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I N S T I T U T E

Dibu-eegista

# Dastuurka Kumeelgaarka ah

ee Soomaaliya: Sooyaalka, Caqabadaha iyo Ifafaalaha Mustaqbalka



Ogoosto 2022

## Qoraaga

### Dr. Afyare Cilmi

Dr. Afyare Cilmi, waa agaasimaha Machadka Daraasaadka Siyaasadda ee Heritage, oo xaruntiisu tahay Muqdisho. Afyare, waxa uu cilmiga siyaasadda ka soo dhigay jaamacado ku kala yaalla dalalka Qadar, Kanada iyo Soomaaliya. Marka laga yimaaddo buuggiisa “Understanding the Somalia conflagration: Identity, political Islam, and peacebuilding, oo ay daabacday Pluto Press, waxa kale oo uu Afyare qoray ama uu wax ka qoray in ka badan 20 cilmibaarisood (peer-reviewed) oo la daabacay iyo toban warbixinoood oo siyaasadeed. Afyare Cilmi ayaa darajada kowaad ee jaamacadda ka diyaariyay culuumta Maamulka Dadwaynaha, isaga oo ka baxay jaamacadda Ryerson University, waxaanu darajada labaad ee jaamacadda ka diyaariyay Cilmiga Siyaasadda, isaga oo ka baxay Brock University, mar kale ayuu Afyare darajada labaad ee jaamacadda ka diyaariyay culuumta Siyaasadda Waxbarashada, isaga oo ka baxay University of Toronto, waxa kale oo uu darajada Phd ka qaatay jaamacadda University of Alberta, isaga oo ku takhasusay Cilmiga Siyaasadda.

## Kaqaybqaate

### Cabdirisaaq Adan Muxumed

Cabdirisaaq Adan Muxumed ayaa ka qaybqaatay cilmibaarista. Cabdirisaaq waxa uu cilmibaare sare ka yahay Machadka Daraasaadka Siyaasadda ee Heritage. Intii uu Machadka joogay waxa uu qoray daraasado ku saabsan siyaasadda iyo dowladnimada Soomaaliya. Cabdirisaaq waxa uu darajada labaad ee jaamacadda ka diyaariyay Cilmiga Siyaasadda, isaga oo ka baxay jaamacadda Witwatersrand University, oo ku taalla dalka Koonfur Afrika.

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**“ Dajiyeyaasha Dastuurrada, ayaa sharciyada u dajiya  
jiilasha mustaqbalka, kuwaas oo aan wax matalaad ah  
ku lahayn golaha samaynaya dastuurka. ”**

*- Jon Elster*

# 1. Nuxurka Daraasadda

Labaatankii sannadood ee u danbeeyay, dajinta dastuurka Soomaaliya waxa uu noqday mashruuc qaaliya oo aan dhammaad lahayn. Axdiga qarameedkii kumeelgaarka ahaa oo ay 2000 samaysay Jamhuuriyaddii saddexaad ee lagu soo dhisay dalka Jabuuti ayaa ku baaqay in la sameeyo dastuur cusub. Axdiga Federaalka Kumeelgaarka ah ayaa 2004 asaasay nidaam dalka dastuur loogu samaynay. Xukuumadihii Soomaaliya u kala danbeeyay ayaa sameeyay guddiyo dhawr ah: Ugu danbayn 2012-kii ayay Dastuurka Federaalka ee Kumeelgaarka ah ka wada xaajooden Ergayga Gaarka ah ee Xoghayaha Guud ee Qaramada Midoobay iyo lix ka mid ah hoggaamiyeyaasha siyaasadda Soomaaliya.<sup>1</sup> Dastuurka Federaalka Kumeelgaarka ah ayaa jideeyay nidaamka dibu-eegista dastuurka. Tan iyo 2012, Guddida La Socodka baarlamaanka oo kaashanaysa Guddida Madaxabannaan ee Dib-u-eegista iyo Hirgelinta Dastuurka ayaa 2016 iyo 2021-kii laba goor dhammeeyay dibu-eegista dastuurka. Intaa waxa dheer, marka laga tago Somaliland, waxa ay shanta dawlad-goboleed (Puntland, Galmudug, Jubbaland, Koonfur-Galbeed iyo Hir-Shabeelle) ee Soomaaliya samaysteen dastuurro u gaar ah.

