

Drawing the Territorial Boundaries of the Somalia Federal Member States: Gaps, Challenges and Legal Frameworks

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Abstract

Somalia adopted a federal system in 2012, after more than fifty years of centralized government since 1960. Four regional states were formed amid legal and political controversy between 2013 and 2016. This study examines how the federal government sets state boundaries. It does so by qualitatively analyzing legal documents, interviews, policy papers, official documents, academic materials, and publications of international organizations on Somalia's regional state formation. The study concludes that it is difficult to clearly define regional state boundaries due to an insufficient legal framework, a lack of political will, and a lack of credible commitment to the rule of law. Consequently, regional states have contested borders, which can lead to conflicts over competing interests and affect the resolution of national issues such as Somaliland. Thus, to reduce state-to-state disputes, the Federal Supreme Constitution should be finalized, and the final federal constitution should clearly define new state criteria and procedures.

Keywords: Somalia, federal system, boundaries, constituent units, Somalia Provisional Constitution, federal government.

Part One: Introduction

1.1. Background of the Study

Somalia is a country in the most eastern part of Africa that was formed in 1960 by the unification of two parts: British Somaliland (northwest part), which was a British protectorate, and Italian Somaliland (south-central part), which was an Italian colony. From these different experiences, the new state was formed under a unitary constitution ratified by a public referendum in 1961. The Constitution established a multiparty democracy with a centralized government.¹ A civilian government with a popular elected legislative assembly had run the country for nearly a decade until the military took control of the government in a bloodless coup d'état in 1969 after the president was assassinated just days before the coup occurred. The military, led by Mohamed Siad Barre, ran the country for 21 years, adopted socialism as the ideology of the system, and crafted a constitution in 1979 that established a socialist government run by the working class and directed the government to implement socialist programs.² The military maintained the centralized system of government but in a single-party democracy.

After 30 years of functioning government, the central government collapsed in 1991, resulting in a civil war in nearly every part of the country. The Somali society then drew back the shape of the pre-state residency, which was fair due to their safety following the collapse of the central government. Because they lacked trust, each tribe returned to its former residences because the people were mistrusted, and each clan could only trust its territory.³

Following the collapse of the government, all attempts by neighboring, sisterly, and international organizations to reestablish a constitutional government in the country failed over the next decade, and the Northwest

Territory (Somaliland) declared its independence from the country. The Arta Peace Conference, which took place in Arta, Djibouti, in 2000, resulted in the adoption of a federal system in the country, which eventually led to the adoption of the Provisional Constitution in August 2012, nearly two decades after the country had been without both a constitution and a functioning government. For the first time in Somalia's history, the new constitution establishes a federal state structure with a two-tiered federal system consisting of national (federal) and regional (states) levels, reversing the country's previous unitary system.⁴ While the Constitution lays the groundwork for state formation, including the formation of subnational states, it was adopted in the absence of a fully functional central government capable of defending and implementing the new constitution. The constitution is provisional in nature, requiring a public referendum after the federal government and states agree on the final version, allowing for revision and finalization. Moreover, the Constitution contains gaps in its definition of the federal system, including the absence of principles, a mandate, and a process for establishing member states, the division of financial powers and management of national resources, and impropriety in the political power sharing between the federal and state governments.⁵

1.2. Statement of the Problem

One of the distinguishing features of the federal system is the existence of two or more levels of government, with a written constitution providing for the establishment of subnational units to allow citizens to participate in determining their self-rule and have access to public services in their respective areas. When federalizing a country, system designers should be clear on the configuration of subnational units, including their size, boundaries, and requirements. This is not difficult for federations formed by the union of previously existing units coming together in a single polity. Still, it is more difficult for unitary systems that want to devolve

their system into several centers of authority and create subnational units. The latter necessitates revising a country's political map in an inclusive process. According to George Anderson, who studied more than 20 federal and quasi-federal countries in defining their constituent units, delimiting the new constituent units can be politically contentious and even an impediment to achieving federalism when previously unitary countries, such as Somalia, begin the constitutional transformation to federalism.⁶

