



Puntland State of Somalia

Puntland Government Response to Federal Parliament Speaker's Erroneous Statement on the Provisional Federal Constitution

PRESS RELEASE

8 September 2013

Puntland Government expresses dismay and grave concern over the erroneous and misleading press statement published on August 26, 2013, by the Speaker of Lower House of Somali Federal Parliament Hon. Mohamed Osman Jawari.

The Speaker's press statement contains deceiving remarks and it is an insult to the hard work, determination, and spirit of cooperation engendered among the Six Somali Roadmap Signatories and the international community's concerted efforts during the End of Transition Process in Somalia. In addition, Speaker Jawari's press statement purposefully omitted the term "federal" or "federalism" throughout the two-page document.

Speaker Jawari's erroneous statement includes the following fallacies (**Direct quotes from the Speaker's statement written in bold below**):

- **"On June 16th of this year [2013] this constitutional review process was launched officially by the Constitutional Review and Implementation Oversight Committee within the Federal Parliament..."**
 - The above statement intentionally misinterprets the composition of the Constitutional Review and Implementation Oversight Committee, as noted in Chapter 15 of the Provisional Federal Constitution (PFC), which states: *"Each House of the Federal Parliament of the Federal Republic of Somalia shall elect five (5) of its Members as members of the Oversight Committee. In addition, each existing Federal Member State of the Federal Republic of Somali that qualifies as a Federated State under the Federal Constitution of Somalia shall nominate one Federal Member State Delegate as a member of the Oversight Committee."*
- **"It has been argued that the version of the Provisional Constitution that was signed by all the Signatories to the Somali End of Transition Roadmap in Addis Ababa in May 2012 is the only legitimate version of the Provisional Constitution."**
 - Again, the above statement is false and misleading, as Puntland Government – through written letters to Somali President as Custodian of the Constitution, the Puntland Parliament Speaker's visit to Mogadishu in June 2013 to discuss the tampering of constitution, and numerous public statements on this national issue – has repeatedly and rightly stated that the Somali Roadmap Signatories signed the Final Draft of the Provisional Federal Constitution page-by-page in Nairobi on June 22, 2012, preceded by the Addis Agreement of May 23, 2012.
 - In this regard, Puntland Government researched and compared the Final Draft of PFC signed in Nairobi to the current version, which was distributed to Lower House of Federal Parliament under Speaker Jawari's leadership on September 7, 2012, three days prior to the election of President H.E. Hassan Sheikh Mohamud on September 10, 2012. Speaker Jawari's version of the PFC includes over 30 articles that have been edited, misinterpreted, deleted, or added, without any legally transparent and constitutionally mandated procedure.

- **“The decisions of the Technical Facilitation Committee carried the blessings of and represented the interests of all Signatories including Puntland State Government.”**
 - This is another misleading statement regarding the mandate of the Technical Facilitation Committee (TFC), comprised of representatives of the Roadmap Signatories, established by Presidential Decree in line with the Nairobi Agreement of June 2012. The Protocol on Establishing the TFC provides no legal power whatsoever to the TFC and therefore the TFC could not issue “*decisions*” as falsely claimed by Speaker Jawari’s statement. The TFC was mandated to “*advise*” the Roadmap Signatories on “*refinements, revisions, insertions, or deletions*” and had no decision-making power whatsoever. Moreover, any proposed changes made by the TFC should have been consulted with the Roadmap Signatories – who were the decision-makers – but this was not done and therefore the TFC bypassed procedural requirements established by the Protocol, which limits the TFC mandate to:
 - “*...correct patent errors in spelling, punctuation, grammar, numbering, cross-references, consistency and usage, internal conflicts, disharmonies, and similar errata and infelicities that are apparent on the face of the document*”; and
 - “*...publish, with the final text, a list of all such changes that the Signatories Technical Facilitation Committee makes to the text, with a brief explanation of the reason for the change.*”
- **“...the transition is over and the End of Transition Roadmap Agreement has come to an end. Today, we have a new political dispensation in Somalia.”**
 - Indeed, the End of Transition Process is over; however, as that process established the basis for the existing Federal Institutions of Somalia, any violation of signed principles and agreements (particularly a violation of the Provisional Federal Constitution, signed page-by-page in Nairobi on June 22, 2012) puts into question the very legitimacy of the Federal Government and Lower House of Federal Parliament of Somalia.

The unlawful version of the Provisional Federal Constitution, distributed by Speaker Jawari on September 7, 2012, includes over 30 Articles and Clauses that have been tampered with, edited, deleted, added, and misinterpreted to the Genuine Copy of the Provisional Federal Constitution signed in Nairobi. That Genuine Copy can be the only lawful and recognized copy of the PFC, which shall constitute as the base constitution to be utilized for Constitutional Review – a process that is prescribed within the PFC. Speaker Jawari should bear full responsibility for unlawfully tampering with the constitution of the Federal Republic of Somalia.

The people of Somalia must ask themselves does the Technical Facilitation Committee – or the Lower House of Federal Parliament for that matter – have any power to unilaterally change the Provisional Federal Constitution and unilaterally transfer the powers and functions of the Upper House of Federal Parliament to the Lower House? Moreover, the people of Somalia must ask themselves does the Technical Facilitation Committee or the Lower House of Federal Parliament have any power to unilaterally change the Somali President’s term from five (5) years in the genuine copy to four (4) years in the unlawful version, or unilaterally anoint Mogadishu as the “federal capital of Somalia” without going through a transparent constitutional process and consultations among the Somali people on their future federal capital? The answer to the above-cited questions is a resounding “no”. Accordingly, when the National Constituent Assembly (NCA) adopted the Provisional Federal Constitution in Mogadishu on August 1, 2012, the NCA was mandated solely with a “yes or no” vote and therefore had no legal mandate to change the constitution.

Establishing the Upper House of Federal Parliament is a prerequisite to commencing a legitimate Constitutional Review Process. According to the constitution, the Upper House of Federal

Parliament consists of 54 MPs representing the 18 Administrative Regions of pre-1991 Somalia. As the boundaries and constituencies of the 18 Administrative Regions of pre-1991 Somalia are clearly defined, the Federal Institutions were expected to invest time, energy and resources to establish the Upper House and to advance the formation of the remaining Federated States by creating political space for local communities to engage in reconciliation and political dialogue towards voluntary formation of new Federated States. However, the Federal Institutions lost credibility and the trust of the Somali people by tampering with the Genuine Copy of the Provisional Federal Constitution, violating and disregarding the principles of Federalism which is the nature of the State, and by playing an overall subversive role in Somalia's political stability by working to undermine the existing Federated State of Puntland.

Puntland Government will not recognize the tampered constitution produced by Speaker Jawari or any law passed by Lower House of Federal Parliament while using the tampered constitution.

Puntland Government calls upon the Somali President as Custodian of the Constitution and the Lower House of Federal Parliament to take wise and prudent action to restore the country's genuine constitution, as it is the only document that keeps the unity of Somalia. A violation of that document is equivalent to a violation of the Somali people's trust in government and statehood, and Puntland Government is constitutionally mandated to protect the people's interests domestically and externally.

Puntland Government remains committed to supporting constructive political dialogue, national reconciliation and justice, consensus-building, and good governance in a spirit of genuine cooperation for lasting peace in Somalia.

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