Xogta daraasaddan, waxa aannu ka soo ururinay waraysiyo xog-ogaal ah iyo dukumentiyada aannu dibu-eegis ku samaynay. Waxa aannu cuskannay dastuuradii hore ee Soomaaliya, dastuurka kumeelgaarka ah ee hadda jira, labada dukumentii ee dibu-eegista dastuurka oo la dhammaystiray sannadihii 2016 iyo 2020 iyo dastuurrada dowlad-goboleedyada Soomaaliya. Waxa kale oo aannu waraysannay khubaro iyo siyaasiyiin ka soo shaqeeyay dajinta iyo dib-u-eegista dastuurka Soomaaliya.

Waxa daraasaddan lagu ogaaday:

- Marka loo eego cilmi-baarisayada ku saabsan dibu-eegista iyo dajinta dastuurka, hannaanka ama waddada loo maro sameynta dastuurka ayaa go'aamisa sharciyadda dastuurka iyo aqbalaadda ay dadku aqbalaan. Dhanka Soomaaliya, cilmibaaristu waxa ay heshay in siyaasiyiin koobani inta badan afduubaan hannaanka dajinta iyo dibu-eegista dastuurka, taas oo keentay: siyaasad aan loo dhammayn, maqnaanta kaqaybgalka bulshada, daahfurnaan la'aanta iyo qiimayn la'aanta khibradaha maxalliga ah.
- Markii la samaynayey Dastuurka Kumeelgaarka ah ee Federaalka ah, waxaa maroorsaday lix hoggaamiye oo siyaasiyiinta Soomaaliya ka mid ah iyo Ergayga Gaarka ah ee Xoghayaha Qaramada Midoobay.

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1. Ambassador Augustine Mahiga was the Special Representative. The six Somali signatories were: Sharif Sheikh Ahmed, president of the Transitional Federal Government; Abdiweli Mohamed Ali, prime minister of the Transitional Federal Government of Somalia; Sharif Hassan Sheikh Ahmed, speaker of the Transitional Federal Government of Somalia; Abdirahman Mohamed Farole, president of Puntland; Ahmed Alim president of Galmudug; and Abdulkadir Moalim Nur, leader of Ahlusunna Wal-Jama.

Waxaanay iska indhatireen baaqyadii ku aaddanaa siyaasadda loo dhan yahay iyo doodaha kale ee muhiimka ah. Siyaasadda aan loo dhammayn ayaa wiiqday geeddi-socodka dibu-eegista dastuurka. Guddida la Socodku waxa ay tobankii sano ee la soo dhaafay ku kaliyaysteen maamulka geeddi-socodka dibu-eegista dastuurka. Dhab ahaantii, guddiyada waxa ku jira xubno kooban oo karti leh, oo xiisaynaya arrimaha dastuurka, kuwaas oo saamayn wayn ku yeeshay geeddi-socodka dibu-eegista dastuurka. Guddida La Socodku may shaacinnin hannaanka dibu-eegista dastuurka, manay abuurin doodo iyo dawyo loo maro siyaasadda loo dhan yahay.