When the Somali Provisional Constitution was adopted in 2012, only Somaliland (unilaterally declared independence) and Puntland (semi-autonomous) were existing and functioning administrations. Other parts of the country were under fragmented local administrations or unorganized. According to Article 49 (6) of the Provisional Constitution, at least two regions—previously existing administrative regions—or more can form a regional state, the number and boundaries of which will be decided by the House of People of the Federal Parliament (lower house) based on the recommendations of the boundaries and federalization commission.⁷ In that context, the Federal Government started organizing the country in order to establish new states (other than Somaliland and Puntland). From 2013 to 2016, four regional states were formed in a process heavily laden with controversy. These Regional States were formed without clearly delineating their borders, at least some of them. These are the challenges that the newly established states face. There are no clear and agreed-upon boundaries between the current regional states, including Puntland and Somaliland, which resulted in conflicts over political inclusion, power control, and revenue generation.

The Federal Parliament has the final decision on boundary delimitation based on the recommendations of the Boundaries and Federalism Commission, to which this research intends to contribute useful advice on how to determine regional state boundaries.⁸

1.3. Research Questions

The study's primary question is: How are regional state boundaries determined in Somalia's federal system, and what role does the Federal Government play in defining regional state boundaries? The study seeks answers to the following subsidiary questions in order to get an answer to the primary question:

- How are constituent unit boundaries organized in the federal systems?
- What are Somalia's constitutional and legal frameworks for defining regional state boundaries?
- What role does the Somali Federal Government play in determining the boundaries of regional states?

1.4. Research Methodology

The study employs qualitative strategies in a case study approach involving primary and secondary data. Interviews, journal articles, policy papers, online articles, book reports, official documents, and publications from international organizations that are related to and issued on the subject matter topic are used to collect data. Content analysis is used to analyze data in order to provide a specific outlet for analyzing theories and identifying core consistencies addressed in the study.

1.5. Organization of the Study

Apart from this introduction, the study is divided into three parts that address the topic in depth. The second part, lays the groundwork by defining the study's underlying concepts and theoretical framework. The third part will go into greater detail about Somalia's constitutional and legal framework for establishing regional states and the mandate to determine federal member states' boundaries. Chapter four contains the research's conclusion and recommendations.

Part Two: The Framework on the Formation of Constituent Units in Federations

Federal is a system that divides government authority into multiple centers through various mechanisms and approaches. Countries choose it for political, security, economic, and cultural reasons. One of the main features that set this system apart from others is the presence of two levels of government. The formation of the federation's subnational units is one of the many challenges that federalizing countries face in their implementation. This will be related to the formation of the federation and the various factors that led to the adoption of the federal system. This chapter will look into the two concepts mentioned above, 'federalism' and 'constituent units,' which serve as the foundation for this research. 'Federalism' and 'constituent units' are two terms that will be used frequently in this research.

2.1. Understanding Federalism

The term "federal" is "derived from the Latin 'foedus,' which means an agreement, treaty, compact, or covenant."⁹ It became popular after it was used in the formation of the United States of America (1776-1787), with the term "federal union" referring to the union treaty.¹⁰ Despite this, there is no agreed definition of federalism among scholars because of the nature of the idea that denotes to distinct values and its practical application to various purposes. K.C. Wheare defines it as a mechanism of power sharing between central and regional governments¹¹, while William Samuel Livingston sees it as a reflection of the federal qualities of the society articulated and protected. The form of federalism is shaped by sociological elements such as culture, economy, and political viewpoint. If a society is territorially organized, it is a federal society; otherwise, it cannot be called a federal society.¹² From these definitions, it is safe to conclude that federalism is a political system influenced by the

