to the Constitution, the HoE shall have 82 seats and the period of office is 6 years. The powers of the HoE are first and foremost the passing of legislation relating to religion, traditions (culture) and security. The HoE shall ratify, reject or propose amendments to all laws passed by the House of Representatives (HoR) apart from those on financial matters. The

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<sup>20</sup> Lindeman and Hansen (2003).

political impartiality of the HoE has been questioned relating to the process of extending terms both for the HoR and the HoE.

Originally, the election for the House of Representatives was to take place in May 2003, one month after the presidential election took place. The decision by the Guurti to extend the term of the sitting HoR by 2 full years (implying a 3-year extension of their own term as members of the Guurti) was highly controversial and heavily opposed by political parties, civil society and the NEC. Acknowledging the challenges (financial and organizational) in holding two elections within two months, the Guurti was on the basis of this decision also accused of, at least in part, having own interests in mind.

There are so far no legal provisions for how the members of the HoE shall be elected or selected. An Election Law regulating election for the HoE is pending but not yet finalized. Likewise, it is not yet finally decided when the first election for the Guurti will take place.<sup>21</sup>

The outgoing House of Representatives was originally negotiated and selected on the basis of clan representation at the Hargeisa Conference in 1997. Like in the Guurti, there are 82 seats in the HoR, in the new Parliament distributed among the 6 regions on the basis of a pro rata formula based on the 1960 Somaliland legislative election. The main area of authority of the HoR is the legislative, outlined in the Constitution as proposing, amending, rejecting and approving laws (which in turn will be passed on to the House of Elders). Also important is the right to impeach the President or propose a vote of no confidence against the Executive Branch.

As mentioned earlier, the term of the HoR has been extended several times, finally resulting in a term of 8 years for the outgoing Lower House of Parliament. In addition, finalizing the new House of Representatives Election Law (EL) turned out to be very challenging. One interlocutor put it like this: *“The main problem was that the House of Representatives Election Law had to be passed by a Parliament which had no interest in pushing for a new election for Parliament”*.

The new EL was finally passed by the House of Representatives 18 January 2005 and endorsed by the House of Elders on 5 February 2005. The Election for the House of Representatives was due to take place 29 March 2005. A major problem at this point was that the new EL included two provisions that in principle, and in its consequences, would mean that no election for the Lower House of Parliament could take place in the foreseeable future. These provisions were that polling would have to take place in the whole country and that allocation of seats must be based on a nationwide voter registration (a census). It was unrealistic that an election could take place in all areas including the regions of Sanaag and Sool, contested areas bordering Puntland. A census and a voter registration system would be another time consuming exercise, apart from the fact that there were no plans and no available resources for such an effort.

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<sup>21</sup> It is scheduled for the spring of 2006.

To prevent a possible extension (third term) of the old Lower House of Parliament and no election in the foreseeable future, the President intervened through the Attorney General and the Constitutional Court. Both political parties and civil society were important pressure groups during this process, all being of the opinion that it was crucial to secure that an election would take place. Finally, an amended EL was signed by the President and published on 12 April 2005. A new date was set for the election, 15 September, later postponed again and held on 29 September 2005. The last postponement was, according to the National Election Commission, intended to oblige political parties to finalize their candidate lists within set time limits, and in turn affecting deadlines for the printing of ballots.

## The Judiciary

According to the Constitution, Somaliland has a Judiciary independent of other branches of the state. Apart from the Supreme Court, which also serves as the Constitutional Court (it is the Supreme Court sitting as the Constitutional Court which formally announces the result of elections), there is an Appeals Court of the Region, a Regional Court and a District Court. The legal system is dual, combining religious laws of Sharia and national laws. Sharia law regulates personal and family law (and to some extent criminal law) while national law dominates public legislation. When Sharia and national law are in conflict, Sharia law has priority.<sup>22</sup> The dual system is reflected in the Judiciary where judges with legal education and judges trained in religious laws enjoy the same positions. According to the Constitution, the President appoints the judges of the Supreme Court. However, the appointment should take place on the basis of a consultation with a Judicial Commission, and be confirmed by a joint sitting of the Houses of Representatives and Elders. The President also has the authority to dismiss the judges of the Supreme Court, and only a dismissal of the Chairman of the Supreme Court would require approval from the two Chambers of the Parliament. Thus, in principle, the President has in fact the possibility of an unchecked influence over the Judiciary.<sup>23</sup> It should also be mentioned that in Somaliland, traditional means of solving conflicts through clan elders are much used and often preferred. There is also a semi-recognized religious court system, where religious leaders make decisions, particularly in family matters, covered by Sharia law.

The Judiciary is most likely still the weakest part of Somaliland governance, in need of new, updated and clearer legislation, consistent with the Constitution. At present, there is a mixture between new laws passed by the Somaliland Parliament and a number of old laws, inherited from the Somali regime.<sup>24</sup> There is a need for more resources and competence building at all levels of the Judiciary. In addition, when different institutions,

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<sup>22</sup> Lindeman and Hansen (2003).

<sup>23</sup> Lindeman and Hansen (2003).

<sup>24</sup> The Penal Code is almost word for word the 1931 Italian version (Jama 2005).

systems and individuals interpret laws and exercise legal authority, it is a challenge to secure rights and equality before the law for all citizens.

## Laws Regulating the 2005 Elections

### **The Somaliland Constitution**

The basic principles of Election for the House of Representatives are found in the Somaliland Constitution, approved in a referendum on 31 May 2001. The Somaliland Constitution states that all citizens (men and women) enjoy equal rights, freedoms and obligations before the law, except in matters that are specifically ordained in the Islamic Sharia. Since the Islamic Sharia mainly regulates personal and family law, possible restrictions on citizens rights stated in the Constitution may concern women more than men. Or as one of our female interlocutors put it: *“Maybe not because of the Sharia law per se but first and foremost because it is often interpreted by men who do not know that the Sharia law indeed secures many rights for women, and secondly, the fact that women neither know their rights, have resources or the necessary support to pursue them.”* In addition, traditional law, seemingly still widely exercised in rural areas, allegedly gives women a subordinate position and less protection than men.

While every person shall have the right to freedom of belief, religion is left out from an otherwise comprehensive list of the grounds upon which discrimination cannot take place. To leave out religion in this respect runs contrary to international human rights principles.

The Constitution states that the number of political parties in Somaliland cannot exceed three, a limitation that runs contrary to democratic principles like freedom of organization. Another major problem is that parties, once having reached the Lower House of Parliament (LHoP), may have little interest in or motivation to revisit the Constitution to allow competition from new parties or movements. An important feature of a functioning democracy is the population’s ability, at regular intervals, to replace parties/candidates who don’t deliver and allow “new hats” in the LHoP. Secondly, with only three parties allowed in the LHoP, alliances may, in the worst case, result in a development towards a centralized focus of power, thus preventing political plurality. There is a need for establishing mechanisms that, for example, at regular intervals open up for new parties entering the competition for political power in Somaliland.

The limit of three parties only must be understood historically. During the years of the Somali Republic the huge amount of parties destabilized politics, and contributed to Siad Barre’s coup in 1969. Limiting the number of parties may have a stabilizing effect in a period when institution building is taking form in, security-wise, a somewhat vulnerable environment. It may also to a certain extent hinder clan or regionally based parties and should encourage broader political platforms, negotiations, adjustments and inclusions within each party.



## House of Representatives Election Law<sup>25</sup>

The House of Representatives Election Law (EL) has regulations on who is eligible to vote, the rights of the voter and who can stand for election. Further, it regulates the electoral system and administration, tabulation and announcement of the electoral results, contraventions of the EL and procedures. To be eligible to vote you must be a Somaliland citizen and not be less than 16 years of age during the year in which the elections are being held. Since Somaliland allows dual citizenship, the large Somaliland diaspora can vote, given that they are present in Somaliland on the day of the election. Voters can cast their votes in any polling station on Polling Day. There are so far no provisions in the EL for postal, early or mobile voting.

Candidates can be proposed by parties only and seats are won on the basis of a proportional representation system, as reflected by the votes cast for each party in the region. The party lists are open, thus sequential order on the lists is of no importance. The candidates receiving the most votes win. Provisional results shall be announced at the regional level, preliminary results at the central level (the National Election Commission) and final results by the Constitutional Court. Party observers shall receive copies of the final protocol at all levels, polling stations included.

To run as a candidate for the House of Representatives you have to be a Muslim and be at least 35 years of age. The fact that only Muslims can hold elected positions (and a number of other positions) in Somaliland is seen as a serious breach of basic international human rights standards, such as non-discrimination because of religion. The NORDEM team also believes there is a contradiction between when one is regarded as an adult with full adult responsibilities (15 years) and when one can run for a seat in Parliament (35 years of age). This excludes, in the NORDEM observer team's opinion, too great a portion of the adult population from seeking the political power and influence a seat in Parliament represents. The age limit could preferably be reduced.

The Election Law has some provisions for sanctions against infringements of the law, but does not state clearly what is regarded as an electoral offence.

No census, voter registration or delineation of constituency borders were conducted for this election. A decision was made to use the regional borders of the 1960 six Principal Districts as constituency borders. This meant that the NEC neither had the necessary information to stipulate voter turnout in the different electoral districts nor the information needed to ensure an equitable distribution of seats between constituencies, securing an (to a reasonable extent anyway) equal number of voters behind each seat. Further, no ID cards meant there were no formal means of ascertaining who was eligible to vote on Polling Day. The procedure for allocation of seats to the regions was for this election based on a pro rata formula of the number of seats allocated as far back as 1960, at that time a total of 33 seats, neither at this point based on or distributed to regions as a

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<sup>25</sup> Law No: 20-2-2005, amended on 2 April 2005 and signed and published by the President on 12 April 2005.

result of a population census or voter registration.<sup>26</sup> In the NORDEM team's opinion, this decision has most likely disfavored cities and towns (and Hargeisa especially), as there has been a steady population flow towards urban centers. In consequence, it may also have added to the clan factor, as it is reasonable to think that clan influence is stronger in rural areas. A census, voter registers, a system for identifying who is eligible to vote and delineation of constituency borders are important tools for ensuring democratic principles for elections and should preferably be established before an election takes place. Aware of this, in the final amendments, the EL allows "*the first election only to take place before a population census and voter registration and that this election should be conducted on the basis of allocation of seats to the six regions on a pro rata formula based on the 1960 Somaliland legislative election*".<sup>27</sup> This solution, together with the amended EL also opening for the possibility that voting, for security reasons, cannot take place in all parts of the country, must be seen as a pragmatic solution to make sure that a long awaited election for the Lower House of Parliament could take place as planned in 2005.

The Election Law suffers further from contradictions and gaps, also due to last moment changes in February 2005 and the fact that there has been no proper legal review of the final text. Some of the problems were to a certain extent solved by importing relevant provisions of the 2001 Presidential and Local Council Election Law. A later negotiated Code of Conduct for Political Parties also addressed a number of gaps and deficiencies in the EL. As examples, it is the Code of Conduct which secures enforcement mechanisms to ensure compliance with the Electoral Law and procedures, has further provisions for allocation of seats in areas where voting for security reasons cannot take place and procedures for complaints when holding demonstrations is banned. There is in general a need to address and review the whole election legislation and the advantages of one comprehensive Electoral Law should be looked into.