- Waxa ka sii daran, labada guddi ee la Socodku (2016 iyo 2020) waxa ay go'aanno iyo talooyin kala duwan ka soo saareen arrimaha dastuurka ee lagu muransan yahay. Guddida la Socodka koowaad ee baarlamaanka 9-aad ayaa soo saartay sagaal qodob oo la isku mari waayahay, kuwaas oo todoba ka mid ah la isku sii maandhaafay: Awood qaybsiga DFS iyo dowlad-goboodyada, qaybsiga khayraadka dalka, awoodaha madaxweynaha iyo kuwa raysalwasaaraha, doorka Aqalka Sare ee baarlamaanka, maqaamka caasimadda, dhalashada iyo qaabaynta garsoorka. Guddida labaad ee la Socodka labada gole ayaa kordhisay qodobbadii la isku hayey, iyaga oo ku daray shan qodob oo kale, sidaas darteed waxa laga dhigay 14 qodob.
- Gudiddii Kowaad ee la Socodku waxa ay soo jeedisay in la ballaariyo awoodaha Faderaalka, waxaanay u qoondaysay awoodaha ku saabsan shaqooyinka muhiimka u ah dawladda faderaalka Soomaaliya. Intaa waxa dheer, in guddidu awood u siisay dawladda dhexe in ay sharci ka soo saarta khayraadka dabiiciga ah. Marka la eego qaabaynta hay'adaha fulinta, sharci dejinta iyo garsoorka dawladda, waxa ay guddida kowaad ee la Socodku isku dareen labadii xafiis ee fulinta oo ay ka dhigeen mid kaliya, taas oo meesha ka saartay xafiiskii raysalwasaaraha, iyada oo madaxweynaha ka dhigtay hoggaanka dawladda iyo hoggaanka xukuumadda-labadaba. Warbixintii guddiga (cutubkeeda lixaad), ayaa sharci-dejintaa oo dhan siinanaya Golaha Shacabka, isaga oo meesha ka saaraya kaalinta golaha odoyaasha (sanatarrada). Waxa kale oo ay guddidu ku taliyeen nidaam garsoor oo isku dhafan; iyaga oo soo jeediyay in ay Muqdisho noqoto maamul-goboleed; waxaanay ragga iyo haweenka ka simeen in carruurtoodu mawaadiniin ka noqonayso Soomaaliya haddii ay guursadaan lammaane aan Soomaali ahayn.
- Guddida Labaad ee La Socodka Labada Aqal ee Baarlamaanka 2020, ayaa khilaafay soo jeedimaha Guddida Kowaad badankooda. Guddida labaad ee La Socodku waxa ay awoodo badan oo muhiim ah u daadajisay dawlad goboleedyada, iyada oo xafiisyada fulinta (madaxtooyada iyo raysalwasaaraha) u daayay qaabka ay hadda yihiin, sida oo kalana sidooda u daayay nidaamka labada aqal ee baarlamaanka, balse kor u qaaday awoodda golaha aqalka sare (sanatarrada). Waxa ay guddidu ka aammuseen meeqaamka Muqdisho.

Si kastaba ha ahaatee, guddida labaad ee la Socodku waxa ay isku raaceen in la dhiso nidaam garsoor oo isku dhafan, waxa kale oo ay ku taliyeen in la dhiso guddi midaysa dastuurrada dawlad goboleedyada iyo dastuurka Dawladda Faderaalka Soomaaliya. Ugu danbayn, iyada oo maanka lagu hayo Somaliland, waxa ay guddida labaad ee La Socodku soo kordhisay qodob cusub oo sheegaya in dastuurku uu kumeelgaar ahaado inta uu dalka oo dhammi midoobayo.

- Dawladda faderaalka iyo dawlad goboleedyadu, markasta, way isku khilaafaan hawlaha maamulka. Dawlad goboleedyadu waxa ay dajinta dastuurka faderaalka dhinac wadeen samaynta dastuurro u gaarka ah. Meelaha qaar, dawlad goboleedyadu si cad umay aqoonsannin awoodaha muhiimka ah iyo sarraynta Dastuurka Kumeelgaarka ah ee Federaalka. Shaqo ahaan, dawlad goboleedyadu waxa ay dawladda dhexe kula tartamayaan afarta shaqo ee uu sharcigu siiyay dawladda faderaalka: Arrimaha Dibadda, Jinsiyadaha, Difaaca, iyo maamulka Lacagta. Inkasta oo aan la isku afgaran awood qaybsiga heerarka Dowladda, haddana daraasaddan waxa lagu ogaaday in ay DFS ay iyadu wax kasta leexsatay.
- Marka la eego geeddi-socodka dastuurka, muwaadiniintu fursado kooban ayay u heleen ka qaybqaadashada dajinta iyo dib-u-eegista dastuurka. Haddiiba ay jiraan, aad ayey u yar yihiin kala duwaanshaha la soo bandhigay ee ku salaysan aragtiyaha, rabitaannada, codadka bulshada rayidka ah, bulshada qurbajoogta ah, ganacsatada, kooxaha haweenka, dhallinyarada firfircoon iyo kooxaha kale ee u darban arrimaha bulshada. Waxa intaas dheer, doodaha furan ee warbaahinta ka baxay ayaa iyaguna ahaa kuwo kooban. Sidaas darteed, dadweynuhu wax yar uun bay ka ogyihiin xogaha iyo nuxurka dastuurka, arrimaha la isku maandhaafsan yahay ee ku jira iyo horumarka laga sameeyay. Si kale haddii aynu u dhigno, dariiqooyinka lagu xaqiijinayo ka qaybgalka dadweynaha ee ku aaddan geeddi-socodka dajinta iyo dibu-eegista dastuurka ayaa ah kuwa aan laga faa'iidayaan. Sidaa darteed, dad aad u kooban ayaa wax ku darsaday qoritaanka iyo dibu-eegista Dastuurka Kumeelgaarka ah ee Federaalka.
- Dajinta iyo dibu-eegista dastuurka Soomaaliya waxa ay noqotay shaqo ay gacanta ku hayaan deeq bixiyeyaashu. Hay'adaha ay khusayso iyo dalalka deeqaha bixiya ayaa inta badan qaata doorka farsamada, sidaas darteedna waxa dayacma oo la iska indhatiraa siyaasadaha dajinta iyo dibu-eegista dastuurka ee ku saabsan masiirka ummadda Soomaaliyeed. Inkasta oo ay jirto aragti sheegaysa in dastuurku yahay heshiis bulsho, oo ay muwaadiniintu leeyihiin, sida muuqata marnaba lama adeegsan figraddaas oo dadweynaha laguma ixtiraamo in ay kaqaybgalaan geeddi-socodka qoritaanka iyo dibu-eegista dastuurka Soomaaliya.