sociological structure of a given society, which is true for countries that have adopted federalism, such as the United States and Switzerland, India, Brazil, Germany, and Mexico, each has its own distinct federal system. Despite the lack of an agreed-upon definition of "federalism," Daniel Elazar's definition, "combination of self-rule and shared rule,"¹³ Seems to have a broad sense in which distinct ideas, including those mentioned above, can be applied. That is to say, while distinct in many ways, federations share some characteristics, such as the existence of at least two orders of government, which are firmly entrenched in a written constitution and subject to specific amendment procedures and judicial review. Typically, a particular type of second chamber in a federal system offers constituent unit representation in national institutions, alongside an intergovernmental process and institutions.¹⁴

2.2. Demarcating Constituent Unit's Boundaries

Constituent units are the components of any federation. One of the primary structural characteristics of the federal system that distinguishes it from other forms of government is the existence of subnational units with constitutionally guaranteed self-rule autonomy. These constituent units have been referred to different nomenclatures¹⁵ in different federations such as: "states" in Australia, Belau, Brazil, Ethiopia, India, Malaysia, Mexico, Micronesia, Nigeria, the United States, Somalia¹⁶, and Venezuela; "provinces" in Argentina, Canada, Pakistan, and South Africa; "Länder" in Austria and Germany; "cantons" in Switzerland; "Autonomous Communities" in Spain; "Regions" and "Communities" in Belgium; "subjects" in Russia.¹⁷

In coming together, federations such as the United States (1787), Switzerland (1848), Canada (1867), and Australia (1900) were all composed of various units "coming together" to form a new federal country. In the new states, provinces, or cantons (in Canada's case,

Quebec and Ontario had existed as separate political units prior to 1840 and were reinstated at the time of federation), the boundaries of previously independent states are accepted without variation. In contrast, in holding together federations such as Ethiopia (1995), Nigeria (1960), and Somalia (2012), the boundaries of the new subnational units shall be demarcated according to negotiations and peace treaties.¹⁸ The latter has no predefined entities prior to the union, but a single entity wishes to decentralize power into subunits through a process of devolution. In both cases, as federations continue to last for some time, the founding factors may change, and a new group of other causes may emerge, whereby reorganizing constituent units and developing new building blocks may be established on criteria other than those in the first time of union. In addition to W.H. Riker's earlier factors of 'significant external or internal threat or a significant opportunity for aggression,' desire for economic welfare and drive for a larger market, accommodation of socio-cultural diversity (such as ethnicity, language, religion, tribe, and clan), historical boundaries, and geographic factors are all incentives for regional state proliferation.¹⁹

Part Three: Legal Framework for Determining the Boundaries of Somalia's Regional States

According to the Provisional Constitution, two or more regions may merge to form a regional state, with the Federal Parliament having the final say on determining the boundaries of the regional states and declaring their accession to the Somali Federal Republic. Except for Somaliland, the Somali Republic now consists of the Federal Government and five Regional States. Between 2013 and 2016, four of these Regional States were formed: Jubaland (2013), South West (2014), Galmudug (2015), and Hirshabelle (2016). In this context, this chapter goes into greater detail about how Regional States' boundaries are determined. The goal is to investigate the constitutional and legal frameworks that govern the formation of Regional States boundaries.

3.1. The Constitutional Framework and Structure of the State

The Provisional Constitution adopted the principles of horizontal separation of government powers into legislative, executive, and judicial branches. Those government organs shall exist at each level of the federal and state structures. Article 3 (4) reads, "The Constitution of the Federal Republic of Somalia promotes human rights, the rule of law, general standards of international law, justice, participatory consultative and inclusive government, and the separation of powers between the legislature, executive and an independent judiciary, in order to ensure accountability, efficiency and responsiveness to the interests of the people." The Provisional Constitution defines only federal government organs and leaves state government organs to be defined by state constitutions, without providing guiding principles for their establishment and interaction. The only exception is the judiciary, where the constitution establishes some principles governing judicial independence, adjudication procedure, proceedings, and the administration of constitutionality review issues.²⁰ These principles are applicable to both federal and state courts. The legislative and executive branches of the states, as well as other state institutions, shall be determined by their constitutions, which they may organize however they see fit, and which may differ from the structure of the federal organs.²¹ The PC only requires that they be divided into three branches: legislative, executive, and independent judiciary.²² Currently, all existing regional states have unicameral assemblies that are supposed to be elected by citizens living in the states' respective territories.