## Other Relevant Laws

The other relevant laws for the 2005 Parliamentary election are the Presidential and Local Council Election Law, the Regions and Districts Law, the Regulation of Political Associations & Parties Law and the Citizenship Law.<sup>28</sup>

The Constitutional Court decided on 26 February 2005 that any procedural deficiencies in the House of Representatives Election Law can be remedied by importing the relevant provisions of the 2001 Presidential and Local Council Election Law.<sup>29</sup> As mentioned earlier, this decision solved some immediate problems following the last minute changes of the EL in February 2005. There is a need for further clarification and

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<sup>26</sup> Jama (2005b).

<sup>27</sup> Jama (2005b).

<sup>28</sup> Law No: 20 of 2001, Law no: 23/2002 (as amended), Law No: 14/2000 and Law No: 22/2002, respectively.

<sup>29</sup> See Adoption Process: House of Representatives Election Law.

streamlining between the two laws (or preferably one comprehensive Election Law?) before upcoming elections.

The Regions and Districts Law regulates how the country is divided. Somaliland has 6 regions and 23 districts with corresponding regional and district election offices. The six regions (with number of districts) of Somaliland are: Hargeisa (4 districts), Awdal (4 districts), Sahil (2 districts), Togdheer (3 districts), Sanaag (6 districts) and Sool (4 districts).

The Regulation of Political Associations & Parties Law regulates formation, obligations and rights of political parties, as mentioned earlier limited to three by the Somaliland Constitution. The law has no provision for the formation of new parties.

The Citizenship Law regulates matters relating to Somaliland citizenship and hence the right for citizens to vote in elections. Somaliland has a patriarchal nature of citizenship (lineage through the father). It is in some of its consequences discriminatory of women's and children's rights. This law states that adult means any citizen who is 15 years old or more. Somaliland allows dual nationality without losing the Somaliland citizenship.

## The Electoral Administration

The Election Administration of Somaliland operates at 4 levels.<sup>30</sup> The first level, the National Election Commission (NEC) consists of 7 members and the term of office is 5 years. Three members were nominated by the President, two by the House of Elders and the remaining two were nominated by the opposition parties. The appointments were approved by the House of Representatives on 21 January 2002.<sup>31</sup> The NEC appoints lower level commissions. The NEC's duty is to organize, oversee and conduct all election activities, set dates for elections, set the number and locations of polling stations, and staff election offices at the different levels. The NEC shall also undertake the registration of voters, which for reasons mentioned earlier has not yet taken place. Off and on there were accusations of the NEC/some election bodies on the regional and district levels being biased, sometimes accusing the election body of being biased in favor of or against the government/government party. The parties in general expressed satisfaction with the NEC and the work of the election body at large. The NORDEM team found the NEC to be independent and impartial in their work.

The second level, the Regional Electoral Offices (REO), conducts and oversees election activities in the respective regions and checks and tabulates the results from the districts after Polling Day. There is one REO in each of the 6 administrative regions of Somaliland, as mentioned also serving as constituencies for this election. The third level, the District Electoral Office (DEO) conducts and oversees the election activities in the respective districts of Somaliland and checks and tabulates the results from the polling

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<sup>30</sup> As outlined under the Presidential and Local Council Election Law (Law no: 20/2001).

<sup>31</sup> Somaliland Forum 18.7.2005.

stations. There are a total of 23 districts. At the Polling Stations Electoral Office (PSEO), the fourth level, the staff of four is responsible for the conducting of the election during voting and counting of ballots. For the most part, university students (with no party affiliation) were appointed as the PSEO Chairs. There were a total of 982 polling stations for this election, an increase of 82 since the 2003 Presidential Election.

A Code of Conduct was signed by the three parties on 18 July 2005. This is not a legal document but turned out, in addition to the Electoral Law (EL), to be a necessary and for the most part well-functioning tool in the process leading up to the election and throughout Polling Day. The Code of Conduct serves different purposes, and is in many ways illustrative of the Somaliland way of finding solutions suitable for what the present situation demands. According to the Code of Conduct, Section 1, parties agree to take every step to ensure compliance with the Code itself, election laws and regulations. All parties must respect other parties' rights and freedoms while each party promises not to engage in behavior contradictory to the Code of Conduct, laws and regulations. In addition, the parties recognize the full authority of the Commission. Section 2 of the Code of Conduct deals with gaps and deficiencies in the EL, clarifying issues in relation to 10 different paragraphs. This solution for the most part served the purposes for this election, but these gaps and deficiencies in the EL must be addressed in future law reviews. In sections 3 and 4, the Code outlines enforcement mechanisms to ensure compliance with laws and regulations regarding use of public funds/property and government radio and the media's role in the election. An Election Monitoring Board consisting of 15 respected citizens appointed by the NEC in consultation with the political parties shall serve as an enforcement instrument for the Code of Conduct. The NEC granted the Board authority to investigate on its behalf any violation of the Electoral Law, and if necessary, to recommend to the Commission a course of action to be taken against the offender. The system of handling complaints raises some concerns.<sup>32</sup> In the NORDEM observers' opinion, the Election Monitoring Board served many purposes and was clearly of value for the smoothness of the process itself.

## **Election Preparation**

This election was Somaliland's first election ever for the Lower House of Parliament. With limited resources available, the election body at all levels worked hard and did a reasonably good job.<sup>33</sup> The National Election Commission and lower level election bodies faced a number of administrative and logistical challenges throughout the preparation process, also due to limited experience. The counting and tabulation process turned out to be the most problematic, raising serious concerns regarding both competence and efficiency in relation to this part of the election process. The NEC seemed to face and address most tasks and challenges independently and impartially. In

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<sup>32</sup> See section on The Review of the Complaint Process.

<sup>33</sup> Somali Democratization Programme contributed 1.4 mill. Euros to the 2005 Parliamentary election in Somaliland.

a difficult border dispute between Awdal and Hargeisa concerning a coastal area, the NEC ruled against the recommendation of government authorities, calling off the election in the most disputed area for security reasons. The NEC Monitoring Board issued several press releases urging the political parties and the press to adhere to the Code of Conduct. The government party UDUB was asked to stop abusing their position and administrative resources during their campaign. The press was monitored by the NEC and publicly reminded of their duties. Government-owned SLNTV was publicly criticized, with the Board claiming that this TV station gave more than 90% of their time to coverage of UDUB-related activities.

Lack of census and voter registration led to major challenges for the NEC. Both stipulating the number of polling stations needed and how to distribute the polling stations turned out to be a very difficult task and was only partly successful. The NEC was put under considerable pressure here from all sides (lower election bodies, parties and individual candidates). The reasons for this differed. Firstly, all parties (the NEC included) agreed on an overall need for more PSs, which for resource reasons were restricted to 982. Secondly, political parties and the respective candidates knew their own strongholds and had an interest in increasing the number of PSs in respective areas. While the number of voters per polling station in general turned out to be manageable, in bigger cities there were obviously not enough polling stations.<sup>34</sup>

There was an expected general increase in voter turnout for this election compared with the 2003 Presidential Election. A total of 246 aspiring candidates ran for a seat in the Lower House of Parliament and to succeed they had to campaign actively and widely. Since communities and clans now gathered around “own” candidates, a greater interest among the electorate to take part in this election was expected. This also turned out to be the case, and an increase of 174,000 voters since the 2003 Presidential Election was registered.

As in the 2003 Election, the NEC swapped polling staff between districts, thus reducing possible loyalty and peer pressure from own clan/community. In parts of the Awdal region this did not take place. This may partly explain the large (and somewhat questionable?) voter turnout in some parts of this region.<sup>35</sup> The general increase in voter turnout in the whole country alone can hardly account for this.

A comprehensive manual developed by the NEC contained information for training purposes and a detailed explanation of every step of the voting and counting procedures. Every polling station had been provided with a copy. The NEC trained lower level election commission staff, party agents and police for this election. Polling staff received 2 days of training while party agents, police and local observers received 1 day of training.

The NEC had 1.3 million ballots printed for this election, expecting an increase in voter turnout compared with the 2003 Presidential Election, where less than half a

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<sup>34</sup> See “Polling Day” section.

<sup>35</sup> See “Clan Nomination Processes and Electoral Participation”.

million turned out to vote. Ballots had different colors for each region, three columns (for the three parties), and a fixed number of candidates listed (corresponding with the number of parliamentary seats for the relevant region). As with the 2003 Presidential Election, the ballots were numbered on the ballot itself and on the counterfoil, ensuring a high level of ballot security. This system also secures an audit trail. Ballot papers were printed in the form of a booklet, making it easier to control the number of ballots at hand. 1200 and 900 ballots were distributed to urban and rural polling stations respectively.

As in 2003, to offer support to the REOs, the NEC deployed a representative to each region for the Polling Day (also provided for in the EL). The NEC representative shall, together with the respective REO announce provisional results from the regional level. As mentioned in the NORDEM report 2003, this may be seen as problematic, as a member of the NEC then becomes a part of the decision-making process at the regional level. Since the NEC's mandate is to adjudicate complaints and to scrutinize and approve the results from the regional level, the NEC representative may find himself in conflicting roles. To better ensure the integrity of the NEC, the NEC seemingly would be better off relying on the capacity of the REO and in this way avoid any involvement in decision-making processes at this level. The NORDEM observer team acknowledges the need for competence building in lower level election commissions and that the intention of this move is to strengthen the REO and further ensure the quality of the process. Another problem with this solution was that the NEC at the central level had seriously reduced capacity at a critical time. It is the NORDEM observer team's opinion that the NEC's own efficiency suffered from having members spread around the country, some for long periods of time, due to the time consuming aggregation process.

## NEC and Political Party Agents

The NEC worked very closely with the political parties. All parties had special representatives assigned to work with the election body on the national, regional and district levels and it was the NORDEM team's impression that daily contact was a rule more than an exception. When needed, the NEC and lower level Election Commissions called in political parties' representatives on short notice. There was a low threshold for political parties contacting the election body at different levels.

All political parties can appoint agents to observe at all levels of the electoral process.<sup>36</sup> They have the right to submit concerns and requests to the electoral office, which shall be recorded. It is the NORDEM observers' impression that party agents were indeed present at all levels and throughout the election process.

Several steps have been taken since the Presidential Election in 2003 to clarify the role and the rights of party agents.<sup>37</sup> Most importantly, party agents, according to the

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<sup>36</sup> The rights and duties of the Parties and their agents appear in the EL art. 28 and 29 and are further outlined in the Code of Conduct for Political Parties.