In la iska indhatiro aragtiyaha, wax soo biirinaya, iyo talooyinka bulshada rayidka ah ama dadweynaha iyo waliba khabarada maxalliga ahi, ayaa keentay in dadwaynuhu aragti taban ka aaminaan dastuurka, taas oo jidaysay in dastuurku u muuqdo mashruuc shisheeye oo si dhagran loo soo abaabulay. Tani waxa ay si weyn u dhaawacday hannaanka sharciyadda dukumentiga. Laakiin haddii la doonayo in sharciga si ikhtiyaar ah loogu hoggaansamo oo Soomaaliya laga hirgeliyo, waa in ay hannaanka dejinta iyo dibu-eegista dastuurku daboolaan tabashooyinka gudaha, oo ay hantaan waxtarka bulshada. Dastuurku ma noqon karo “arrin dibadeed” oo aan xiriir la lahayn cidda la doonayo in lagu maamulo.

## 2. Hordhac

Geeddi-socodkii aasaaska jamhuuriyaddii saddexdaad ee lagu soo dhisay dalka Jabuuti, waxa ay ergadii Soomaaliyeed ee ka soo qayb gashay shirkii Carta ku doorteen guddi loo xil saaray diyaarinta Axdiga kumeelgaar ah. Guddidu waxa ay ka koobnayd dad Soomaaliyeed oo la sharfo, waxaanay ku talin karayeen in la qaato dastuurkii 1960-kii, oo wax ka beddel lagu sameeyay. Balse taa lidkeeda waxa ay diyaariyeen Axdi-Qarameed Kumeelgaar ah oo lagu saleeyay dastuurkii Soomaaliya ee 1960-kii. Arrinta xiisaha gaarka ah lahi, waa in uu Axdigani ku baaqayo in Dawladdii Kumeelgaarka ahayd muddo xileedkeeda ku diyaariso dastuur cusub.<sup>2</sup> Taasi waxa ay ahayd himilo ay hirgelinteedu adag tahay. Dawladdii Kumeelgaarka ahayd waxa ay burburtay intaanay gaarin 2003.

Shirkii dibu-heshiisiinta ahaa ee lagu bineeyay hannaanka dastuur dajinta Soomaaliya, waxa qabanqaabiyey urur-goboleedka IGAD, waxaana martigalisay Kenya. Qodobka 71(9) ee Axdiga Federaalka Kumeelgaarka ah ayaa faraya Dowladda Federaalka Kumeelgaarka ah in ay ku diyaariso dastuur federaal ah soddonka bilood ee ugu horreeya muddo xileedkeeda.<sup>3</sup> Taasi waxa ay keentay in ay dowladdu dhisto guddi ka kooban shan iyo toban xubnood oo soo diyaariya dastuurka Soomaaliya. Caqabado siyaasadeed iyo kuwo amni ayaa ku qasbay in uu xilka iska casilo madaxweynihii Soomaaliya Cabdillaahi Yuusuf Axmed sannadkii 2008, taas oo u gogolxaartay in 2009 dalka Jabuuti lagu qabto shir kale oo dibu-heshiisiineed, kaas oo ay ku midoobeen dowladdii kumeelgaarka ahayd iyo Isbahaysigii Dibu-xoraynta Soomaaliya. Intaa ka dib, xukuumaddu waxa ay kordhisay guddida dastuurka oo ay ka dhigtay soddon xubnood.

