

# Media and Elections Workshop Report

Hargeisa: 27-28 May, 2009

Organized by the Programme in Comparative Media Law and Policy (Centre for Socio-Legal Studies, University of Oxford), the Stanhope Centre (London School of Economics), the Social Research and Development Institute (SORADI) and *Haatuf* newspaper

## I. Background

This workshop is part of a larger research project aimed at understanding Somaliland's media landscape and flows of information in the context of the country's state- and nation-building projects. The workshop's agenda emerged in direct response to fears regarding the potential for election related violence.

Elections in Somaliland are considered the most tangible evidence of the country's ongoing democratization and state-building processes. However, elections are also a continuous source of concern for the people of Somaliland due to their potential to ignite violence and to destabilize an already precarious political situation, which is further threatened by the turmoil and insecurity of south-central Somalia. The postponement of the presidential election coupled with doubts expressed by opposition parties regarding the possibility of holding a free and fair election in the prevailing political climate, have increased the anxieties of Somalilanders and their international friends. This workshop addressed the legal framework governing the role of the media in elections and provided a forum for key stakeholders to discuss the political challenges the forthcoming presidential elections may pose.

Shortly before the 15 May 2008, when the presidential term of office was due to expire, Somaliland's three political parties and the National Electoral Commission (NEC) came together under intense public pressure. They reached consensus regarding the extension of the president's term and the opposition's demand for elections to be free and fair. Under the agreement signed in June 2008, the presidential election was thus postponed for one year and it was agreed that a Standing Committee comprised of members of the three political parties would be established, to facilitate cooperation among key stakeholders and to ensure the credibility of the electoral process. The latter provision of the agreement is yet to be implemented.

On the 27 May 2009, a Code of Conduct was signed by the three political parties, endorsing the resolution of the Somaliland House of Elders, agreed by the NEC, which delayed the elections until 27 September 2009 and extended the incumbent president's term of office to 29 October 2009. Throughout negotiations, some of the key demands made by the opposition related to the introduction of a regulatory structure governing access to national radio and television which would benefit all political parties and the prevention of alleged use of public money to fund governing party campaigns.

This workshop, which brought together not only representatives of the media, but also key stakeholders from the government, the political parties, the legislature, civil society organizations and the business community, addressed some of the above concerns. A draft ‘Fairness in Party Access to the Media Law’ and an updated ‘Somaliland Press Code of Conduct’ were discussed. Furthermore, the regional experience of post-election violence and possible alternative mechanisms for post-election conflict resolution were considered.

## II. Workshop Objectives

The overall aim of the workshop was to promote the practice of free, fair and peaceful elections in Somaliland and to create the conditions necessary for these to take place. Accordingly, the following specific objectives were pursued:

1. To provide an opportunity for participants to review and support the draft ‘Fairness in Party Access to the Media Law’, subsequently to be recommended to the House of Representatives.
2. To strengthen the existing Somaliland Press Election Code of Conduct.
3. To raise awareness among those working in the media and other key stakeholders of post-election violence, with a particular focus on the Kenyan experience.

## III. Workshop Organization and Participation

Approximately thirty high profile participants from government agencies, parliament, the political parties, media outlets, the National Electoral Commission and civil society organizations gathered for two days at Mansoor Hotel to discuss issues deemed critical for the development of laws, supporting institutions and improved practices to enable free, fair and peaceful elections in Somaliland. The agenda items were particularly relevant to the forthcoming Somaliland presidential election and the controversies resulting from its repeated postponement.

A tight agenda schedule was followed, with presentations and plenary discussions in the morning followed by afternoon working group sessions. The working groups brought together smaller groups of participants who addressed specific issues in depth in order to formulate action-oriented recommendations which were then presented in plenary discussion to gain further input from the participants. Each working group was supported by the speaker who addressed the theme under consideration, who initiated and guided discussion to ensure that concrete recommendations were produced.