<sup>37</sup> As was recommended by NORDEM; Lindeman and Hansen (2003:15).

new HoR Election Law, now have the right to receive a copy of the written records from all levels of the election body, polling stations included. This is a new provision in the law and an important and necessary step to secure transparency. For the 2003 Presidential Election, many boxes were rejected and many votes lost due to party agents' not being present when the protocols were to be signed or due to missing/unclear provisions regarding how to handle cases where party agents for different reasons refused to sign the written records. For this election, parties could send two agents each (who could be substituted if necessary). Together with better provisions in the EL regarding how to handle cases where party agents refuse, argue against or refrain from signing, this turned out to be much less of a problem than in the 2003 Presidential Election.

The role of the party agents is of vital importance in any election, securing transparency and in general instilling trust in the process. The party agents are in the new Election Law still required to sign envelopes and protocols/written records at all levels. The NORDEM Report 2003 commented on some problems with regard to such practice. Having party agents sign protocols together with members of the Commission may have had the best of intentions, such as to increase transparency even further, increase legitimacy of the results, and finally, maybe make parties liable for the results. The opinion expressed in the report, that the division of authority between appointed members of the commissions and party agents becomes blurred, is supported by the 2005 observer team as well. Lack of a clear division of roles between election officials and party agents, in combination with insufficient training and competence regarding party agents' mandate, election laws and regulations on both sides, have some unwanted effects that should be addressed. The need to have party agents' signatures on the protocols may lead commissions to accommodate party agents to an unreasonable extent. On the other hand, a system where party agents as well as election officials sign the written records could also lead to political parties being held hostage by their own signature in the event of later claims against the outcome of the election.<sup>38</sup>

## Security

It was found necessary, for security reasons mainly, to suspend voting in seven disputed districts in the Puntland border area. Four non-Somaliland citizens, foreign aid workers, were executed by terrorists (Jihadists) in the course of 2003 – 2004. The last attack was in April 2004. Six of the accused were, on 25 September, only four days before Polling Day, awaiting a final verdict in the Supreme Court. A death sentence was expected. Considering the upcoming election, the timing of this event was unfortunate, creating rumors of possible revenge and concern for new attacks on foreigners. For these reasons, sensibly enough, steps were taken by the authorities to postpone the case until after the

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<sup>38</sup> Also mentioned in the Nordem report of 2003; Lindeman and Hansen (2003).

election. The terrorist cell that was found and effectively neutralized in Hargeisa city just five days before Polling Day resulted in a general high security alert. All international observer teams worked with armed escorts. Because of the high security alert all international observers were deployed in convoys and most as late as on 28 September. On Polling Day itself there was a general ban on movement. Exceptions were transport necessary for the conducting of the election. The NEC would in these cases authorize permission to drive.

## Voter and Civic Education

In a country with a high level of illiteracy, a large percentage of the population being nomads or semi-nomads and very limited coverage by printed media and radio/TV, voter and civic education is a very challenging exercise. The NEC, however, did implement a number of initiatives, trying to enlighten the electorate in the process of voting. Throughout the campaign period, the printed press, public and private, in every edition gave space to the NEC and relevant information for voters. Likewise, TV and radio had daily slots with voter education. Both the printed press and radio and TV had however limited coverage.

Two umbrella organizations from civil society, Nagaad (women's organizations) and Cosongo, trained independent local observers for one day. Unfortunately, limited resources allowed only 600 observers to be trained. Together with low per diem and a transport problem, this meant that local observers were only present in urban and easily accessible areas. The money for training was transferred from the NEC, which also, allegedly, had a final say regarding where to deploy local observers. Satisfied with the NEC's work in general, representatives from both organizations expressed a need for an even clearer division of roles between the NEC and civil society in this respect, underlining the independence of domestic observers even further.

The same organizations also conducted voter education programs. Nagaad was during one month able to visit 139 villages in 5 regions with their mobile voter education teams. Cosongo organized drama groups, visiting the major cities and towns in the regions. The services of scriptwriters and poets were also used. In regions, the REO conducted voter education and organized mobile units with loudspeakers. A spin-off effect from the training of 15,000 people (election staff, party agents, domestic observers and police) was expected.

The ballot for the HoR election was relatively complicated. For this reason, the NEC had 20,000 specimen ballots printed for education purposes; these ballots were distributed on an equal basis between all candidates to make their campaign work easier. On Polling Day, the NEC had posters in all polling stations illustrating voting procedures. Both Nagaad and Cosongo claim that voter education programs in general have been most inadequate. That said, most voters on Polling Day seemed well aware of for whom they wanted to vote.

## Women, Minorities and Election for Parliament

Women in Somaliland, despite their carrying major responsibilities including increasingly being the breadwinner of the family, have very little political power. In the



outgoing Lower House of Parliament, there were no women. Art. 13 in the new EL for the HoR states that parties must encourage the participation of women in the affairs of the country. According to the Code of Conduct, every party will take all necessary steps to promote inclusion of women candidates in their respective list of candidates for each region. On the final candidates lists, only 7 out of 246 aspiring candidates were women. In addition, 2 out of the 7 female candidates were not competing on the ballot, both of these from UDUB (representing Sool and Sanaag region).

The main voice of women is Nagaad, a local umbrella organization established to promote the development of women in Somaliland. An important part of their work is to empower women politically. For this purpose mainly, the Women's Political Forum (WPF) was established in 2001. Nagaad is very active and visible in Somaliland society, led by highly competent and very dedicated women. While the HoR EL was in process of passage, Nagaad and the WPF worked very actively towards the outgoing Lower House of Parliament, lobbying to include provisions for a quota for women in the law. Once it was clear that quotas were unconstitutional, they continued lobbying (although still unsuccessfully), first for a provision in the law stating that the first 5 names on the respective regional candidates' lists cannot be of the same gender, later that the 5 candidates with the most votes in each region cannot be of the same gender (after the system of closed party lists was abandoned).

*"With no quotas for women, in 30 years, there will still be no women in Parliament!"* There is no way women in Somaliland can compete on an equal basis with men. The following quotes illustrate the more general attitude towards female candidates: *"Have you come to steal our votes"* or *"Is that the woman who is contesting our seat?"* The political parties took no affirmative actions to secure women's possibilities and were reluctant to propose them as candidates also for pragmatic reasons. Women candidates most likely meant votes lost. KULMIYE and UCID expressed their regret over this fact to the NORDEM observers, while representatives from UDUB, on the other hand, claimed, *"Somaliland was just not ready yet"*. That said, there was disagreement within the party; Foreign Minister Edna Adan explicitly did not in any sense support such a view. UDUB's choice to promote female candidates for "uncontested" seats, proved quite interestingly enough to be successful, thus securing Baar Saciid Farax from the Sanaag Region a seat.

The unfortunate fact should also be mentioned that the NEC allowed pictures of women as symbols for candidates, all of these symbols taken by male candidates, without the NEC intervening. In a society where a large part of the population is illiterate (even more so women), there may well be reason to think that men in this case literally have "stolen" votes from women, with voters erroneously believing they were voting for a female candidate. Both KULMIYE and UCID assured the NORDEM observers that a quota system for women would be given high priority from their side in the new Lower

House of Parliament, while representatives from UDUB party interviewed by the NORDEM team were vague on this question.

The patriarchal clan lineage system and the strong role of the clans in the nomination process was another effective obstacle for women. This system continues to be the fundamental root of resistance against women's political participation, as it does not recognize women's capacity for leadership.<sup>39</sup> Women will, as a rule, not receive support, neither from their own nor their husband's clan, in their struggle to seek political influence. This means they will neither be proposed by clans nor receive the necessary finances from the clans, of vital importance to be able to run a successful campaign and finally win a seat. What must be mentioned is that there was an exception to this picture. The female KULMIYE candidate from Awdal/Borome, Ikraan Hagi Daa'uud Warsame, who successfully ran for a seat in Parliament, allegedly had clan support, but nevertheless had the smallest amount of voters voting for her out of all the successful candidates in Awdal.<sup>40</sup>

Women had reasons to feel let down (or even: "*tricked*", as one interlocutor put it) both by the outgoing Lower House of Parliament, the government, the political parties and the clans. Nagaad, on their side, worked very hard and in an impartial manner to support the seven female candidates during their campaign. There were fund raising teams, mobile teams and forums working for all female candidates. In the end, women as well as men voted by clan, with the unfortunate result that only one female candidate won a seat directly through the ballot. The NORDEM observer team strongly recommends efforts be taken to secure women reasonable representation in Parliament. Political parties can take further steps for including and securing women's representation. More efficient however is a quota system for women, or alternatively the system Nagaad fought for in the Lower House of Parliament while the new EL was pending (limiting the number of Parliamentary seats for the same gender, this last proposal not requiring a change in the Constitution). Hopefully, relevant efforts and necessary changes in the law(s) will be in place in time for upcoming elections.

The NORDEM team had two group interviews with representatives from minority clans/groups. Some small clan groups like Gaboje, Tumal and Yibir have traditionally been discriminated against and suffer from social segregation and discrimination from wider society and very little political representation. Unsuccessful efforts had been made to raise the question of quotas for the election for HoR also for minority groups, with little success. For this election, Gaboje had two candidates from the Hargeisa district, but because of the size of the group (very small) and the fact that they live spread out throughout the regions, there were simply not enough voters in any one region to secure a representative by the ballot. The Gaboje minority group had therefore decided to support UCID, and UCID on their part had promised to follow up on minority questions in Parliament. None of the proposed candidates, as expected, did

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<sup>39</sup> A joint appeal of civil society groups towards improving the political position of women in Somaliland.

<sup>40</sup> She received 3510 votes. In comparison, the most popular of the Awdal candidates, Axmed Barkhad Obsiye, received 9580.

succeed in winning a seat in the Lower House of Parliament. A variety of steps may be needed to secure minority groups a voice and political representation in future elections, a necessary step on the road to further inclusion and integration in the society at large. A quota system may be worth looking into also for minority groups.

## Clan, Nomination Processes and Electoral Participation

The clan system had a major impact on the election. This has to be viewed in light of the function of the clan system, so far being the main system that works to ensure the security and well being of average Somalis. The clan will, if no alternative system exists, take care of justice and provide aid to members; it has been described as a kind of insurance company. If you support your clan they will usually support you in times of need.<sup>41</sup> Given the fact that the clan has been the main provider of security and social support in Somaliland, combined with the frequent and predominantly highly successful, interventions by traditional leaders in order to create peace, it is not surprising that clan factors also had a major bearing on the nomination processes of all three parties.

The interviews conducted by the NORDEM team indicate that all three parties took clan distribution into account when deciding on which candidates to nominate, and the clan distribution within the leadership of each party shows that UCID, UDUB and KULMIYE all have top leaders from all clans. Nominally local parties should send candidates for approval to the central party leadership, which then has the final word. The leadership of the respective parties shall according to EL art. 17 take note of national interests when they select candidates and ensure that the candidates fulfill the fundamental conditions outlined in the EL.<sup>42</sup> Officially this process was adhered to, with the NEC in general accepting the parties' candidates.