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2. See Article 30, Transitional National Charter, adopted in 2000.

3. See Article 71(9), Transitional Federal Charter, adopted in 2004.



Sannadkii 2010, ayay guddida dastuurku qoraal qabyo ah u soo gudbisay hoggaanka dowladda federaalka. Si kastaba ha ahaatee, waxa qoraalkaas lagu sameeyay dibu-eegis faro badan. Dastuurka kumeelgaarka ah ee hadda la isticmaalaa waxa uu ka dhashay heshiis lix qof ku saxeexan yihiin oo uu weheliyo saxeexa Ergayga Gaarka ah ee Xoghayaha Guud ee Qaramada Midoobay. Waxaana lagu sameeyey dastuurka hab uu degdeg badani ku jiro oo su'aalo muhiim ah laga keeni karo. Ha yeeshee, 1-dii Ogoosto 2012 ayay Golaha Guud ee Wadatashigu si kumeelgaar ah u ansixiyeen Dastuurka Federaalka Kumeelgaarka ah iyada oo aan wax ka beddel lagu samaynin.<sup>4</sup>

Kalsooni darrada ka dhex jirta daneeyayaasha siyaasadda, siraysiga iyo hannaanka degdegga ah ee lagu sameeyey dajintii iyo ansixintii dastuurka ayaa qabyo ka dhigtay Dastuurka Kumeelgaarka ah ee 2012. Intaa waxa dheer, qodobbada 133 iyo 134 ee Dastuurka Kumeelgaarka ah ayaa dhisay Guddida La Socodka Baarlamaanka iyo Guddida Madaxabannaan ee Dibu-eegista iyo Hirgelinta Dastuurka (ICRIC) oo ujeeddoodu ahayd dibu-eegista dukumentiga.

Guddida La Socodka waxa ay ka kooban tahay toban xubnood oo ka kala yimi labada aqal ee baarlamaanka iyo lix xubnood oo ay soo dirsadeen dawlad goboleedyadu. Guddida Madaxabannaan ee Dibu-eegista iyo Hirgelinta Dastuurku waxa ay ka kooban tahay lix khabiir oo ay DFS soo xulatay iyo dawlad goboleedyada oo mid iyo hal xubin ah. Balse dawlad goboleedyadu marnaba fursad umay helin soo xulista xubnaha ku matalaya guddida. Baarlamaankii sagaalaa (2012–2016) waxa shaqaynayay baarlamaanka Aqalka Hoose oo kaliya, waxaanu soo doortay tobanka xubnood ee Guddida La Socodka.<sup>5</sup> Waxa intaas dheer, xukuumaddii Xasan Shiikh Maxamuud oo 2014 aasaastay Guddida Farsamada ee Madaxabannaan ee Dibu-eegista iyo Hirgelinta Dastuurka (ICRIC).<sup>6</sup> Sannadkii 2016 ayuu guddigu dibu-eegis ku sameeyey dastuurka, waxaanu u gudbiyay talooyinkiisa baarlamaanka iyo Madasha Hoggaanka Qaranka. Markii ay dhammaadeen muddo xileedyadii xukuumadda iyo baarlamaanku, Madasha Hoggaanka Qaranku waxa ay go'aansadeen in ay hannaanka dibu-eegista dastuurka u gudbiyaan baarlamaanka tobnaad.