3.2. Principles and Criteria for Regional State Formation

As discussed above, Somalia is more of a holding together federation, with the main goal of maintaining national unity and establishing a stable government. Prior to the adoption of the Provisional Constitution, there

were no independent units that came together to form a federal system, but the country had a unitary system of government since its independence. Although the Provisional Constitution establishes a two-tiered federation, there is no adequate guidance on the process of establishing subnational governments, and the legal framework has gaps. The Provisional Constitution, the law establishing the Independent Boundaries and Federalism Commission²³, and the Districts and Regions Administration Act²⁴ provide the legal framework for the formation of regional states. The following section discusses the principles and criteria for forming regional states based on the aforementioned legal framework.

3.3. Boundaries Between the States

Regarding the first condition of two or more regions, the Provisional Constitution indicated that the country had 18 administrative regions prior to federalization, so should the boundaries of the federal member states be demarcated? The answer can be found in the change in the government system. Despite the presence of local governments at the regional and district levels, the former central government of Somalia did not prioritize the boundaries between the regions and districts because the entire country was governed from a single center.²⁵ However, the system has changed into a federal system with more than one center, and new previously unimportant issues have become priorities and significant. Territories are defined by political power sharing, resource sharing, and revenue collection. Furthermore, in the past, the demarcation of the boundaries between the regions was not well-defined; for example, the boundaries were defined by familiar places such as a water-well, a large tree, or a well-known terrain. For whatever reason, these symbols may vanish, resulting in the loss of the boundary that separates the two regions. Worse, the previous central government created districts by dividing existing ones without defining their boundaries.²⁶ In short, it is now necessary to have a clearly defined boundary that should be defined

by kilometers and demarcate the boundaries of the states. This is made possible by new GPS (Global Positioning System) technology, which can be easily monitored to reduce cross-border disputes between states.²⁷

3.4. The Mandate to Establish Regional States

One of the first and most important tasks of implementing the provisional constitution is the formation of regional states, but there is considerable debate about who has that mandate. According to Article 49 (1) of the provisional constitution, the House of the People (the lower house of the Federal Parliament) shall determine the number and boundaries of the federal member states. In contrast, Clause 6 of the same article stipulates that two or more regions may voluntarily merge to form a federal member state. From here, the Parliament and the regions have the authority to form regional states.

The executive branch (federal government), on the other hand, made a case for its involvement in managing local and regional government (including the appointment of governors) by citing Article 48 (2), which states that regions that do not join a state must be administered by the federal government for a maximum of two years. This has left room for interpretations on the formation of regional states in which various aspirants compete to dominate the process. "With many parts of southern and central Somalia still under Al-Shabaab control in 2012 [until now], this interpretation gave the Mogadishu government significant leeway to attempt to influence local events."²⁸

However, according to the bottom-up approach discussed in the earlier sections; firstly, local administrations (districts and regions) should be established through an inclusive process participated by the community groups, including traditional elders, civil society organizations and the federal government which shall have a facilitating and monitoring role.

