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**Puntland Constitutional
Amendment: Analysis of
Changes, Effects, and Prospects
of Application**

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I. Background and Context

Puntland State of Somalia has grappled with intricate political complexities, armed conflicts, and political conflicts since its establishment in 1998, primarily spurred by a constitutional crisis. This study delves into the evolution of the Puntland constitutional making process from 1998 to 2012 and recent amendments to the state laws, including the constitution itself. Various administrations at different intervals have spearheaded these initiatives, marking significant milestones in Puntland's political landscape.

The first constitutional conference held in Garowe set the groundwork for the establishment of the initial transitional charter, outlining a three-year tenure for government institutions and the structure and functions of the government. Subsequently, first President Abdullahi Yusuf, at the end of his term, appointed a committee to draft a comprehensive constitution aimed at regulating governance, power distribution, and citizens' rights and responsibilities. The committee engaged in a relative public outreach campaign, gathering diverse perspectives and feedback on the proposed constitutional provisions, but was too late as the term of the government came to the end.

Despite notable progress in the drafting process, the persistent state of constitutional limbo was exacerbated by a complex conflict in 2001, involving power struggles among President Abdullahi Yusuf, opposing politicians, and traditional leaders, each driven by conflicting interests and differing political visions. In 2005 President Adde Muse instigated a comprehensive constitutional review process, leading to the establishment of a constitutional review committee in early 2006. However, minimal changes were made to the draft constitution, eventually leading to the stalling of the process.

President Faroole's administration in 2009 marked a significant turning point, with the inclusion of the Ministry of Constitution and the appointment of Professor Jimcale as the

minister, leading to a thorough review and expansion of the draft constitution. The parliamentary passage of the provisional constitution in 2012 solidified a critical chapter in Puntland's constitutional evolution.

The election of President Said Abdulahi Deni in 2019 brought renewed focus on the democratization process. Subsequent proposals and discussions among political associations in 2022 culminated in a consensus to increase the number of political parties, leading to the amendment of Article 46 of the Puntland Constitution. The cabinet's endorsement and subsequent parliamentary amendments to 11 articles within the constitution highlight recent critical developments in Puntland's political landscape.

It is against this backdrop that this policy brief provides a comprehensive analysis of the recent constitutional amendment in Puntland, shedding light on their historical background, procedural intricacies, and their ramifications on the democratization process as well as the region's political landscape. The policy brief is the product of a qualitative research methodology, leveraging data collected from 32 key informant interviews. Participants were meticulously selected to represent a diverse cross-section of stakeholders, including Members of the Puntland Parliament, high-ranking officials within the executive branch, members of the supreme court, legal experts, and notable academicians. Additionally, representatives from political parties, independent politicians, the Puntland Bar Association, influential figures from civil society, and the Puntland Media Association were also included in the study.

II. Analysis of Key Amendments: Process, Effects, and Implementation Prospects

The process of amending the constitution was initiated during the 52nd session of the Puntland House of Representatives, where the proposed

amendments were subject to rigorous debate and scrutiny. Despite vocal opposition and skepticism regarding the legitimacy of the amendments, a special committee was appointed to review the proposed changes and subsequently proposed recommendations regarding the changes while adding extra changes to the parliament. On July 25, 2023, Parliament unanimously approved a set of 11 constitutional amendments (articles: 44, 46, 47, 56, 57, 62, 64, 90, 112, 113 and chapter four for the changing the name of judiciary of the constitution), signaling a significant shift in the political landscape. These amendments were brought forth to address various aspects, primarily pertaining to the recognition and operational framework of political parties within the region. Additionally, they prompted a comprehensive restructure of the governance system, profoundly impacting the election process for the President, Vice President, and members of the House of Representatives. Notably, the modifications to Articles 44 and 56 introduced a transition from the previous parliamentary selection method to a new democratic presidential system, wherein the President and Vice President were to be elected directly by the people. However, the constitutional amendment process raised concerns due to potential procedural discrepancies, with some stakeholders questioning the validity and legitimacy of certain changes.

The government originally proposed the amendment of Article 46 and related Articles. However, the parliament amended 11 articles. The additional amendments beyond the original request from the Cabinet sparked considerable controversy, as the procedures outlined for amending articles of the constitution were not adhered to. The executive branch request focused on increasing the number of political parties from three to five, citing alignment with other provisions affected by the amendment, however the constitutional amendment went further with the change of other articles.

The analysis of the procedure of the Puntland Constitutional amendments reveals that the initial demand for the amendment was put forward by seven opposition political associations with the

absence of KAAH political association in November 2022. These associations sought to eliminate restrictions on the number of official political parties that could be established following the finalization of the remaining district councils' elections. Later, the KAAH political association, which is the Political Association of current regime has joined this request.