Si kastaba ha ahaatee, 2016-ka dabayaaqadiisii ayay Soomaaliya markii ugu horraysay ka guurtay baarlamaankii halka aqal ahaa, waxaanay samaysatay baarlamaan ka kooban laba aqal (Aqalka Sare iyo Aqalka Hoose). Madasha Hoggaanka Qaranku waxa ay dhistay aqalka sare oo ah Sanatarrada baarlamaanka tobnaad. Sidaas darteed, Golaha Shacabka iyo Golaha Sanatarradu, waxa ay doorteen guddiyo isku dhafan oo dastuuri ah, kuwaas oo ka koobnaa labada aqal oo min shan xubnood ah. Intaas ka dib, labadan guddi waxa ay cududdooda ku mideeyeen hal maamul.<sup>7</sup>

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4. For a detailed analysis of the process of constitution-making, see Afyare Elmi, “The Limits of the UN-Controlled Constitution-Making Process,” <https://www.e-ir.info/2012/09/02/revisiting-the-un-controlled-constitution-making-process-for-somalia/>. See also Mohamed Isse Hussein, Ahmed Ali M. Khayre, and Abdi Ahmed Siyad, “Review of the Somali Provisional Constitution: Appraisal of Contentious Articles and Contested Issues,” SSRN 3397637 (2019) [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3397637](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3397637).

5. The members of the ninth parliament's Oversight Committee were Maryan Arik Kassim, Ibrahim Salah Dayfallah, Mohamed Abdi Yusuf, Abdullahi Sheekh Ismail, Bibi Khaliif Mohamed, Yakub Ali Mohamed, Yasin Abdi Sed, Fawziya Yusuf Haji Adam, Bashir Addow Alasow, and Ahmed Mayow Abdulle.

6. On August 5, 2012, the ninth parliament passed the legislation that established the ICRIC (REF: 618-XG-08-13). Article 4 states that the Committee will consist of five members and that federal member states will each send one delegate who will become a member of the committee. For a short, useful background, see Jan Amilcar Schmidt, “The Somali Constitutional Review Process: Taking Stock,” 2017, <https://constitutionnet.org/news/somali-constitutional-review-process-taking-stock>.

7. The members of the tenth parliament's Oversight Committee were five senators (Abdi Hassan Awalle, Hussein Sheekh Mohamud, Abdullai Sheikh Ismai Fartaag, Iftin Hassan Baasto, Abdikarim Mohamed Hassan) and five MPs from the House of the People (Burhan Adan Omar, Osman Haji Ali, Mohamed Abdullahi Kamil, Said Mohamed Heyd, and Sayid Ali Abdulkadir).



*Ha yeeshee, way iska indhatireen talooyinkii guddida ka horreysay arrimo siyaasadeed oo aan la sharraxin dartood. Si kale haddii loo yiraahdo, Guddida La Socodka baarlamaanka 10-aad, Guddida Farsamada iyo Wasaaradda Dastuurku waxa ay bilaabeen hannaan dibu-eegiseed oo cusub*

Waxa ay guddoomeen oo ay ka doodeen warbixintii ay diyaarisay guddidii baarlamaankii sagaalaad. Ha yeeshee, way iska indhatireen talooyinkii guddida ka horreysay arrimo siyaasadeed oo aan la sharraxin dartood. Si kale haddii loo yiraahdo, Guddida La Socodka baarlamaanka 10-aad, Guddida Farsamada iyo Wasaaradda Dastuurku waxa ay bilaabeen hannaan dibu-eegiseed oo cusub.

Guddiga Baarlamaanka 10-aad waxa uu u gudbiyay xukuumadda iyo baarlamaanka dibu-eegistii labaad ee dastuurka kumeelgaarka ah sannadkii 2020. Warbixintoodii waxa ay Guddida La Socodka labaad ee baarlamaanka sagaalaad ku sharraxeen hannaanka dibu-eegista dastuurka kumeelgaarka ah ee ay mareen. Guddidu waxa ay soo bandhigtay qodobbo u baahan dibu-eegis farsamo (sixitaanno qoraal iyo kuwo luuqadeed), qodobbo caddayn u baahan, iyo qodobbo u baahan heshiis siyaasadeed oo dhex mara dawladda Faderaalka Soomaaliya iyo dawladdaha xubnaha ka ah federaalka.<sup>8</sup> Guddida labaad ee La Socodku waxa ay sheegeen in dibu-eegistoodu soo kordhisay laba cutub oo cusub, hal qayb oo cusub, 30 qodob oo cusub, 190 farqadood oo cusub iyo laba jadwal. Intaas waxa dheer, in ay ka saareen dastuurka 16 qodob, 65 farqadood iyo laba jadwal.<sup>9</sup>