Traditional leaders form the backbone and lead the nomination of local councils of districts, and members chosen from district councils form the regional council. This is a quick process of establishing administrations for districts and regions. The second stage would consist of negotiations and conferences in which regional administrations would merge to form regional states.²⁹ Unfortunately, this did not happen as expected. Regional states, with the exception of Puntland and Somaliland, were established in a hasty and top-down process led by some political aspirants who were either supported by the Federal Government or external actors on the understanding that the emerging federal member states were exclusive political projects in which everyone should make the most of it or abandon it.³⁰

3.5. Procedures for Establishing and Recognizing a Federal Member States' Boundaries

Neither the Provisional Constitution nor any other law specifies a specific procedure for state formation, but a closer look at the state formation process reveals that there are a number of stages in the formation of sub-national governments. The first of these stages is³¹:

1. Establishment of the Independent Boundaries and Federalism Commission. Article 135 (2) (e) of the Provisional Constitution requires the Federal Parliament to establish the Boundaries and Federalism Commission within 60 days during the 1st term of the Federal Parliament after adopting the Provisional Federal Constitution in 2012. Before the formation of the Commission, the Federal Parliament shall approve the law establishing the Commission, which shall specify the powers, number and rights of the Commission.
2. Stage 2 would be for the Commission to conduct a study and submit to the Federal Parliament a detailed report on how to form regional states, including the recommendations of the Commission.³² When the committee is formed, it should conduct studies and research on the

assigned work. It includes going to all parts of the country, except Somaliland, and consulting with the people, administrations, politicians and traditional leaders. Conduct a geographical survey of the country's landscape, as well as regional and district boundaries, with the help of experts, and submit a detailed report on the formation of Federal Member States to the Federal Parliament.³³

3. Stage 3 would be the Parliamentary decision on the Boundaries of the Federal Member States. Pursuant to Articles 49 and 111E of the Provisional Constitution, the Parliament shall determine the number and boundaries of the Federal Member States based on the recommendations of the Boundaries and Federation Commission.
4. The next stage would be the formation of regional state governments. Once the numbers and boundaries of the member states have been determined, the next step is to establish their own structures and institutions through a legal process centered on the local community. That legal should follow the decision of the Federal Parliament on the Boundaries.³⁴

As previously stated, the current states were not established in the manner described above; rather, they were created using a shortened top-down method without consulting the Boundaries Commission, which may make them '*not yet fully member states of the federation*'. The members of the Boundary Commission were appointed in July 2015, after four of the five Regional States had been established, and the fifth was in the process of formation, resulting in the incomplete formation of the States. To conclude the process of establishing states, the Boundary Commission can now support the formalization of existing Regional States into Federal Member States and reorganizing their boundaries when forming a new state out of the existing States. Commenting on this, the chairman of the Boundary Commission informed the researcher that the Commission had prepared a comprehensive report that included recommendations for the regularization of the existing Regional States. He added that "they [the

Boundary Commission] conducted extensive research on all the current states and prepared a report that includes the commission's recommendations on how to legalize the existing states to become full members of the federation."³⁵ The Commission will submit the report to the 11th Parliament.³⁶

3.6. The Issue of Mudug Region

Mudug region is in central Somalia and comprises five districts, including the regional capital, Galkayo. Abdullah Yousuf Ahmed, the then leader of the Somali Salvation Democratic Front (SSDF) and President of the Transitional Federal Government (October 14, 2004 – December 29, 2008), the Ali Ismail Abdi-Giir of Somali National Democratic Union (SNDU), and the late General Mohamed Farah Aideed, Chairman of the United Somali Congress (USC), signed the Mudug Peace Agreement in 1993, which ended violence and bloodshed in the region that had been the most violent in Somalia during the civil war.³⁷ According to the Mudug peace agreement of 1993, a clan has jurisdiction over its territory. Mudug region serves as a commercial “meeting point” for the country’s northern and southern region, as well as a commercial crossroads for Somali regions in Eastern Ethiopia.³⁸ Prior the adoption of federalism, regional divisions were irrelevant, but now that the country is federalized, they are vital. Currently, the political, economic, and administrative aspects of the incomplete federalization are reflected in the geographic division of already existing administrative regions. Puntland objected to creating a Mudug and Galmudug regional government in 2014, claiming Mudug was part of Puntland.³⁹ Due to the new state, it ceased cooperating with the federal government. On October 14, 2014, the Federal Government and Puntland agreed that Northern Mudug is part of Puntland State and Southern Mudug is part of Galmudug. Consequently, Mudug belongs to both Puntland and Galmudug.⁴⁰ But the question is, can a region be divided in this manner? To respond, two points should be clarified.