However, clan elders and traditional leaders were also involved in the nomination process, influencing the process in at least three different ways. Firstly, the clan elders of some sub-clans nominated candidates and presented them as an ultimatum to the various parties. There were several candidates that managed to get nominated using such a strategy, some even officially claiming that their clan had nominated them.<sup>43</sup> Importantly, the more common result was that such strategies failed. The second way was more controlled by the parties. The parties asked traditional leaders and

<sup>41</sup> Interview with Ahmed Alazari, 1 October 1998.

<sup>42</sup> To be nominated as a candidate, you have to be a citizen of Somaliland, a Muslim, no less than 35 years of age, physically and mentally fit for the duties and with a minimum education of the secondary school level or equivalent. Further, a candidate should: be responsible with appropriate character and behavior, not have been the subject of a final sentence for a criminal offense by the Court during the preceding five years, comply with all electoral laws and regulations and pay the established deposit (1,000,000 SI. Sh.). Every candidate shall have a unique symbol; this cannot be a governmental, tribal or sectarian sign. Nominated candidates have to be approved by the National Electoral Committee as fulfilling the conditions stipulated in the Election Law. The time limit for the parties to submit their lists to the NEC is 60 days before Polling Day.

<sup>43</sup> One KULMIYE candidate claimed this openly in a political debate hosted by the Institute of Development Solutions, 10 September. Interviews indicate that this happened with at least four other candidates (various parties) from the Hargeisa district alone.

intellectual personalities from the clans to help them select candidates, in some instances also to put up lists of candidates from which the parties selected those most able to run for office. Thirdly, in some instances the parties acted without any form of consultations with traditional leaders. Of these three strategies, the second seems to have been the most common. Traditional leaders as well as the parties emphasized formal education; moreover, in most of the cases there were also formal party criteria that the candidate had to fulfill, even when their respective clans supported them.<sup>44</sup> There were party-specific variations with regard to which of these strategies were chosen. Traditional clan leaders seemed to have a large influence over the selection process in KULMIYE, and somewhat less influence in UDUB's selection process.<sup>45</sup> The party that least employed traditional leaders was UCID. Interviews with party officials indicate that several of the dropped candidates were promised a seat in the Guurti following the scheduled 2006 selection for this house, in order to keep their loyalty.

The three parties have traditionally been able to draw upon the support of the respective clans of the three leaders. There were reasons to expect the big clans and sub-clans of these leaders to become split during this election because of rivalry between sub-sub-clans, where two or more sub-sub-clans were fighting over the representative from their geographical home area.<sup>46</sup> Indeed, the unity of the larger clans and sub-clans fragmented, but only slightly. The President still got the support from a solid majority of his Gadabursi clan. There was a slight change though. This time the President only got the support of roughly 56% of the voters in the districts of his fellow Gadabursies, where previously it had been 66%. Nevertheless, the numbers are high enough to indicate a significant voting pattern.<sup>47</sup> Similarly, Faisal Ali Farah, the leader of UCID, still drew upon support from his own sub-sub-clan, Ildegale. His relative support actually grew, and all successful Ildegale candidates came from his party. Interviews with party leaders indicate that the parties in general failed to seriously attempt to challenge the opposing candidates within the core clan areas traditionally loyal to their competitors. Moreover, the candidates from the largest sub-clans tended to support the leader of the affiliated party, because it was seen as important to have direct access to a party leader. The clans that lacked access to a party leader seemed to be more fragmented.

Notably, Haber Jalo, the sub-sub clan of KULMIYE leader Ahmed M. Mohamoud "Silanyo", split up, endorsing UDUB, UCID and KULMIYE candidates according to sub-sub-clan divisions. Nevertheless, the importance of the clan factor can be seen by the actions of some of the prominent Somaliland politicians. One of the

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<sup>44</sup> KULMIYE e.g. required that the candidate must be self-sufficient, must have been a party member for two years, paying for one year (fee of £120); he also must sign a declaration of loyalty to the party. UCID's criteria were that they had not been in political office under Siad Barre, Egal, or Ryhiale, that he/she fulfilled the legal requirements (secondary education), and that the candidate had the required resources.

<sup>45</sup> This party was actually criticized in one of the larger newspapers for failing to accept or adhere to the candidates nominated by traditional leaders ("President Rayale's Credibility Gap", *Somaliland Times*, Issue 184, July 30, 2005).

<sup>46</sup> Noah Arre, "In Somaliland Politics, Playing The Tribal Card May No Longer Be The Best Option", <http://www.saylac.com/news/articleOct16th05.htm>

<sup>47</sup> Lindeman and Hansen (2003): Appendix II.

ministers of KULMIYE's shadow cabinet, the powerful SNM veteran Ibrahim Muhammed "Deganweine", endorsed a candidate from his own clan, the Derayahan of the Issa Musse, although he came from an opposing party (UCID).<sup>48</sup>

Several larger clans were hesitant about participating in this election. The first of these clans was the Issa clan, located in the Eastern parts of Somaliland. The situation between the Issa community and the government had grown more tense in the period before the election, the government's failure to integrate the Issas into the army in combination with the local army commanders' negative statements towards the clan created tension and made many Issas perceive the Somaliland army as an army of occupation. To be secured a fair representation in Parliament, Issa intellectuals and traditional leaders demanded that a selection, rather than an election of candidates should take place for the Issa clan, a demand that was rejected by the NEC and supported by all three parties. As a result, all four KULMIYE Issa candidates and one out of the two UDUB Issa candidates decided to withdraw from the election race. UCID never had any candidate from this clan.<sup>49</sup>

The second largest clan hesitating to participate in the election was the Dolbahante clan. Although being predominantly located within Somaliland, the Dolbahantes are members of the Darod clan family, while the majority of the population of Somaliland belongs to the Dir and Isaq clan families. In the period of 1991 to 2003, Dolbahantes participated in the political processes within Somaliland and all the larger Shiir Beledios. However, they also participated in similar processes within Somalia, more specifically in the self-governed region of Puntland, cooperating with sub-clans from the same clan family. In this sense they were loyal both to Somalia and to Puntland.<sup>50</sup> An attempted visit to the largest town in the Dolbahante areas by President Kahin in December 2002 led to a clash and the President withdrew. This was widely interpreted in the region as a sign of weakness on behalf of Somaliland. Secondly, the government in Puntland also intervened actively in peacemaking in the region, and subsequently gained influence. Thirdly, Somaliland's allies amongst the Dolbahantes were weakened, partly intimidated by incidents within Puntland where force had been used to curtail traditional leaders, partly by the fact that the most prominent of Somaliland's allies were literally growing older. Somaliland employed several strategies in order to counter these negative trends. Before the Presidential Election in 2003 the President actively appointed Dolbahante ministers in order to please his local allies; this did not happen during the election for Parliament.<sup>51</sup> Previously elders have been actively engaged in order to create a dialogue with the Dolbahantes, and a meeting was called in

<sup>48</sup> The candidate he endorsed, Mohamed Farah Qabile, who in the end got 2223 votes and was elected.

<sup>49</sup> The sole Issa MP is Cali Sheekh Ibraahim Arraye, who in the end got 5622 votes and was elected. One incident that was brought to the NORDEM team's attention by reliable sources was that four candidates representing KULMIYE and UDUB from the Issa tribe (from the Zeila and Lughaya districts), who had decided to withdraw from the race had been held in detention on Polling Day at two different military camps, to prevent them from agitating for a boycott on voting. The observers were not able to verify this incident.

<sup>50</sup> During the period 1991 to 2003, it was quite common for Dolbahante towns to have two administrations, one Somaliland and one Puntland; the members of the two administrations co-existed peacefully.

<sup>51</sup> Lindeman and Hansen (2003:17).

May 2005. However, none of the more important Dolbahante leaders attended this meeting.

Nevertheless, Somaliland still managed to keep in touch with some of their old allies, and at least two of the Dolbahantes' major traditional leaders participated, albeit with a very low profile, in the nomination of candidates. Moreover, the National Electoral Commission allocated a substantial amount of polling stations to the Yagori district close to the frontline where Dolbahante and Puntland militia kept guard.<sup>52</sup> This move made it easier for Dolbahantes that lived in areas controlled by Puntland-loyal Dolbahante militia to vote in the election. The Somaliland elders also actively worked with the population in Buhodle, and achieved an astonishing victory when Dolbahantes in this region participated, despite the fact that their nominal sub-clan leader, Garad Suleiman was against the independence of Somaliland.<sup>53</sup> These two moves probably contributed to almost a doubling of the participation compared to the 2003 elections. Nevertheless, the low number of voters, totaling only 20,756, indicates a very low turnout, and low participation in the election by the Dolbahantes. Importantly, the most densely populated Dolbahante areas had no polling stations; Puntland-loyal Dolbahante forces controlled them.

A third clan that participated in a hesitant way was the Warsangeli clan, also a member of the Darod clan family, and also a clan that traditionally participated in political processes in both Somaliland and Puntland. The close economic connections between the largest Warsangeli town, Las Qoray, and the major harbor in Puntland, Bosasso, meant that it was more or less impossible to arrange an election in this town and the areas around it. Importantly, the factors that negatively influenced the participation of the Dolbahantes did not interfere with the Warsangelis, and voters from the region voted in large numbers despite the fact that larger Warsangeli towns in general lacked polling stations.

Importantly, the clan system has two other effects, creating challenges for the electoral authorities. The fact that clans back specific candidates, and that the clans are situated in very specific geographic areas makes it harder to get impartial polling staff, if the polling staff is drawn from the areas of the same clan. This was taken into account by the administration, and the polling staff authorities were by and large moved from their home areas. This did not happen in Seylac, which was most unfortunate, given the skepticism on the part of the Issa clan towards the election. Indeed, both opposition parties claimed there had been extensive double voting in Seylac and Lughaya, perhaps explaining some of the increase in turnout in the Awdal region, an increase that was significantly larger than in the other regions.<sup>54</sup> Further, such tendencies to vote by clan

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<sup>52</sup> NEC put up 17 extra polling stations in Yagoori, hoping to serve voters from parts of Sool where ordinary voting could not take place.

<sup>53</sup> He is from the Mahamud Garad sub-group of the Dolbahantes.

<sup>54</sup> In 2002, 100,495 voted; in 2003, 68,396 voted; in 2005, 133,783 voted.

mean that the secrecy of the vote becomes of utmost importance, reducing possible undue influence on individual voters from family, clan and/or community.

## Media

Free and independent media is important for a democratic election. The very basis of a democracy requires that the electorate be able to make informed choices. In Somaliland the Constitution and the Somaliland Press Law of 2004 regulate media. Additionally, the media and the government signed a Code of Conduct for the Lower House of Parliament Election. The Somaliland Press Law of 2004 guarantees all parties equal access to the governmentally owned newspapers, TV and radio stations. The Election Monitoring Board was supposed to handle complaints regarding violations of the Press Law and the Code of Conduct.