Ugu danbayn, guddidu waxa ay xuseen saddex caqabadood oo waawayn oo soo foodsaaray markii ay dastuurka qorayeen: khilaafyada siyaasadeed ee joogtada ah ee u dhaxeeya dawladda faderaalka iyo dawlad goboleedyada; dhibaatooyinka amniga dalka iyo dhibaatooyinka la xiriira dhaqaalaha.<sup>10</sup>

### 3. Habraaca Daraasadda

Cilmibaaristani waxa ay isku lartay dukumeentiyo aasaasiya oo ay gorfaysay iyo xogwaraysiyo lala yeeshay dad xog-ogaalnimadooda lagu soo xushay iyo xigashada kaydada xogeedyo hore. Daraasaddu waxa ay ka duulaysaa dukumentiyada asaasi ah, warbixinnada iyo dastuuradii qabyada ahaa ee ay soo saareen guddiyada kala duwani-illaa iyo 2000: Axdi-qarameedka kumeelgaarka ah ee 2000; Axdi-garadka Federaalka Kumeelgaarka ah ee 2004; Dastuurka kumeelgaarka ah ee Federaalka 2012; iyo labada dastuur ee kumeelgaarka ah ee ay soo kala saareen guddiyada baarlamaanka sagaalaad iyo baaarlamaanka tobnaad ee 2016 iyo 2020, siday u kala horreeyaan. Sida oo kale waxa la istcimaalay dastuurrada dowlad goboleedyada iyo waraysiyo lala yeeshay qaar ka mid ah xeeldheerayaashii dajisay dastuurka Soomaaliya; kaqaybgalayaasha waxa lagu soo xushay aqoontooda iyo ku luglahaanshaha geeddi-socodka dastuurka. Ugu danbayn, waxa taladooda la kaashaday daraasadaha laga sameeyey mowduucan iyo xogaha kaydsan ee mawduucan ku saabsan.

8. See the report of the second Oversight Committee (2020) chaired by Senator Abdi Qeybdidd. Senator Qeybdid's committee submitted the document to the political leaders in 2020. Although those interested can obtain from the Somali politicians, the report has not yet been publicly released.

9. Report of the second Constitution Oversight Committee, 2020, p. 16.

10. Ibid, p. 24.

11. See Article 48 of the report of the first Committee in 2016. This report explains the rationale behind the Committee's inclusion of the third local level in their proposal.

12. See Article 48 of the second Oversight Committee (2020). The committee provides a similar explanation.

## 4. Labada Guddi ee Dibu-eegista Dastuurka: Qoraallada is-diidan ee ku saabsan arrimaha la isku maandhaafay

Qaybtani waxa ay soo koobaysaa warbixinta iyo qabyo-qoraallada Guddidii Koowaad ee La Socodka baarlamaankii 9-aad (2016) iyo Guddidii Labaad ee La Socodka baarlamaankii tobnaad (2020). Sida kor ku xusan, guddida koowaad (2012-2016) waxa ay ka koobnayd toban xubnood oo golaha shacabka ka socda iyo lix wakiil oo ka socda dawlad goboleedyada. Guddidii labaad waxa ay ka koobnayd toban xubnood oo ka kala socda labada aqal ee baarlamaanka Soomaaliya, oo min shan ah – waa Golaha Shacabka iyo Aqalka Sare – oo lagu daray lixda wakiil ee dowlad goboleedyada. Isbeddelkan ayaa ka dhashay in Madasha Hoggaanka Qaran Soomaaliya, oo siyaasadda hormuud ka ahayd ay 2016-kii dhistay Aqalka Sare oo ka kooban 54 xubnood.

“  
Sagaal arrimood  
oo la isku  
maandhaafsan  
yahay, kuwaas  
oo todobada  
ugu muhiimsani  
ahaayeen