Initially, the Puntland President was hesitant to accept the request to amend Article 46 and remove the limitations on the number of official parties. However, due to pressure from representatives of political association, the government eventually conceded and agreed to increase the number of political associations that could be promoted to political parties. Despite these efforts, the Mideeye and Horseed political associations who were among the seven associations that demanded the amendment declined to accept the certification of political parties and refused to participate in the Puntland Electoral Commission (PEC). Mideeye won large number of votes during the local elections and was the second association after KAAH. When questioned about their decision to withdraw from the democratic process, MIDEEYE representatives attributed their actions to the government's alterations to the rules and regulations, claiming that the democratic process was being manipulated to serve the president's personal interests, leading to violations of the country's bylaws and constitution. This dissent has contributed to an atmosphere of heightened tension and uncertainty, as the conflicting parties continue to navigate the evolving political landscape and grapple with the implications of the amendments.

The procedure of amending the constitution is stipulated in Article 139 of Puntland constitution which states that the proposal to amend the constitution can be suggested through 1) a proposal from the executive 2) five percent of Puntland parliament 3) petition signed by 5000 citizens.

The amendment of the constitution provoked a hot legal debate on the legality of the procedures followed by the parliament. On the one hand, the

government insisted that the proper procedures were followed, and the whole amendment is lawful. On the other, the opposition wing including two political associations insisted that any change made to the constitution is null and void. The opposition objections rest on two major arguments: Procedural errors in the amendment and the retrospectivity of the act. The procedural errors include the initial government proposal of the amendment of Article 46. However, 10 more articles were altered without the required proper procedures of the constitution. Additionally, the procedure requires the parliament to inform the public one month before it is debated but the public notice that was aired at some media outlets was misleading by pronouncing that only two articles shall be amended. Similarly, the amendment broke several parliamentary rules. Secondly, the government made the amendment when the local election had already taken place, ignoring the fact that laws cannot be retrospective.

In contrast, the government insisted that the amendment is legal on the grounds that the proposal to increase the number of political associations were made by the same parties that are now objecting. Additionally, the changes were made when the process was undergoing, so that, during the amendment, there was no official political parties that have emerged from the process. Moreover, the parliament has the powers to review, approve, reject, amend, or repeal of Puntland Laws according to article 64 of the powers of the parliament. Whatever the case is, the disagreement on the constitutionality of the amendment can only be solved through the constitutional court.

The alteration of the constitution has precipitated armed confrontations between government forces and the opposition's armed faction. When consulted by the PDRC research team on the ramifications of the constitutional amendment on Puntland's political landscape, security, and democratization/elections, diverse opinions emerged among the respondents. These viewpoints hinged on their respective political leanings, yet a unanimous consensus was reached regarding the deleterious effects of the constitutional amendment on the democratization/election process.

Given the prevailing environment in Somalia, where adherence to the law by citizens is inconsistent and governance often weak, the outcomes of the amendment can be unpredictable, contingent upon societal acceptance.

The first group, predominantly composed of legal practitioners or politicians closely aligned with the government, staunchly maintains that the constitutional amendment is irreversible and subject to review only after a six-month interval for potential further amendments. Additionally, they emphasize the exclusive role of the government and political parties as primary stakeholders, effectively disregarding the independent opposition politicians' perspectives. Their contention remains fixated on the proper procedure followed for the amendment of article 46, particularly in relation to the expansion of political parties.

Conversely, the second group anticipates that the amendment will incite violence, gravely undermining the democratization process in Puntland. They posit that the amendment will exacerbate existing controversies, and the success of the democratization process will depend on how the consequential constitutional crisis resulting from the hasty amendments is managed.

A third group of interviewees articulates that the constitutional amendment will undoubtedly have significant adverse implications for security, politics, and the democratization process. They propose the appointment of experts to review the amendments as a potential resolution to the disputes, aiming to salvage the democratic process and uphold the stability of Puntland.

This dichotomy in perspectives has further exacerbated existing tensions and cast a shadow of uncertainty over the future trajectory of the state's political landscape. What is clear is that the constitutional amendment has only added another layer to the already existing dispute on the election and the democratization process. Its ramification on the political and security situation of the state depends on the general political discord and how it is resolved. To address the

problem, there is need for all parties to have political debate on the matter as well to adhere to the rule of law and to take the amendment case to the constitutional court, which has the mandate to resolve disputes related to the judicial review processes.

In the wake of the initial stages of the constitutional amendment process, the opposition's armed faction made a public declaration expressing their intentions to halt the democratization process. They perceive the amendments as a strategy to support President Deni's potential re-election or extension of his presidential term, seemingly indifferent to the potentially devastating repercussions of renewed armed conflict, even if it escalates into a full-scale war between rebel forces and the government.