The press (state and private) can, according to own statements, express themselves and work relatively freely with few restrictions or little interference from authorities. Somaliland has had an unstable situation regarding freedom of the press. As recently as in 2004, the Somali Journalist Network reports 4 different cases involving 4 journalists being arrested on duty.<sup>55</sup> The NORDEM team observed an open and critical private press in Somaliland (the impact at large may be seriously questioned because of very limited coverage). Nevertheless, it was the NORDEM observers' impression, also after talking to other interlocutors, that the question of independence for Somaliland was one issue that could not be debated in the public space.<sup>56</sup>

Somaliland does not yet allow any form of private broadcasting, thus limiting the plurality of information, political debates included. TV and domestically based radio stations are owned by the government. There is one radio broadcaster and one TV station based in Somaliland, none of which cover more than the areas around Hargeisa and Sahil.<sup>57</sup> The coverage by the Somaliland National TV (SLNTV) was clearly skewed to the advantage of the government. There were several examples of this. On 13 September the Somaliland National TV gave the entire evening program to UDUB from 8 pm to midnight, without compensating the other parties with the same amount of time. On 14 September, after getting written complaints from the opposition parties, the Electoral Monitoring Board reacted, warning the SLNTV authorities to desist from violating the Code of Conduct. After an additional warning, and a formal letter sent to the Director of the SLNTV station, as well as the President and all the leaders of the opposition parties, the TV station changed their coverage focus, and the two opposition

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<sup>55</sup> Somali Journalists Network (2004).

<sup>56</sup> A French researcher, Roland Marchal, was expelled from Somaliland, just a few days before the NORDEM team arrived. Allegedly he had been overheard talking negatively about Somaliland's chances of being recognized as an independent country.

<sup>57</sup> The Somaliland National TV (SLNTV) and Radio Hargeysa. The last estimate of the number of television viewers was made in 2002. In that year SLNTV had slightly more than 2000 paying viewers. The Burao branch had 100, and there were estimated to be 400 pirate viewers in the entire country. The WSP estimated the total number of viewers to be 15,000, using a formula of seven family members per paying household. Ducale (2005:160).

Radio Hargeisas Am broadcasts can only be heard in the vicinity of Hargeisa, short wave broadcasts can on occasions travel farther.

parties were generally satisfied. Radio Hargeisa also allocated more time to the candidates of the government party, but none of the opposition parties chose to forward formal complaints. Interviews indicate that this was partly because the bias in coverage was marginal compared to the TV station and a clear step in the right direction in comparison with the 2003 Presidential Election.

It is important that the state-owned radios are dwarfed by a foreign actor, the BBC Somali Service in terms of listeners, perhaps the only media institution reaching the nomadic population in large numbers. The BBC Somali Service was conscious of this fact and none of the parties in Somaliland complained about bias in the BBC's broadcasts. Nevertheless, all three parties complained that the election itself had little coverage, moreover that its potential to reach nomads for voter education was not properly employed. As the most far-reaching broadcaster in Somaliland, the BBC was seen as carrying a special responsibility, even given their task of covering the other Somali areas as well.

Somaliland has a limited number of newspapers. Four media companies publish four dailies in Somali, three weeklies in English and three weeklies in Arabic.<sup>58</sup> The biggest Somali paper is the *Jamhuriya*, with a circulation of 2000-2500 copies, as well as 1000 in London. The smallest, the government-owned *Mandeq* has a circulation of approximately 500.<sup>59</sup> While seemingly small, the Somaliland newspapers are significant actors; the newspapers are shared within families, they are spoken about, and they are often resold after having been read for the first time. The newspapers do remain an urban phenomenon though, and it seems likely that they have little impact among the large nomadic population.

There were complaints from the opposition paper *Jamhurya* about the lack of access to press conferences hosted by the ruling party.<sup>60</sup> Nevertheless, formal

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<sup>58</sup> The four media companies are (ranked after circulation, largest first):

- 1 Jumhuriya media group consisting of:  
 -*Somali daily paper*; (Circulation: 2000-2500 issues (+1000 in the United Kingdom). Founded in 1991 (as a newsletter))  
 -*The Republican*, an English weekly paper; (Circulation: 1500 issues. Founded in 1991 (as a newsletter))
- 2 Haatuf Media Network consisting of:  
 -*Hatuf*, a daily Somali paper; (Circulation: 1500 issues. Founded in 2000)  
 -*Somaliland Times*, a weekly English paper, (Circulation: 1500 issues. Founded in 2002)  
 -*Al-Haatuf Al-arabi*, a weekly Arabic paper. (Circulation: 1500 issues, Founded in 2002)
- 3 Mandeeq media group (governmentally owned) consisting of:  
 -*Somali daily Newspaper*; (Circulation: 500 issues. Founded in 1997)  
 -*Horn of Africa*, a weekly English paper; (Circulation: 500 issues. Founded in 2002)  
 -*And Al-qarni-lfrüiqi*, a weekly Arabic paper; (Circulation: 500 issues. Founded in 2002)
- 4) Ogal:  
 -*Somali Newspaper*, 3 issues a week (Circulation: 1500 issues. Founded in 2005)

<sup>59</sup> Ducale (2005:155-156).

<sup>60</sup> Interview with Journalist Said Farah Ali and Mustafa Saad Dhimbil, Hargeisa 27/10 2005.



complaints were never forwarded. The government-controlled paper *Mandeq* complained that the opposition refused to pay the same price for ads as they paid to the other newspapers.<sup>61</sup> Notably, this paper also chose to abstain from pressing the issue. During the Presidential Election of 2003 several complaints had also been made against the government-owned *Mandeq* newspaper; no such complaints were made during the 2005 elections.

The limited numbers of newspapers in Somaliland, and their financial weakness opened up for several problems, not necessarily connected with ill intention on the part of any of the political actors, but related to the fact that even small changes might lead to a homogenization of the media, or prevent free debate. The few available newspapers and their financial weakness mean that issues that would have been of limited importance in other elections were of a larger importance in Somaliland. The second largest newspaper, *Hatuf*, and all of its sister publications, were almost closed down before the election began, potentially removing a third of Somaliland's media, after *Hatuf* printed articles alleging that the President's wife Huda Barkhad, and her sister's husband influenced the procurement of a new TV station in Hargeisa.<sup>62</sup> The government then took steps to sue *Hatuf*, and to get a warrant to search their offices. This process was legal. However, the little capital available to *Hatuf* made the editor in chief, Yusuf Gabobe, doubt whether they had the money to fight the legal battle. The court decided to postpone the issue until after the election. The incident nevertheless shows how easily a substantial group of Somaliland's newspapers effectively could have been blocked from covering the electoral process. In order to prevent future problems, the Somaliland newspapers need to become more consolidated financially. Importantly, such support, as well as technical support, will also enhance the newspapers' ability to distribute voter information.

## The Campaign

The nationwide campaign for the 2005 Parliamentary Election was officially launched on 30 August, and scheduled to continue up to 27 September, one day before the election. The campaigning efforts during the three first days were extensive, mainly taking the form of hundreds of hired buses, full of people, driving around creating chaos in the streets in urban centers. This type of campaigning meant in addition a heavy financial burden for candidates and respective parties. The experience forced the parties to agree upon restricting campaign activities. The formula agreed upon, namely to allocate specific campaign dates to each party in order to reduce expenses, secure equal distribution of time for campaigning and avoid confrontations between the rallies of the

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<sup>61</sup> Interview with Muahmmmed Ahmed Ege 27/10 2005.

<sup>62</sup> Hargeysa, 20 August 2005 (SL Times) "Somaliland Gov't Paid \$380,000 Above Actual Price for Procurement of TV Station". The first lady was also reported to have been involved in an agreement allowing Egyptian fishing companies to fish in Somaliland waters.

different parties, was not fully respected.<sup>63</sup> In the Gabaley district, the Mayor demanded in writing that UCID should refrain from campaigning on their allocated day because the Vice President happened to be passing Gabaley on this day, he himself campaigning for UDUB. On 8 September, also an official UCID day, the NORDEM observer team observed the homecoming of KULMIYE candidate, Mohamed Mahmud Omer Hashi, being celebrated by thousands of his supporters who flocked to the streets chanting campaign slogans.<sup>64</sup> On 17 September, an official KULMIYE day, UDUB supporters turned out in large numbers, campaigning and welcoming the First Lady in Borome.

Each party had a total of three dates each for large rallies. For the most part, candidates toured their areas with a small group of supporters and a few cars, clearly marked with posters and flags of the relevant candidates/parties. Another notable strategy was to team up a candidate with a prominent party member from the same clan; in this way Edna Adan Ismael, the very popular Minister of Foreign Affairs engaged herself in the campaign of Abulqaadir X. Ismaaciil Jirde, the former Speaker of Parliament, and a member of her Arab sub-clan. Parallel to this form of campaigning, many contenders preferred campaigning through the Mafrish (qat chewing place), as rival candidates from the same tribal constituency competed against each other to win as much support as possible from members of the common lineage. The supply of free qat to potential voters also became an important tool in the campaign, used by candidates from all three parties (except the female candidates). In general few posters were observed, apart from on campaign cars. In many villages, the NORDEM team observed three small flags, one from each party.

All three parties campaigned actively and extensively. UDUB party, who during the Presidential Election had run an abysmal campaign because they had taken their victory for granted, now worked systematically and extensively during the whole period, also using high profile government ministers very actively. The increased turnout in the party's core areas can be explained by UDUB's extensive campaign efforts. There were a number of confirmed incidents where the governing party used public cars for campaign purposes. This was also observed by the NORDEM team, for example in Borome on 18 September, at one of UDUB's big rallies. In Borome, the NORDEM team also observed the First Lady putting down a stone to mark the building of a new school, with a large crowd of UDUB supporters and a long tail of UDUB campaign cars accompanying her.

UDUB also, on a number of occasions, resorted to the use of extremely negative argumentation. At two consecutive rallies held by UDUB in Arabsiyo and Gabiley on Tuesday 13 September, Interior Minister Ismail Adan accused former high-ranking SNM officers of spying for the enemy during the Liberation War, and of threatening public security. In Borome, on 18 September Ismail Adan further claimed there was a

<sup>63</sup> A detailed list of dates allocated to respective parties was made together with the NEC.

<sup>64</sup> The leader of KULMIYE's Hargeysa branch later apologized about the action, which he described as unintentional, and most of the breaches of the arrangement remained small scale.

chance of a new civil war if UDUB lost the election and only UDUB could secure recognition for Somaliland's independence. Importantly, all three parties employed negative argumentation. With the exception of UDUB, none of the political top leaders of the opposition parties used such argumentation, and only UDUB used the more extreme versions of negative language during campaigning.

The border issue between Awdal and Hargeysa regions, of immense importance in the 2003 Presidential Elections also reemerged.<sup>65</sup> Again, the issue was whether one should take the current demographic facts into account or if one should instead base the regional border on the 1960 borders, as initially agreed upon.<sup>66</sup> Another issue discussed intensively was the oil company TOTAL's monopoly over the fuel supply in Somaliland. Importantly, the most common argumentation in rallies was focused on development and independence, but also promises of more resources allocated to the particular region in question, or even the particular clan.