Level of representation from key stakeholders

Agency	Status	Remark
Executive	Weak	Only M. of Interior represented
Parliament	Full	8 members including 2 presenters
Political Parties	Full	All three parties represented
NEC	Full	Key member participated

Private Media	Full	All key editors
Gov. Controlled Media	Weak	Only SLNTV
Civil Society	Full	Main Umbrella and research organizations

The workshop benefited from the participation of key decision makers from the various institutions represented. The Ministries of Information and Justice were invited but unfortunately did not attend. In contrast there was significant participation on the part of the parliamentary House of Representatives. Participating members included chairpersons of key parliamentary sub-committees, such as Justice, Internal Affairs and Security, and the former Deputy Speaker of the house. Influential media actors were well represented. Attendees included chief editors of the largest newspapers, including *Haatuf*, *Ogaal*, *Jamhuuriya*, *Saxansaxo*, *Maalmaha* and *Waaheen*. Representatives of both public and private television were present, including the government controlled national television outlet, Somaliland National Television (SLNTV).

The participants from all three political parties were influential members of their party's executive committees, including the Deputy-Chairman of UCID. The NEC was represented by a newly appointed member who was formerly a long-term director of Radio Hargeisa. Other commissioners and the chairman of the NEC also expressed their interest and support during a visit to the workshop.

Some of the most influential civil society organizations of Somaliland were also present, including the major umbrella organizations for women's and youth groups (NAGAAD and SONYO) and that for non-state actors (SONSAF) as well as key research and training institutions such as the Academy for Peace and Development (APD), the Social Research and Development Institute (SORADI) and the Forum for Peace and Governance (FOBAG).

#### IV. Media Coverage

The workshop proceedings were widely covered by the media. All TV stations, including SLNTV, included the workshop in news bulletins and cable television channels devoted programming time to the event. The Somali BBC Radio Service conducted an interview with Yusuf Gabobe as an organizer of the workshop and a representative of the private media, and with Ahmed Jama Aar of SLNTV, and proceedings were comprehensively covered by *Haatuf*.

The message of the workshop was spread further by participants upon returning to their institutions. The Speaker of parliament noted the appreciation of the organization of the workshop and its content expressed by participating parliamentarians. Some involved in public sector media later expressed their regret at not having participated in production of the new Press Code of Conduct and have communicated their willingness to be involved in the final stages of the task. A

'Framework for Public Complaints against Media Abuse' has also been proposed and many of the actors discussed above are keen to work on further follow-up initiatives.

## V. Key Issues Discussed

### **The Draft Fairness in Party Access to the Media Law and the The Somaliland Press Code of Conduct**

The main theme of all discussion during the workshop was the means of creating the necessary legal and administrative institutions as well as a conducive political climate, to facilitate holding free, fair and peaceful elections in Somaliland. Participants acknowledged that the Somaliland constitution provides for free and fair elections however existing electoral legislation is highly inadequate. This is exacerbated by the fact that the majority of the existing laws were promulgated as temporary solutions and are no longer appropriate as the democratization process proceeds. A critical example is the status of the NEC. This should be a non-partisan body, however the process for selection of members contradicts this principle as selection is done by three different bodies which are sometimes in competition with one another. Moreover, the law which established it was not designed to meet long-term requirements.

The draft 'Fairness in Party Access to the Media Law', which is an important outcome of this workshop, is expected to play a key role in addressing the shortcomings of the legal system in relation to elections. The draft law has been welcomed by parliamentarians and representatives of the political parties and of the NEC who are keen, not only to participate in completing the draft version, but also to see it through the parliament and passed into law. It addresses some of the most contentious issues related to the principle of free and fair elections in Somaliland today: the allocation of air time between parties and the election coverage of the publicly owned media.

The other important document to emerge from the workshop is the Somaliland Press Code of Conduct. Media representatives present at the workshop took responsibility for drafting the code through two separate working sessions. Every article was subject to vigorous debate, but the outcome is a robust document which tackles the key issues at stake in the forthcoming election and reflects lessons drawn from the Kenyan experience of post-election violence.