Consequently, in response to the growing insecurity and his determination to rejuvenate the security forces, the President of Puntland has initiated the reorganization of the Puntland forces. This includes the appointment of new leadership, the reintegration of experienced former cadets, and the enlistment of young recruits, thereby consolidating the Puntland forces' capabilities. A move that opposition politicians claimed to be aimed to use the security forces for political interests which is a recipe for an autocratic regime that president want to establish in Puntland.

Despite these efforts, the issue of previous armed confrontations between government forces and the opposition remains unresolved, as several members of the Puntland elite lament the absence of reparations for the damages incurred during these conflicts. A ceasefire negotiation brokered by traditional leaders, elders, and Puntland elites has temporarily suspended hostilities, creating an uncertain atmosphere as the implementation of the democratic process remains in a precarious state.

Ironically, the majority of Puntland's population yearns for the prompt election of a president and parliament through universal suffrage aiming to depart from the entrenched and perceived corrupt clan-based system as evidenced in many studies. While there has been no polling study

conducted to prove this, citizens have been taking it to the streets in many Puntland regions to express support for OPOV. This sentiment persists despite the opposition from several political sides, including their constituents, who contest the application of the newly amended constitution.

III. Policy Recommendations

- 1. Upholding the Rule of Law and Constitutional Adherence:** It is imperative that all political stakeholders, government branches, and parties in Puntland adhere strictly to the rule of law as delineated in the constitution. Any amendments or alterations to the constitution should be undertaken following the appropriate legal procedures and with due diligence to maintain the integrity of the legal framework. Based on the social contract by the population, amendments also require wider consultation by all stakeholders to ensure that the process is consensual as much as possible. Additionally, mechanisms for ensuring compliance with the constitution should be established, emphasizing the fundamental role of the legal system in upholding the rule of law in Puntland.
- 2. Political Reconciliation and Decision-Making for Stability:** Given the history of political discord and ongoing disputes over the recent constitutional amendments, it is essential for the political stakeholders of Puntland to engage in meaningful dialogue and concerted efforts to resolve their differences. A comprehensive political reconciliation process must be initiated, fostering an environment conducive to constructive decision-making that prioritizes the long-term stability and prosperity of Puntland. This includes the participation of all relevant political factions and the incorporation of diverse perspectives to forge a cohesive and sustainable political direction.
- 3. Transitioning back to a Parliamentary System:** In light of the recent constitutional amendments and the ensuing political instability, a strategic reevaluation of the the President should be

conducted through the parliament, thereby promoting a gradual transition toward a presidential system in accordance with established democratic principles. This cautious approach will ensure the smooth evolution of Puntland's political framework, fostering a conducive environment for sustainable democratic progress.

- 4. Comprehensive Judicial Review for Constitutional Clarity:** To address the discrepancies and contradictions within the Puntland constitution and other laws, a comprehensive judicial review conducted by constitutional experts is essential. This review should focus on identifying and resolving the inconsistencies within the constitution, providing clarity on the legal framework governing the actions of various government branches. By enhancing the interpretative guidance of the constitution, the Puntland government can foster a more robust legal system that upholds the principles of justice and transparency, thereby fortifying the foundation of the governance structure.

IV. Conclusion

The recent constitutional amendments in Puntland have brought to the fore a complex interplay of political dynamics, constitutional integrity, and societal aspirations, necessitating a holistic approach to navigate the state's transitional phase effectively. Upholding the sanctity of the constitutional framework and prioritizing the rule of law is paramount to ensure the legitimacy of the amendment process and foster a stable political environment. Additionally, fostering inclusive political dialogue and reconciliation among key stakeholders remains crucial for achieving consensus and mitigating existing tensions, laying the groundwork for sustainable political development. Moreover, strategic reforms that prioritize comprehensive judicial review and constitutional clarity can provide a robust legal

framework, enhancing transparency and accountability within the governance structure. By adopting a prudent and thoughtful approach, Puntland can address the current political impasse and steer the state's trajectory toward a more inclusive, stable, and democratic future.

The implications of the recent amendments underscore the need for careful consideration of the multifaceted challenges confronting Puntland's political landscape. With a focus on promoting political inclusivity, transparency, and the rule of law, the state can work toward building a resilient political infrastructure that accommodates diverse viewpoints and fosters a conducive environment for sustainable democratic progress. Through strategic policy interventions and concerted efforts to bridge political divides, Puntland can pave the way for a more stable, prosperous, and democratic future, consolidating its position as an integral component of Somalia's evolving political fabric.

Finally, Puntland political stakeholders must agree to chart a concrete and cemented pathway that ensures the spurring democratization process that has fascinated immense public support and will to transit from the rudimentary clan-based system of governance.