There were also examples of more western-style political debates. The Institute for Development Solutions, headed by Dr. Hussein Bulhan, arranged a series of debates between candidates in which they were forced to comment upon ideology, distinctions between the parties, and their loyalty towards their clan vs. their loyalty towards the parties. The media, with the notable exception of the BBC Somali Service, covered these events extensively.

Poetry and the distribution of plastic mats were used in the campaigning amongst nomads. Early in the campaign there were also incidents where the police or the regional administration curtailed local rallies, as in Berbera, where the Mayor restricted rallies by KULMIYE in the central area of town, claiming that only the national chairmen and the national secretaries could speak there. Importantly, whenever necessary the National Electoral Commission always seemed to intervene to the satisfaction of all parties.

It is the NORDEM team's opinion that the campaign at large took place peacefully. Parties and candidates were for the most part able to campaign without serious restrictions or large-scale interference from authorities/other parties. Some incidents of possible harassment/intimidation of opposition supporters were reported during the campaign, also two cases of somewhat questionable arrests in the Gabaley district, both involving UDUB supporters, claiming that they were harassed by supporters of the opposition parties. Some cases of threats towards public employees by high government officials were brought to the NORDEM team's attention, but they were not followed up by formal complaints and the NORDEM team was unable to verify these cases. To the NORDEM team's knowledge, incidents like these were relatively few in numbers.

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<sup>65</sup> Lindeman and Hansen (2003:23-24).

<sup>66</sup> The government moved for an inclusion of the contested areas into the Awdal region, or tentatively to set up two poll boxes in each polling station to allow the voters to decide in which region they would vote. The final solution was to cancel six polling stations totally, allocating three to Awdal, and two to Hargeisa (of which one was located in Gebaley).

## Observation on the Polling Day

The election took place in 16 out of Somaliland's 23 districts. The election was, mainly for security reasons, not carried out in disputed districts like Buhoodle (Toghdeer region), Las Anod, Taleh and most of Hudun (Sool region) and Las Qoray, Badhan and Dhahar (Sanaag region). In Sool, the National Election Commission had put up 17 extra polling stations, hoping to serve voters from parts of Sool where ordinary voting could not take place. 1, 2 and 6 parliamentary seats in the respective 3 regions were distributed among the parties on the basis of the proportion of total valid votes each party gained in the relevant region (EL art. 12 paragraph 6). In the existing context, this solution seemed reasonable, even though distribution on the basis of votes gained in the whole country may well have been equally satisfactory.

On Polling Day, the NORDEM team observed in the Toghdeer region, District of Burao. A total of 10 polling stations were visited, 7 in downtown Burao and 3 in rural areas in the surroundings of town. Burao is the second largest city in Somaliland.<sup>67</sup> On Polling Day, long lines of voters queued up from early morning on, eager to cast their votes. The NORDEM team observed dedicated and hard working polling staff, eager to make this election a success. In most polling stations, voting took place in an orderly and peaceful fashion. Serious exceptions were a large number of voters being chased away from the line at 6 pm in downtown Burao. Procedures were followed only to a certain extent. When departed from it seemed to be due to lack of experience, lack of enough training and/or pressure on resources (too few staff) and/or plain exhaustion. Counting was especially complicated and time consuming, as were tabulation and aggregation at the district level.

## Opening

Procedures are described in the HoR Election Law, art. 40. The Chair shall prepare the secretary and scrutinizers for their duties, ensure that approved party agents are present, confirm that containers are sealed, open and check that materials are complete, ensure a suitable display of material and activity in the polling stations, record all the activity that has been carried out, have party observers confirm the above activities through signatures and finally declare that voting can commence.

The team observed the opening in downtown Burao. This polling station opened on time, with a line of approximately 500 people waiting outside. Party agents from all three parties and a domestic observer were present. Procedures were followed, apart from using the fluorescent lamp to check voters for ink, which the Chair of the polling station claimed would be safe enough to start using an hour later. On several occasions

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<sup>67</sup> Toghdeer Region has 3 districts, Burao by far being the largest. 45 aspiring candidates from this region competed for 15 seats in Parliament.

later during Polling Day, the NORDEM team found empty Record Books, indicating that procedures during opening had not been strictly adhered to.

It turned out that at least three of the polling stations we visited had indeed opened late, approximately 1 hour, due to late deliveries of election materials from the DEO. In the second polling station visited, the NORDEM team arrived at the same time as the DEO delivered voting materials, at approximately 6:45 am. A large and impatient crowd was waiting outside and the police were urging the polling staff to speed up procedures in order to allow the voting to start. There is reason to believe that part of the problem was late provisions for delivering of materials to the PSEC (five o'clock on Polling Day itself) in combination with organizational and logistical problems (also an insufficient number of cars) on the part of the District Election Office. In the Odweine district, it turned out that a large number of polling stations only received necessary election materials closer to lunchtime due to heavy rainfall.

## **Observations of the Polling**

Procedures for polling are outlined in the Election Law and further specified in the Voters Manual. Voting starts at six in the morning and finishes at six in the evening. Voters waiting in line at this point shall be allowed to cast their votes. The Chair has overall responsibility for the conduct of the polling exercise, and can take necessary steps (including calling in the police) to secure the premises and the conduct of voting. Voters shall be checked for ink by a fluorescent lamp, be inked on the left-hand little finger and registered. The Chair shall, according to the EL, hand out stamped ballot papers. Voting shall take place in a booth. The ballot shall be marked with a red pen; the voter himself shall put the ballot in the ballot box. The voter can leave when the Chair has checked that the voting ink stain is still clearly apparent. While the Chair shall assist disabled people in marking the ballot in the presence of party observers and further record and reach decisions about complaints, the Secretary of the polling station shall record the names of voters in need of assistance, their helper and why they were in need of help.

At the Polling Station Election Commission (PSEC), the staff consisted of a Chair, a secretary and two scrutinizers. The Chair of the polling stations had a very difficult task. With only 4 in the commission, he was stuck to his task of stamping and delivering ballots to voters. When he needed to leave to attend to different requests or intervene/assist in other parts of the process, the flow of voters stopped until he returned again. In urban areas (or in general), there is a need for 5 polling staff, thus securing a freer position for the Chair. This will enable the Chair to better take on the wide variety of duties ascribed to this position and secure a more stable and smoother flow of voters, making the process on the whole more secure and efficient.

To some extent, the NEC had identified suitable polling premises, taking into consideration availability. There was often a lack of proper lighting. While some polling premises secured a smooth flow of voters, many could have profited from small adjustments, which in turn would have secured a much better outline for the voting exercise. There were also examples of highly unsuitable premises (much too small) in downtown Burao. With few exceptions, the polling stations were equipped with the necessary materials, enough ballot papers included. There were reports of polling

stations running out of ballot papers, for example in Awdal region and part of Hargeisa.<sup>68</sup>

The NORDEM observers found the ballot box made of canvas difficult to use, in the sense that it seemed to be a struggle to get the ballot inside. This was in itself time consuming and many voters were in need of help.

Observers met party agents from all parties in all 10 polling stations visited, domestic observers in 9 of them. Most of the domestic observers were from Nagaad, the majority men. On the whole, party agents and domestic observers were diligent and observant. A somewhat blurred division of labor between party agents and polling staff was still observed. In a number of cases, party agents were observed assisting the Commission on tasks that by law and for good reasons can only be conducted by electoral staff. Examples of this were party agents watching the line, on several occasions assisting voters in crossing off ballots, helping voters to get the ballot in the box and finally, a case where a domestic observer, not the secretary, took down names of voters in need of assistance. There was seemingly no ill will behind this, more of a willingness to help ease the process. There is a need for greater awareness with regard to the reasoning behind a distinct division of labor between election administration and party agents. Better training is needed regarding the role of party agents and how they can fulfill their tasks in an efficient and professional manner.

In only a few cases were concerns from party agents raised. These involved cases of double voting (voters trying, not necessarily succeeding), disorder in the polling stations because of too many voters inside (making transparency difficult) and fluorescent lamps not working.

Since no voter registration had taken place for this election, the voters registered on the spot, after being checked for ink and before receiving the ballot. These procedures were in general followed, but on some occasions voters were observed “skipping” the registration exercise when polling staff were inattentive or busy registering another voter. This means problems after closing when the Chairs of the respective polling stations start the reconciliation process.

According to the EL, to be able to vote you have to be a Somalilander and be 16 years of age during the year of the election. Because nobody had ID cards there was no formal way of establishing whether a voter was a Somalilander or not, or underage. No system as such was put in place for decision-making in these cases. However, all interlocutors we interviewed were confident that non-Somalilanders would nonetheless be easily identified. Observers saw no one being turned away for reasons of not being a

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<sup>68</sup> This was seemingly much less of a problem than in the 2003 election. In the NORDEM team’s opinion, a somewhat complicated ballot and a large percentage of voters needing help in itself made it a challenge to manage a flow of 900 voters in 12 hours. It is the NORDEM observers’ impression that polling stations received the material they needed, though not always on time, resulting in a number of polling stations opening late. The problem was distribution of material from the DEO to the PSEO. The late time limit for the PSEO receiving the materials from the DEO should however be reviewed, now five o’clock on Polling Day itself. A time limit so close to the opening makes the situation vulnerable to all kinds of unexpected problems, like bad weather.

Somalilander.<sup>69</sup> Voters were observed being turned away for age reasons. These decisions were made then and there by the Chair (by consensus and in consultation with the rest of the polling staff and party observers). No decisions to turn away voters (including people trying to double vote) were observed being recorded by Chairs of polling stations; the EL does not, on the other hand, seem to have provisions for this. Underage voting was not a concern from what the NORDEM team observed.

Indelible ink was chosen for this election. According to the manual, voters will be checked for ink on arrival and themselves be inked on their left-hand little finger before registration. These procedures were for the most part adhered to, but varied when during the process the voters themselves were inked. Checking of ink was not the easiest task, and one could sense unfamiliarity with the equipment and difficult judgments in ascertaining whether people had voted before or not. The team also observed fluorescent lamps not being in use because staff did not understand how to make them work.

Attempts of double or multiple voting on Polling Day were widespread. Many interlocutors claimed that voters were largely successful in these attempts. During the afternoon, the NORDEM team saw many voters being turned away for trying to double vote. At polling station no. 711 in Yirowe, in rural Burao, the Chair confirmed that he had turned away *hundreds*, including a truck full of people having arrived for the sole purpose of voting twice. In spite of constant and widespread allegations of multiple voting, the fact that large numbers of voters were observed being turned away, that there was a diligent staff with the best of intentions, that voters were waiting for hours in long lines throughout the whole day (in itself an obstacle) and finally, the quality of the ink do make the NORDEM team question to what extent voters, in the end, were successful in their attempts. The NEC had informed the public about the seriousness of voting twice. Trying to vote twice or many times often seemed to be thought of as a sport or a game and must be understood as lack of knowledge, inexperience or just the fun of voting in itself. The NEC (and the police) for this election decided not to pursue individual cases where people tried to vote more than once. It is a point of serious concern though and must be properly addressed through consciousness raising and voter education and at a certain point also followed up by suitable sanctions.