According to the Provisional Constitution, a regional state must first consist of two or more regions. This requirement is thought to be related to geography, in which the communities of each region are brought together to decide which state to join or form. In reality, Somali clans coexist in every region, but disagreements and conflicts tend to arise more frequently when it comes to politics. The second issue is that power-sharing in Somalia is clan-based, and even the federal government is based on clan-based power sharing, with each clan having its own division. This also exists at the regional state level, and all regional governments, including Puntland and Galmudug, have been established accordingly.⁴¹

3.7. Reorganizing Federal Member States and Establishing a New State

Another critical issue for which other federations have devised solutions is what to do with forming a new state. The Provisional Constitution does not address the requirements for forming new states following the formation of federal member states. The Constitution only states that two or more regions can voluntarily form a state, and that no region can stand alone on its own.⁴² The Federal Government shall govern each region for up to two years before joining a federal member state. Similarly, it does not clarify the procedure for a region can secede from a federal member state. The conditions associated with the formation of regional states can be understood -Although not clearly limited to- to be related to the first establishment of the federal member states but not relevant to their reorganization after joining the federation.⁴³ Prior to the formation of the states, the regions had the autonomy to decide their own destiny and which state to join, but if the states formed, local governments would be subject to the jurisdiction of the federal member states and their constitutions, and they can be reorganized differently than the 18 regions that existed in 1991. Principally, no state would allow a state's territory to be separated and merged with another state, as the Puntland and Jubaland constitutions clearly stated.⁴⁴

3.8. The Issue of Somaliland

On 1 July 1960, the former British Protectorate of Somaliland and the former Italian Somali joined together to form the Somali Republic, following their respective independence from Britain and Italy on 26 June and 1 July of the same year, respectively. In January 1991, a coalition of armed opposition groups ousted the government in Mogadishu, resulting in the collapse of the Somali central government and creating a power vacuum. Consequently, the Somali National Movement (SNM) gained control of most of the northern regions, the former British Protectorate of Somaliland, and declared independence from the rest of the country, and established a new nation called "The Republic of Somaliland.". Despite this, the country has yet to receive any international recognition. However, Somalia has consistently rejected all of these actions, considering them unilateral and illegal; and repeatedly affirming its commitment to maintaining its territorial integrity.

Prior to the collapse of the central government, the northern regions of Somalia constituted five of the country's 18 administrative regions: Awdal, North West, Togdheer, Sool, and Sanaag.

On the other hand, residents of certain areas within the Togdheer, Sanaag and Sool regions participated in establishing Puntland State in August 1998. Consequently, these areas have become a point of contention between Somaliland and Puntland, as they claim ownership of these regions. Since 2012, there have been several rounds of negotiations between the Somali Federal Government and Somaliland, but thus far, significant progress has yet to be made toward resolving their differences. Somaliland maintains that it should be granted independence, while Somalia maintains that unity is inviolable. The inability to reach a consensus on the issue of Somaliland and its status remains one of the most contentious issues in Somalia, particularly concluding its federal system.