The Press Code of Conduct is divided into two key sections. The first section addresses general guidelines for self-regulation of media activities and the second focuses specifically on election coverage. Important issues raised during the discussions included: the ethical issues faced by journalists and their responsibilities; accuracy of information and sources; editorial responsibility; issues of privacy and defamation; the ability of journalists to access information; protection of journalists and rules regarding copyright. With regard to the election period in particular, the dangers of

unprofessional opinion polling and the need for a ‘level playing field’ to be provided for candidates with relation to advertising costs and campaign coverage were discussed at length.

## **Post-Election Violence**

The participants, and particularly those representing the media, were very keen to learn from the Kenyan experience of post-election violence. Following Yusuf Gabobe’s account of his encounters with both media figures and others affected by the disastrous conflict in Kenya, discussion was focussed upon the following themes and issues:

- The role of the media in inciting violence:  
Local vernacular radio stations were particularly implicated in the conflict which followed Kenya’s 2007 elections and were accused of inciting hatred and violence. The media situation in Somaliland is somewhat different as one language is understood by all of the population and is used by all broadcast and print media. The country has only one radio station which should reduce the potential for incitement to violence over the airwaves, although it should be noted that if radio continues to be monopolized by the government, the medium will be vulnerable to use for partisan purposes which could render it dangerous in the absence of multiple sources of information. The role of opinion polling during the campaign period and its potential to generate expectations of electoral outcomes which are not reflected in official results was also noted.

Furthermore, it was noted that Somaliland’s journalists have played a positive role in the history of disputed elections in the country and during the period following the most recent presidential election, organized themselves in order to diffuse tensions by addressing the two main candidates and convincing them to compromise and to abide by the consensus-based solutions proposed by other civic groupings.

- The role of the NEC and voter registration procedures:  
In addition to the media, other important factors which could exert critical influence on the potential for election-related violence are the voter registration process and the role of the NEC. Although voter registration should minimize ballot fraud and hence subsequent conflict, this was not the case in Kenya where it became apparent that registration lists were vulnerable to corruption. In Somaliland, the current imperative is to ensure accurate lists are produced and subsequently to convince various communities to accept the lists, which may not match their expectations.

The NEC is recognized as having a decisive role in preventing or creating conflict. The commission’s representative expressed the NEC’s commitment to continue the dialogue begun during the workshop and to attain the conditions

required for a free, fair and peaceful election in the coming months. To this end the participants agreed upon the urgent need for the establishment of an 'Integrity Committee' to oversee the sharing of public resources by all parties and the signing of a Political Party Code of Conduct, which among other things may emphasize the importance of using 'politically correct language' and avoiding expressions with clan and religious connotations or invoking memories of historical civil strife and conflict between clans.

### **Role of Alternative Conflict Resolution Mechanisms in Post-election Violence**

Another important workshop theme was Somaliland's experience of election crises and the role of alternative conflict resolution initiatives in diffusing these. It was noted that, since the adoption of the constitution, the majority of political conflicts experienced in Somaliland have been election-related. It was also highlighted that in such circumstances Somalilanders often turn to alternative conflict resolution methods rather than the formal court system. Participants identified several factors leading to reliance on popular alternative modes of conflict resolution:

- a. A compliant Judiciary which lacks public trust.
- b. Inadequate legal framework which does not meet the demands of the democratization and state building processes.
- c. General lack of respect for the rule of law on the part of both government and individuals and poor implementation of existing laws.
- d. Lack of checks and balances between branches of government, resulting in the dominance of the executive branch over the judiciary and the legislature.

It was emphasized that the methods employed in alternative conflict resolution initiatives are not developing towards standardization and institutionalization, but remain ad hoc and case-specific. The Academy for Peace and Development (APD) is gaining valuable experience which will contribute to filling this gap and may aid other emerging entities to develop additional modes of conflict resolution. However, workshop participants were convinced that, if it can be ensured that elections are free and fair, there will be little need for conflict resolution mechanisms.