Illiteracy made a large part of the electorate dependent on assistance in the process of voting. The EL has provisions for how to assist illiterate or disabled people in voting. In such cases, *“the Chairman of the PS may mark the ballot for him in the presence of party agents”*. This is another solution than that of the 2001 Election Law (The Presidential and Local Election Law) where the Chair could allow another voter who is trusted by the incapacitated person to help him cast his vote. Only at one out of ten polling stations did the polling staff record the reasons why people were in need of assistance and the names of these voters. At this polling station, for resource reasons obviously, this job had been given to the domestic observer.

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<sup>69</sup> There were accusations that the governing party in some towns used Oromo refugees, but the NORDEM team could not substantiate these accusations.

A serious lack of secrecy of vote was observed. In general, only voters who were not in need of assistance were referred to the polling booth (a curtain). For the rest of the voters, voting took place at the desk of the Chair, with full transparency, for everyone to see and hear. At some polling stations they had stopped using the polling booth altogether, all voting taking place outside the booth. The voters were for the most part familiar with either the name or the symbol of whom they wanted to vote for and the Chair of polling station, together with party observers, diligently ensured that the voter's wish was respected.

It is a challenge to combine the need for transparency and secrecy of vote. Both systems of assistance mentioned earlier have the potential for undue influence on voters. There is firstly a need for better understanding of the importance of secrecy of vote, especially in a society where clan voting is expected and deviation from this may be frowned upon or in the worst case imply more serious forms of intimidation. Secondly, there is a need for better practical procedures when assisting illiterate and disabled voters, procedures that to a larger extent will reduce exposing the wish of the voters but at the same time secure the choice. This is very important, also because if the electorate has reason to believe their vote is not a secret, it may affect the willingness to vote. As a principle, all voting, also by incapacitated people, must take place in the booth. Admittedly this might presuppose more resources, including a freer position on the part of the Chair.

The NEC had issued a ban on transport on Polling Day. In spite of this there was widespread transport of voters, also observed by the NORDEM team, with the obvious intention to double vote. There can be no doubt that this was organized, but it is difficult to say exactly by whom. All three parties denied having any part in it; rumors claimed candidates themselves must have been organizing the transport of voters. Either way, actions need to be taken to prevent this situation for future elections, also from the side of the political parties. The police on their side did not have enough resources to address the problem of irregular transport of voters, apart from an afternoon raid in Hargeisa. Many cars, between 60 and 70, were allegedly stopped and between 100 and 300 people jailed (all released at 8 pm on the same day). Relevant authorities (the Police Commissioner included) told the NORDEM team that virtually only KULMIYE supporters were detained. It is difficult for the NORDEM team to assess whether KULMIYE was especially active in transporting voters in Hargeisa or especially targeted during this police raid on Polling Day. There was also widespread transport of voters before Polling Day, with the intention to support one particular candidate. Since anyone could vote anywhere, there was nothing illegal in this.

Police were present at all polling stations visited. Their job was challenging. Some beating with sticks was observed, as policemen struggled to control an often impatient and "pushy" crowd. In many polling stations police were observed inside the premises, helping with crowd control and at one point also actively watching and assisting with the polling box. In one polling station voters were searched for weapons, also "successfully" in the sense that both knives and at one point a pistol were confiscated. In urban areas like Burao, security at polling stations was at times at a minimum or simply not adequate. As mentioned before, a freer position for the Chair would have been helpful in this and in many other respects. In a polling station in downtown Burao, the Chairman, claiming there was a security problem, decided to close



the polling station at 6 pm, while a long line of people was still waiting outside to cast their votes.<sup>70</sup>

## Closing and Counting

In short, closing and counting procedures imply the PS Chairs' reconciling ballots issued, damaged ballots, unused ballots and the number of registered voters. The Chair, party agents and the head of security shall then jointly sign the Record Book. One ballot at a time shall be removed from the ballot box, read out loud and shown to party agents. On completion of the count, the Chair shall confirm the total number of ballots cast (including void and/or disputed ballots) and reconcile with numbers already entered in the Record Book. The Chair shall announce the results publicly; written records are signed also by party agents and election materials shall be placed in assigned envelopes and sealed. According to the EL, the written records of the polling station are forwarded to the DEO, REO, NEC and the Supreme Court respectively.

The NORDEM observers followed the counting in a polling station in downtown Burao. Six party observers were present. The polling station closed at 6 pm in spite of a long line of at least 300 people, mainly women, waiting impatiently outside. When asked what the EL says about people waiting in line at 6 pm, the Chair acknowledged that they have a right to vote. Security factors, and because *"at this point most of the voters were only trying to double vote"* were given as the reasons for closing. The Chair consulted the DEO on his decision. After closing, or more precisely after rumors started spreading in the queue that they may not be allowed to vote, the atmosphere had indeed started to heat up. After the door had been locked, and it was quite clear that the polling station had closed, people started to throw stones on the roof and at the windows of the polling station. The voters were chased away by the police. The NORDEM team found this incident a serious breach of basic democratic principles, such as the right of every eligible voter to cast his/her vote, very unfortunate and hardly necessary. It is true that the Chair can take interim measures *"when unforeseen events arise which may have a detrimental effect on the proper conduct of the election"* (EL art. 41). This was hardly the case here. The NORDEM team believes that all that would have been required to cool down the atmosphere was an assurance from the Chair that everyone would be given the chance to cast his or her vote.<sup>71</sup>

Counting procedures were not adhered to. The NORDEM team observed that the Voters Manual was regrettably not consulted during closing and counting. Stricter

<sup>70</sup> See section "Closing and Counting" for more information on this incident.

<sup>71</sup> An identical event was observed in another polling station in downtown Burao, by Finnish short-term observers. They also seriously questioned the need for closing at 6 pm. Again voters were, understandably, seriously upset about not being able to exercise their constitutional rights and started throwing stones. Allegedly, closing at 6 pm with people still in line had also been a problem in parts of Hargeisa and Borome, but was not reported as being widespread. Most likely, opposition parties were the ones suffering from such incidents, at large doing better in urban areas.

adherence to the detailed procedures outlined in the Voters Manual would have been very helpful for the polling staff; most likely it would have saved time and most importantly reduced some of the problems that occurred in the counting and recording process.

The count started immediately after closing. No reconciliation of ballots issued, damaged ballots, ballots left and number of registered voters took place. The counting process was transparent. The exercise was very time consuming, and the staff appeared exhausted, to a certain point clearly affecting both attentiveness and diligence (but no ill will) towards the process. Decisions on disputed ballots were made by consensus and in an open, fair manner. The NORDEM team observed party agents assuming a very active role (such as helping the polling staff sort ballots into piles according to parties) while at other times taking a very passive role, most likely due to both inexperience and exhaustion. At five o'clock in the morning the Chair decided on a full recount, after hours of trying to confirm and reconcile the results, all the time in a very transparent manner. The deviation was approximately 30 between the people who had registered to vote and the ballots used. The polling staff tried hard and somehow managed to arrive at (seemingly) a fairly correct result, by twelve o'clock on 30 September.

## The Tabulation Process

From each polling station, election materials and written records are transported to the District Electoral Office (DEO), accompanied by office holders, party agents and police. At the DEO, written records are checked, the total number of votes cast in all the polling stations of the district is added up, and decisions are reached regarding disputed votes. Written records showing the results from the district are forwarded to the Regional Electoral Office (REO). At the REO, the total votes of all the districts are scrutinized carefully and written records are produced showing the results from the whole region. The Chairman of the REO, together with the member of the National Electoral Commission assigned to the respective region, issues publicly provisional regional results of the Election for the HoR. This was expected to happen within a few days after Polling Day. Only provisionary results from the Sahil region had been made public when observers left Somaliland on 5 October, a week after the election.<sup>72</sup> The NEC announced preliminary results on 15 October, while the Constitutional Court announced final results on 1 November, stating that there were no pending claims or complaints against the preliminary results announced by the NEC. Finally, only two women took seats in Parliament, and of the two only one was elected by the ballot (a KULMIYE candidate from Awdal). The second representative (a UDUB candidate from Sanaag) got one of

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<sup>72</sup> The NEC shall within 10 days of the election complete activities regarding verification of regional results including successful and unsuccessful candidates, reach decisions about complaints or claims forwarded by the REOs/party HQs and record all these decisions. While the NEC declares the provisional results of the election for the HoR, the Constitutional Court announces final results, after having verified that there are no pending claims against the decision of the Commission (or if there are, that decisions have been reached).

the 9 so-called “uncontested” seats (allocated seats in areas where ordinary voting, mainly for security reasons, did not take place).

Aggregation of results at the district level proved to be especially challenging and time consuming. In all districts allegedly ballots (from a large number of polling stations) were recounted when written records or protocols were questioned/did not add up or other mistakes were found. The DEO may indeed have found a number of problems with the protocols, like numbers not adding up or miscalculations. This practice is most likely contrary to the provisions in the EL. Art. 57 of the EL says that it is the NEC’s responsibility, on retrieval of all election materials, to check that “*all envelopes are sealed and have not been opened*”. The best possible interpretation is therefore that recounts can only take place at the NEC level. The law could preferably state more clearly when a recount of ballots can take place, who can claim a recount and which part of the decision-making body has the competence to make such decisions. The most likely interpretation is that only party HQs can ask for a recount and only the NEC can order a recount. There is a clearly a need to address this possible lack of clarity in a future review of the Election Law.

Time-consuming recounts at the district level were most likely the main reason for the late announcement of provisional results from the REO/preliminary results from the NEC. In the Hargeisa district, the aggregation of results from the polling stations started in the afternoon of 2 October. The DEO Hargeisa was put under hard pressure from UDUB party agents in a manner that can only be described as disruptive. UDUB party agents demanded a recount of ballots from all polling stations, claiming mistakes in the protocols were more a rule than an exception. The NORDEM observers initially observed reluctance on the part of the DEO to perform recounts but they changed their minds. Party observers were seen taking an active part in the recount of ballots. At ten o’clock on 3 October, the DEO Hargeisa was still working on the third polling station only. Later the same day, the observers were told that the DEO had gone back on the decision to do recounts, resulting in UDUB party agents protesting by leaving the premises. A solution was found in the NEC supervising recounts when written records or protocols from polling stations in the Hargeisa district were questioned for some reason or another and UDUB party agents returned to their duties.

