



*The Project For The New Somalia 2016*

# **GURMAD A New 2016 Political Agenda for Somalia**

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Somalia is, once again, at a major crossroads. The country faces an August, 2016 deadline to reconfigure its political institutions. Despite modest progress in the past three years, the nation's constitutional offices and key governmental institutions either do not exist or do not function properly. The need of the Somali citizen for basic governmental services remains unmet. The inability of the Somali political class to genuinely reconcile their differences and lead the nation out of its political quagmire is on vivid display, on an almost daily basis, throughout the country.

Against this backdrop, Gurmada delegates from across North America met at a [town hall meeting held at the John Glenn College of Public Affairs at the Ohio State University in Columbus](#), Ohio on May 23-24 to discuss and analyze the political challenges facing Somalia.

The meeting was held in furtherance of Gurmada's core principle of encouraging inter-Somali dialogue and to generate ideas and input from Somali citizens. It also [marked the fourth time](#) in the past few months that Gurmada provided Somalis with an environment conducive to openly voicing their views and inform the political processes. At the end of the second day, the attendees issued the following Declaration as "Guiding Principles" for legitimate political transition in 2016.

1. [Gurmada underscores](#) the importance of protecting, at all costs, the sovereignty, independence, national unity and territorial integrity of Somalia.
2. The will and the voice of the Somali citizen must be central to any political system in Somalia.
3. A genuine, Somali-owned political reconciliation is the key to durable peace and stability in Somalia.
4. Somalia has paid a heavy price for the missing role of its Federal Parliament; hence the imperativeness of empowering the Parliament to assume its legitimate role.

In its current status, the Somali parliament is failing the Somali people. Its actions to date have centered on such substantively futile matters of political brinkmanship, meaningless motions and patronage, rather than effective legislative and policy agendas. As a result, there is an overall lack of trust, and deservedly so, by the Somali people in the ability of the parliament, or the federal government, to affect the political and institutional changes which the dire situation in the country demands.

At this nightmarish juncture of our modern history, however, and as we move towards the expected political transition in 2016, the citizens of Somalia face, yet again, two undesirable political choices:

- (a) Entrust the political fate of the nation, yet again, into the hands of popularly unelected few political figures (i.e. the president, the prime minister, heads of the unconstitutionally constituted regional administrations existing in parts of the country, together with certain foreign “facilitators”) and allow them to single-handedly, and away from any meaningful accountability to the Somali people, make decisions on the political future of the nation and other vital national issues, or;
- (b) Preserve, on an interim basis, the institution of the parliament which, despite its fundamental flaws and shortcomings, remains the only broadly representative political institution in post-civil war Somalia.

Gurmad considers the latter choice as the lesser of two evils. This came through after a long process of comprehensive debate and thorough consideration of pros and cons.

So, in order to avoid power vacuum, the Parliament, in coordination with the relevant Independent Commissions, must remain the primary institution with the authority to lay out the frameworks for the political transitions in 2016. In other words, it must not outsource its fundamental political role in shaping the political processes for 2016 and beyond to a few political figures (i.e. “signatories”).

Furthermore, to earn the necessary trust of the Somali people, the Federal parliament must, during this parliamentary session, take the following steps:

### **1. Establish Electoral Process**

Contrary to the political posturing and hollow political expediency promoted by some, it is nearly impossible to establish a viable electoral system based on “one-person, one-vote” or popular referendum before August, 2016 in Somalia. This is due in no small part to the security conditions and the lack of electoral legislation as well as non-existent political and administrative apparatus and infrastructure necessary to organize and successfully execute free and fair elections; none. None of these factors is expected to change in any meaningful way before August 2016.

Additionally, Article 111G (2) of the Provisional Constitution gives the Federal Parliament the power to establish the National Independent Electoral Commission. It states, in part, that; “the Federal Parliament shall establish the National Independent Electoral Commission and the relevant legislation required to support it as a matter of priority”.

Based on this Article, and in order to ensure the neutrality and impartiality of those in charge of national elections, the Federal parliament must:

- (a) Decline to advance the confirmation process for the recently appointed members of the National Independent Electoral Commission and, instead, immediately pass a piece of legislation establishing the structure, duties and privileges of two entities:
  - i. The National Independent Electoral Commission, and;
  - ii. The National Electoral Complaint Commission.



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The legislation must provide for the establishment of Selection Committee, comprising qualified and politically neutral individuals with unimpeachable credentials, which will be responsible for the selection and vetting of members off these two Commissions.

Following their selection, the Parliament must properly exercise its oversight role and discharge its public trust by thoroughly vetting, under the applicable national laws and ethical standards, the qualifications and character of the appointed members to determine their fitness for the positions to which they were appointed.

The parliament must seek documentation and other evidence of their qualifications. It must hold public parliamentary confirmation hearings, including introduction of expert testimony, and engage in substantive debates (and not merely a wholesale voting by the usual show of hands) during these proceedings.

These two entities, in consultation with the Parliament and Council of Ministers, shall be primarily responsible for making decisions on the national election processes, timelines and resources.

(b) Pass Electoral Law, establishing multi-party political system in Somalia.