Part Four: Conclusion and Recommendations

1. Conclusion

Based on the discussions and analysis in the study, the following research conclusions were reached:

- 1.1. One of the most important issues in federalizing a country is how its federal system organizes the formation of subnational units. In coming together federations, such as the United States and Switzerland, forming federated units is not difficult and does not necessitate the determination of boundaries; instead, the boundaries of previously independent states are accepted without modification. Whereas in federations where unitary countries with a single entity want to devolve and create subnational levels, such as Ethiopia, Nigeria and Somalia, the boundaries of the new subnational units shall be demarcated based on negotiations and political agreements within a federal supreme written constitution framework.
- 1.2. Inadequate constitutional and legal framework for determining regional states' boundaries. The Provisional Constitution, the law establishing the Independent Boundaries and Federalism Commission, and the Districts and Regions Administration Act, which serve as the legal framework for determining regional state boundaries, are ambiguous regarding the process, roles, and responsibilities of determining regional state boundaries.
- 1.3. A lack of political will and credible commitment to the rule of law. Despite the legal gap in defining clear rules and procedures for regional state formation, politicians and elites could come together and find solutions by adhering to the existing legal framework. Regrettably, all four regional states formed between 2013 and 2016 were outside the existing rules.

- 1.4. Although the Provisional Constitution grants the Federal Parliament final decision on the number and boundaries of regional states, there is ambiguity regarding the role of regional administrations, the Federal Government, and the Federal Parliament in determining regional state boundaries.
- 1.5. Dispute over the boundaries. The demarcation of 18 regions prior to the collapse of the central government was not well-defined in the past; for example, the boundaries were defined by familiar places such as a water-well, a large tree, or a well-known terrain. For whatever reason, these symbols may disappear, resulting in the loss of the boundary separating the two regions.

2. Recommendations

In light of the above findings, this study recommends the following actions:

- 2.1. Finalizing the constitution review. The Provisional Constitution should be finalized to end any excuse for not respecting and applying it. As soon as the two Houses of the Federal Parliament approve the revised Provisional Constitution, a constitutional assembly composed of traditional elders who nominated delegates elected members of the House of the People in the 2016 and 2022 elections, should be established and convened to approve the final constitution.
- 2.2. The Federal Constitutional Court should be established and given the tools it needs to carry out its duties. The Provisional Constitution creates a constitutional court of five judges as an umpire institution responsible for hearing and deciding the constitutionality of laws and government measures and determining disputes between government organs. Unfortunately, the constitutional court has not yet been established, which allows politicians to break the law without fear of consequence. Establishing the constitutional court

may be a solution to the political impasses between government branches within the Federal Government and between the Federal and State levels. Apart from that, cooperation between the federal government and the states should be maintained in order to strengthen relations, discuss and agree on national issues, preserve the country's unity, and harmonize policies. Rules and procedures for such intergovernmental relations should be established, as well as institutions to facilitate such cooperation.

- 2.3. The study recommends that the Boundaries and Federalism Commission and the Federal Parliament use cutting-edge technology to determine the boundaries of current administrative regions, such as GPS (Global Positioning System) technology, which can be easily monitored to reduce cross-border disputes between states.
- 2.4. The formalization of current regional states into full members of the Federal Republic of Somalia. It is recommended that they be included in the revised federal constitution, which should clearly define their jurisdictional boundaries. The revised federal constitution should clearly define the boundaries between federal member states. Formalization should consider the local level by recognizing them as the third level in the federation and granting them irrevocable competencies.
- 2.5. Criteria and procedures for new states should be specified in the federal constitution. The revised federal constitution should include comprehensive conditions and criteria for establishing new member states. The consent of the local people should be taken into account when deciding on the procedure for establishing a new state. When redrawing the boundaries of an existing state to form a new state, the consent of the people in the state should be obtained first, and the Independent Boundaries and Federalism Commission should administer the process of redrawing its boundary.