No party agents had brought the copy of the protocols from the polling stations for their observation work at the DEO, the most efficient way of checking that results have not been changed. How parties and party agents can fulfill their roles in elections in an even more efficient manner should be further addressed during training. Observers have no reason to believe that there was ill will behind the decision to do recounts at the district level. Still, the NORDEM team questions to what extent recounts were a result of pressure from party observers. The paper trail from the polling station protocols and from tabulated protocols from the DEO and the REO are the main means of tracing correct results both for tabulation and for later control. Recounts to this extent at the DEO mean that this trail was severely broken, necessarily followed by new and changed written records from large numbers of polling stations. All corrections in protocols must always be made **under strict regulatory procedures**, to avoid making new mistakes and possible confusion about which protocol is the official one. Securing this must have been a very challenging task for the different DEOs, REOs and later the NEC. The time span between Polling Day and when the results were made public, and the extent to which the

DEOs found it necessary to do recounts, raises questions regarding the competence and efficiency of the election body at different levels. At worst, the electorate's trust in the whole tabulation process may have been affected. Problems like this can only be addressed through better training and competence building at all levels, clarification of relevant provisions in the law and stricter adherence to election laws and regulations.

Another problem observers were made aware of later, something that could have slowed down the process even further, was that payment of salaries to polling staff allegedly took place by the DEO staff and while the DEO was in the process of aggregating results. If this is the case, another solution regarding payment of salaries to polling staff must be chosen in the future.

## The Review of the Complaints Process

The Constitutional Court has sole jurisdiction for dealing with claims relating to the election for the HoR. Claims or complaints must reach the Constitutional Court within 20 days from the date election results are declared. For serious contraventions of the EL, the NEC can take disciplinary actions in the form of criticism and condemnation, a severe warning, which shall be recorded or a fine (or a combination of these actions). There is, as mentioned above, a need for clarification and preferably a list in the Election Law of what are regarded as electoral offenses.

Before and during the campaign period, a number of written complaints were forwarded to the NEC from UCID and KULMIYE. In the NORDEM team's opinion the parties showed self-discipline and responsibility, trying "*not to abuse the right to complain about violation of the code, nor make false or frivolous complaints*".<sup>73</sup> A successful election was by government authorities often described as a necessary and a vital step on the road to international recognition for Somaliland. It is difficult to have a clear opinion of the extent to which (or if at all?) this may have limited parties and candidates in executing their rights to forward and demand a follow-up on complaints. It is fair to say that there may have been a certain amount of self-censorship from all parties in this respect.

From UCID, there were written complaints about too few polling stations, UDUB campaigning on the days assigned for UCID, UDUB candidates interfering with UCID candidates during the campaign, a deputy of the Supreme Court who was allegedly an instrument of UDUB party, the Awdal REO allegedly making chiefs/elders responsible for checking and marking the voters for ink and finally, UDUB using government vehicles for their campaign. In Awdal a UCID candidate was detained for importing his own printed specimen ballots. UCID filed a complaint and the NEC addressed the police authorities, reminding them that provisions in the EL give immunity

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<sup>73</sup> Code of Conduct for Political Parties.

to candidates during the elections “*unless they have been caught in flagrante delicto in respect of an offense punishable by imprisonment for three years or more*” (EL art. 19).

From KULMIYE, there were written complaints about the Police Commissioner unjustly accusing KULMIYE supporters of creating disorder on SLNTV, of SLNTV not giving equal coverage for all candidates, of UDUB using government vehicles for campaign purposes, also interrupting KULMIYE’s scheduled days for campaigning and finally, of a KULMIYE supporter being detained in Gabiley, unjustly accused of harassing a UDUB supporter. Jointly, UCID and KULMIYE complained about “*government ministers campaigning day and night for UDUB, misusing public property*”. UDUB complained to the NEC about a problem with the symbol for four of their candidates. It turned out that the symbols given to these candidates, and with which they had been campaigning, had been changed on the ballot, resulting in a wasted campaign and loss of money for the candidates involved.

As mentioned earlier, all complaints received by the NEC were forwarded to the Election Monitoring Board (EMB) for investigation, negotiations and possible action. For the most part, decisions were sought and solutions were found by consensus. Only when the Board was not able to solve the problems were complaints referred back to the NEC. On 25 September, the Election Monitoring Board claimed they so far had handled 52 cases, involving different types of requests and complaints.

The NEC and the Election Monitoring Board for the most part worked informally, addressing problems as they arose, preferring face-to-face contact and oral negotiations with complainants, working towards solutions that all involved parties could accept. For many purposes, this worked well. The EMB issued press releases reminding the parties and press of their responsibilities, condemning the worst abuses of the EL/Code of Conduct. It appeared however that decisions were not always recorded properly and reasoned decisions in individual cases were often not made, let alone given to the complainants. The EL has provisions for sanctions for serious contraventions of the EL. The NEC seemed reluctant to even raise the question of sanctions, much less to impose sanctions.

The complaint and appeal system has weaknesses. Several serious concerns can be raised on this issue, such as the question of efficiency and proficiency, the level of transparency and finally and most importantly, to what extent real action is taken.

During Polling Day and up until 5 October, the NEC had received three written complaints from the political parties, from UDUB, from KULMIYE and a joint complaint from UCID and KULMIYE, respectively. UDUB, for confidence reasons, demanded a recount of all boxes in the Hargeisa region due to numerous mistakes and endless disputes, which they claimed had become evident while checking the copies of the protocols party agents had received. KULMIYE complained about ballots in 2 polling stations (No. 455 and 456) being declared void because they were marked with a black instead of a red pen, a need for a recount in another six polling stations because of registration and aggregation mistakes and finally, of one box, no. 473, having been moved from the originally announced location and which therefore should be declared void. Together UCID and KULMIYE complained about six party agents from UCID being denied access to and being chased from polling stations in Awdal, in the districts of Zeila and Lughaya (other similar incidents are also mentioned in the complaint), cases where the ruling party interrupted and disturbed the conduct of the election, ballots going

astray<sup>74</sup> and finally of members of KULMIYE party (including representatives of KULMIYE Party Central Committee?) being arrested. The police had allegedly refused to give reasons for these arrests, and opposition parties saw this behaviour as an abuse of power on the part of the government.

In an interview with BBC Somali Service on 23 October, one week after the NEC had announced preliminary results, all three parties expressed acceptance of and satisfaction with the way the election had been held. They had also decided to withdraw all complaints. Faisal Ali Warabe, from UCID, put it this way, most likely speaking for all three parties: *“On behalf of UCID, we have accepted the parliamentary results. We decided to overlook minor shortcomings for the sake of the country’s interest, the important one being the quest for (international) recognition.”*<sup>75</sup>

## Conclusions and Recommendations

In the NORDEM observer team’s opinion, the 2005 Lower House of Parliament Election marks another important step forward in the process of democratic development in Somaliland. For the first time, Somaliland has an elected Lower House of Parliament. In spite of the problems and challenges described in this report, the representatives of this Lower House of Parliament have, unlike on any other previous occasion, been chosen by the ballot in a peaceful and a largely competitive environment.

In spite of limited resources and considerable organizational and logistical challenges, the NEC worked impartially and for part of the process with reasonable efficiency. The counting and aggregation of the results at the district level turned out to be both time consuming and most complicated, resulting in preliminary results not being published by the NEC before 15 October and final results by the Constitutional Court on 1 November, more than a month after the election took place. This in itself raises questions in relation to both level of competence and efficiency of the election body at different levels, and in the worst case also to what extent one can fully trust the final results. The NORDEM team believes there is reason to question the results in parts of the Awdal region. There were problems possibly affecting the final outcome also in other regions but not to the extent that one would have expected a markedly different outcome.

The NORDEM team would like to make the following recommendations for future elections (more detailed information is found in the report):

- Although hard to implement because of insufficient resources and the nomadic lifestyle of Somalis, there is a great need for a census, identity cards for Somaliland citizens and a voter registration system to ensure basic democratic principles for future elections. There is also a need to delineate/review

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<sup>74</sup> At 9:30 on Polling Day, a ballot from box no. 283, ticked and with serial numbers, was found on the street in Hargeisa.

<sup>75</sup> Reuters Alert-Net Somalia 24.10.05.

constituency borders to secure distribution of Parliamentary seats according to updated population figures.

- In general there is a need for a review of the relevant legislature to secure adherence to basic human rights and democratic standards. To leave out religion from an otherwise comprehensive list of grounds upon which discrimination cannot take place in the Constitution runs contrary to international human rights standards. The requirement (to be a Muslim) in connection with the right to stand as a candidate or serve in an electoral office runs counter to the freedom of religion and should be abandoned.
- The constitutional limitation for the number of political parties allowed should be reassessed. The use of thresholds is another possibility for limiting the number of parties in Parliament, a system that simultaneously secures a more competitive and pluralistic political environment and opens the possibility for new parties (based on new movements and changed interests) to seek political influence.
- There is a need to eliminate a number of gaps, deficiencies and contradictions in the new EL, such as clarifying when a recount can take place, by whom, and further, what is seen as an electoral offence. The advantages of one comprehensive Electoral Law should be assessed.
- A more transparent and consistent application of the complaint and appeal process is needed.
- The number of polling staff needed at the PSEO should be reviewed.
- The late deadline in the EL for distributing materials from the DEO to the PSEO should also be looked into, for this election resulting in a number of polling stations opening late due to administrative and logistical challenges and/or bad weather.
- To secure women their constitutional rights, the NORDEM team strongly recommends quotas in the election legislation to secure reasonable representation in Parliament.
- The age limit to stand as a candidate (35 years) excludes, in the NORDEM team's opinion, too large a part of the adult population from seeking political influence through a seat in Parliament, an important principle in a democratic state. The age limit should be reduced.
- In addition to party agents receiving copies of protocols at every level, preliminary results of the elections should preferably and simultaneously be made available to the public at the different election administration levels, to further promote transparency.
- There is still a need for further clarification of the roles between the election administration and the party agents.

- Secrecy of the vote was seriously violated during this election. The integrity of the vote is of vital importance and an important democratic principle, being the one major mechanism to secure voters' casting their vote freely and without fear of undue influence, pressure or intimidation.
- Widespread attempts at double or multiple voting and illegal transport of voters on Polling Day must first and foremost be addressed through further enlightenment of the electorate on the seriousness of multiple voting, the latter also through political party discipline (taken that parties in any way were involved in this transport).
- Tendencies on the part of the incumbent party to abuse position and administrative resources for own campaign purposes should be taken seriously.
- The NEC needs more resources to fulfil its many duties (including further education of voters). In addition, the electoral administration at all levels needs more training, focusing on laws, regulations and procedures in general but counting/reconciliation of votes and tabulation of results especially.
- Political parties should be strengthened structurally and financially, to enable them to support aspiring candidates on equal terms and at the same time reduce the extensive clan influence during the nomination process and the need for clan support to successfully run a campaign. Public funds for aspiring candidates distributed through the NEC could also be looked into. At present, the system represents a democratic problem, in the sense that it to an unreasonable extent limits both who will be proposed as a candidate and who will be successful in winning a seat in the Lower House of Parliament.
- The failure to include some clans in the election process must be addressed. The Somaliland government, as well as the political parties must prioritize the inclusion of all clans into the political process, including the Dolbahantes, the Issas, and the Gaboye. Peaceful confidence-building efforts are needed with regard to the two former, whereas quotas might be needed for the latter.



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