The participants recognized the urgent need to use the short time available before the election to create conditions which will not foster post-election conflict. They also recognized that the forthcoming presidential election will be much more adversarial and perhaps acrimonious than previous contests and thus conflict may be more likely. Therefore, as a short-term measure they proposed formation of a Public Council for Alternative Conflict Resolution (Golaha Xallinta Khilaafaadka Doorashooyinka), which could reduce the likelihood of any conflict spiralling into violent confrontations. Furthermore, forming a special Election Court, active only during the three-month election period, could offer a way to overcome the debilitating lack of trust opposition forces have in the Constitutional Court and the present National Electoral Commission.

In the long-term, participants stressed the importance of dealing with the weakness of existing judicial institutions and the lack of public trust in the Constitutional Court. Upholding judicial independence and enhancing the capacity of judicial institutions is crucial to Somaliland's drive to build a democratic society.

## **VI. The Way Forward**

### **1. The Draft Fairness in Party Access to the Media Law**

The most important output from the workshop is the draft 'Fairness in Party Access to the Media Law'. The document was initially drafted by a member of parliament and subsequently discussed and improved during the workshop. A special committee appointed from among the participants fine-tuned the terminology used and the definition of concepts employed, supported by contributions from the workshop floor and the working sessions. It is expected that the draft law will be considered by other international experts, possibly to include Ibrahim Hashi, the owner of the website Somaliland Law and the international law firm Covington & Burling LLP. Furthermore, the leadership of the House of Representatives has been briefed regarding the draft and is awaiting its submission to the house by the parliamentarians who participated in the workshop. It is also necessary to involve the House of Elders and the executive if the proposed legislation is to be enacted. The NEC and international partner organizations could play an important role in promoting the draft and ensuring its passage through parliament. With the concerted efforts of all concerned, the draft document could become law before the start of the election campaign.

### **2. The Press Code of Conduct**

The existing Press Code of Conduct for Somaliland focussed predominately on elections. The document which emerged from the workshop contains general and election specific provisions. It is a more comprehensive Code of Conduct, and will provide a more robust framework for press self-regulation. The workshop participants, and especially those representing media houses, invested significant effort in this document. A sub-committee was also formed among the participants to ensure the use of standard and appropriate terminology and that the provisions of the document are applicable to all journalists and will guide effective and objective practice in both the public and the private media.

It is necessary to obtain the commitment of all media outlets to the principles outlined in the document. Further efforts are required in order to engage the support of government-run media, and it is hoped the NEC may be instrumental in this regard. It should be possible to build upon the Somaliland media's existing culture of self-regulation and experience of Press Codes of Conduct.

### **3. Other Important Outcomes and Recommendations from the Workshop**

- The NEC participant, who is responsible for the commission’s media affairs, indicated the need for continuing support from the workshop’s organizers and participants to enable the NEC to continue the process of filling institutional, legal and procedural gaps in Somaliland and to create the conditions necessary for free, fair and peaceful elections, particularly with respect to the forthcoming presidential poll. The response from organizers and participants was positive and willingness to provide any support required was expressed.
- Participants also recommended the need to explore the following two ideas, which appear to offer significant contributions to successful electoral dispute resolution:
  - a. Creation of an Election Disputes Court/Tribunal. Several countries, including South Africa, use similar structures. Such a body acts only during election time. It is an idea that merits serious consideration, especially due to the need to overcome the opposition’s mistrust of the Constitutional Court and their misgivings regarding the present NEC.
  - b. Assembling a National Alternative Conflict Resolution Council to be called upon for immediate action in the case of deadlock in election-related disputes. This is a means of stopping disputes from descending into violent conflict when deadlock is preventing action. The Council could be composed of representatives of civil society organizations, traditional and religious leaders, the business community and the Diaspora.