Notes

- ¹ Articles 01 and 12 of the Somali Constitution of 1960 (as amended in 1963).
- ² Article 1 of the Constitution of the Somali Democratic Republic of 1979; Cleophus Thomas, 'Federalism in Somalia: Obstacles, Aspiration, and Opportunities in Jubaland' (PhD dissertation, George Mason University 2017) 41-42.
- ³ Mohamed Aden Farah, 'Federalism: State-Building in Somalia and People's State Ownership' (MA thesis, Addis Ababa University 2017) 2.
- ⁴ See Articles 1 and 48 of the Provisional Constitution of Somalia of 2012.
- ⁵ Cleophus Thomas (n 2) 105-127.
- ⁶ Ibid, 3.
- ⁷ Article 49 (1) of the Provisional Constitution of Somalia of 2012.
- ⁸ Ibid, 111E.
- ⁹ Ibid.
- ¹⁰ Ibid; Julia Cresswell, *Oxford Dictionary of Word Origins* (3rd ed, Oxford University Press 2021).
- ¹¹ Thomas O. Hueglin and Alan Fenna, *Comparative Federalism: A Systematic Inquiry* (2nd edition, University of Toronto Press 2015) 99.
- ¹² Gabriel Lanre Adeola and Adeleke Olumide Ogunnoiki, 'The Philosophy and Theories of Federalism' (2020) 1 Crawford Journal of Politics 77, 79 <<https://bit.ly/3sOVTfe>> accessed 27 December 2021.
- ¹³ Daniel Elazar, *Exploring Federalism* (University of Alabama Press 2006) 5.
- ¹⁴ Michael Burgess, *Comparative Federalism: Theory and Practice* (Routledge 2006) 136.
- ¹⁵ This study uses these names interchangeably: 'subnational units/levels' and 'regional states' as constituent units. As well as 'central', 'national', and 'federal' as denoted to the centre or the union.
- ¹⁶ In Somalia, the English version of the constitution uses Federal Member States, which is equivalent to 'state', but the Somali version, which is the official version, sometimes uses 'regional administration' in articles 120 and 132 (2 & 3), which may have a different connotation.

- ¹⁷ Ronald L. Watts, *Comparing Federal Systems* (3rd edition, Published for the School of Policy Studies, Queen's University by McGill-Queen's University Press 2008) 71.
- ¹⁸ George Anderson, 'Creation of Constituent Units: Practitioners' Guide' (2014) Center for Constitutional Transitions at NYU Law <<https://www.constitutionaltransitions.org/wp-content/uploads/2017/05/Creation-Prac-Guide-Final.pdf>> accessed 27 November 2021.
- ¹⁹ Thomas O. Hueglin and Alan Fenna (n 12) 102.
- ²⁰ Articles 105-109 of the Provisional Constitution.
- ²¹ Ibid article 120.
- ²² Ibid article 3 (4).
- ²³ Independent Boundaries and Federalism Commission Act 2014.
- ²⁴ Districts and Regions Administration Act 2013.
- ²⁵ Interview with Khalif Abdikarim Mohamed, Chairperson, Independent Boundaries and Federalism Commission (Mogadishu, Somalia, 8 March 2022).
- ²⁶ Ibid.
- ²⁷ Ibid.
- ²⁸ Jason Mosley, 'Somalia's Federal Future: Layered Agendas, Risks and Opportunities' (2015) Chatham House, 9 <https://www.chathamhouse.org/sites/default/files/field/field_document/20150902SomaliaFederalFutureMosley.pdf> accessed 26 March 2022.
- ²⁹ Articles 6-11 of Districts and Regions Administration Act 2013; Articles 14-17 of the Independent Boundaries and Federalism Commission Act 2014.
- ³⁰ Jason Mosley (n 27) 5.
- ³¹ Ibid.
- ³² Article 111E (1 and 2) of the Provisional Constitution; and Article 17 (1) of the Independent Boundaries and Federalism Commission Act 2014.
- ³³ Article 111E (3) of the PC; and article 17 (2) of the Independent Boundaries and Federalism Commission Act 2014.

- ³⁴ Interview with Khalif Abdikarim Mohamed (n 24).
- ³⁵ Ibid.
- ³⁶ Ibid.
- ³⁷ The Mudug Peace Agreement of 1993 <<https://www.peaceagreements.org/viewmasterdocument/1710>> accessed 01 November 2022.
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