## **2. Retrospectively Legalize the Interim Regional Administrations**

The parliament must immediately rectify the legal status of the unconstitutionally constituted interim regional administrations existing, and being created, in parts of the country by taking the following steps:

- i. Immediately and thoroughly vet the members that were recently appointed to the Boundaries and Federation Commission;
- ii. Ensure, through exercise of oversight powers, that the Commission reexamines the status of these interim regional administrations based on the relevant provisions of the Provisional Constitution so as to bring them, where possible, in conformity with the federation process laid out in the Constitution.  
Specifically, the parliament must demand a full evaluation report from the Commission to be followed by robust parliamentary debate on the status of these administrations;
- iii. In the meantime, existing interim regional administrations should, with the assistance of the Ministry of the Interior of the Federal Government, primarily focus their energy on establishing local administrations and spreading self-governance at the local and municipal level. Building strong local and municipal government would enhance the chances of becoming a successful Federal Member State.

Gurmada starkly notes that the election of members of parliament or the president is inherently a federal matter and its administration falls primarily within the responsibility of Federal institutions. Any role by a duly created Federal Member State in such elections must be confined only to areas enumerated in the Constitution.

## **3. Improve the Legislative Capacity of the Parliament**

As part of an urgent reform, the Somali parliament must strengthen its technical ability by creating independent parliamentary research organizations headed by technocrats, whose terms do not coincide with those of members, to provide the parliament with intellectual and policy heft.

#### **4. Established Legal Norms v Endless Political Deals**

The absence of established constitutional and legal processes is the main impediment to democratic governance and lasting political reconciliation in Somalia. The parliament and the federal government must promote institutionalization and legality instead of fostering efforts designed to deepen the tribal Balkanization of the country's political system.

Insisting on legality instead of succumbing to tribal political pressures may prove politically inconvenient in the short term, but the true measure of the transformative leadership is how far a leader is willing to sacrifice his or her political gains for the sake of the long term interest of the nation and that of future generations.

#### **5. Complete the Constitutional Mandates**

Although the constitutionally prescribed timelines have passed, the parliament must act to complete the mandates for priority institutions and independent commissions in accordance with Chapter 15 Art.135 of the Constitution.

According to the said article, "The Federal Parliament shall establish the following Institutions and Independent Commissions within the following timeframes applicable after the Council of Ministers is formed:

- (a) The Judicial Service Commission-30 days;
  - (b) Constitutional Court - 60 days;
  - (c) The Human Rights Commission, Ombudsman, the National Security Commission and the Civilian Oversight Sub-Committee - 45 days;
  - (d) The Parliamentary Service Commission - 15 days;
  - (e) The National Independent Electoral Commission and the Boundaries and Federation Commission - 60 days;
  - (f) The Interstate Commission - 1 year;
  - (g) The Truth and Reconciliation Commission - 30 days.
- (3) In order to facilitate the work of the Federal Parliament in accomplishing these tasks, the Technical Facilitation Committee shall prepare the draft legislation required to establish such commissions under this Constitution for the Oversight Committee and the Review and Implementation Commission to finalize and submit to the Federal Parliament to consider as soon as practicable in order to meet the deadlines established in Clause 2 above"

Most of these mandates remain unfulfilled despite the strict timelines and lapse of nearly three years. Gurmada strongly believes that the Somali people deserve better!

Among the aforementioned priority institutions, from Gurmada's perspective, the formation of the Constitutional Court ranks top. This Court is the highest forum with the jurisdiction to adjudicate in cases and

controversies arising out of the Constitution. In fact, the enormous task of federating the tribally fragmented Somalia is very difficult to imagine without the existence of this Court.

## **6. Properly Resource the Independent Commissions**

Properly resourcing the national independent commissions must be a national priority. Specifically, the recently appointed Independent Review and Implementation Commission, in coordination with parliamentary Oversight Committee, must start the constitutional review process and propose key amendments to the constitution that could be translated into action before August 2016. These amendments and proposals must provide the framework for the transition to 2016 and override contradictory and transitional provisions in the current constitutional and legislative frameworks.

## **7. Regulate the Presence of Foreign Forces in Somalia**

While Gurmada appreciates the positive role that the AMISOM troops in Somalia have played in weakening Al-Shabaab in mostly urban centers in Somalia, nevertheless, it is outraged by the reported widespread human rights violations including the rape and killing innocent civilians, by AMISOM.

Gurmada further notes that, in a blatant violation of the UN Security Council Resolution 2093 (2013), troops from front-line states are particularly notorious for targeting Somali villages with illegal aerial bombardments. Therefore, in order to safeguard Somalia's sovereignty and protect the dignity of the Somali people, the Federal Parliament must:

- i. Pass legislation to regulate the nature and operational modalities of AMISOM forces and other foreign actors in Somalia;
- ii. Demand the withdrawal from Somalia and exclusion from AMISOM of front-line states;
- iii. Support, through legislation and funding, an inclusive and powerful Somali National Army; and
- iv. Develop an exit strategy with timelines for the AMISOM peacekeeping forces.

Finally, donor countries that invested the hard earned tax dollars of their citizens to support state-building in Somalia owe their citizens the legal and moral duty to ensure that such tax dollars are used only to further institutionalization and to strengthen democratic process in Somalia and not to promote or bankroll the political ambitions of individual politicians.

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*Please direct your inquiries to: [gurmada2020@gmail.com](mailto:gurmada2020@gmail.com)*