In kasta oo ay guddiyadu sameeyeen isbeddello badan, haddana Guddidii La Socodka Koowaad ee baarlamaankii 9-aad waxa ay soo bandhigeen sagaal arrimood oo la isku maandhaafsan yahay, kuwaas oo todobada ugu muhiimsani ahaayeen: Awood qaybsiga DFS iyo dawlad-goboleedyada; wadaagista khayraadka/dakhliga; awoodaha madaxwaynaha iyo kuwa raysalwasaaraha; doorka golaha sanatarrada; meeqaamka caasimadda; jinsiyadda/dhalashada; iyo qaabaynta garsoorka. Waxyaabaha arrimahan quseeya waxa ay guddigu uga baahdeen heshiis siyaasadeed oo dhex mara dhinacyada ay khusayso. Guddida labaad ee la Socodka labada aqal ee baarlamaanka ayaa kordhisay tirada arrimaha la isku hayo, iyaga oo ku soo daray shan kale, sidaa darteed wadarta guud ee arrimaha lagu muransan yahay waxa ay noqodeen 14 arrimood. In kasta oo ay Guddidii La Socodka koowaad saddex ikhtiyaar ka soo saartay, oo ay qortay saddex dukumenti oo kala duwan, haddana waxa ay sheegeen in ay ku talinayaa in la qaato ikhtiyaarka koowaad, kaas oo qeexaya saddex heer oo dawladda federaalka ah: dawladda dhexe ee federaalka, dawlad goboleedyada, iyo dawladda hoose.<sup>11</sup> Dhanka kale, sannadkii 2020-kii ayay guddida labaad ee la Socodku isku raacday soo jeedintaas, waxaanay ku taloboixiyeen in la dhiso saddexdaas heer ee dawladda.<sup>12</sup>

Dhanka awood qaybsiga, dastuurka kumeelgaarka ah ee hadda jiraa waxa uu dawladda faderaalka siinayaa afar hawlood oo u gaar ah: arrimaha dibadda, difaaca qaranka, dhalashada, socdaalka iyo siyaasadda lacagta.<sup>13</sup>

11. See Article 48 of the report of the first Committee in 2016. This report explains the rationale behind the Committee’s inclusion of the third local level in their proposal.

12. See Article 48 of the second Oversight Committee (2020). The committee provides a similar explanation.

13. See the Provisional Constitution of 2012, Article 54. [https://parliament.gov.so/images/Downloads/Dastuurka\\_ku\\_meelgaarka\\_SOM\\_03092012-1\\_2.pdf](https://parliament.gov.so/images/Downloads/Dastuurka_ku_meelgaarka_SOM_03092012-1_2.pdf)

Sannadkii 2016-kii Guddiddi koowaad ee La Socodku waxa ay soo jeedisay in la balaariyo awoodaha federaalka, waxaanay u qoondaysay in ay dowladda faderaalku jaangooyso, islamarkaana hirgeliso siyaasadaha ku salaysan shaqooyinka muhiimka ah, sida waxbarashada, caafimaadka, deegaanka, dhaqanka, gaadiidka cirka iyo ka badda, isgaarsiinta, cashuuraha, webiyada iyo harooyinka, dekedaha, xuduudaha, ganacsiga u kala gudbaya dawlad goboleedyada, ilaalinta xuquuqaha, awoodda ku dhawaaqidda xaaladaha degdegga ah, hal-abuurka iyo xuquuqda lahaanshaha, iyo haysashada hubka.<sup>14</sup> Qodobka 55-aad, waxa ay guddida koowaad ee La Socodku u qoondaysay dowlad goboleedyada awoodo xaddidan: dhisidda booliska, maamulka dhulka, cashuur qaadista, dejinta iyo maamulidda dastuurrada dowlad goboleedyada, iyo dhammaan awoodaha kale ee intaas ka soo hara.<sup>15</sup> Guddida kowaad ee la Socodka waxa ay soo jeedisay in ereyga “Dowlad Goboleedyo” la isticmaalo, halkii laga isticmaali lahaa “Dawladaha xubna ka ah federaalka,” waxaanay ku taliyeen in hoggaanka dawlad goboleedka loo isticmaalo magaca “guddoomiye” halkii laga isticmaali lahaa “madaxweyne”.<sup>16</sup>

Guddida labaad ee La Socodka, oo ay soo magacaabeen labada aqal ee baarlamaanku 2020, ayaa guddida kowaad ku khilaaftay awood qaybsiga heerarka dowladaha. Guddida labaad waxa ay soo saartay laba jadwal oo ay ku taxan yihiin awoodaha dowladda Federaalka Soomaaliya iyo kuwa dowlad goboleedyadu. Isku soo wada duuboo, guddida labaad ee la Socodka waxa ay awoodo muhiim ah siiyeen dowlad goboleedyada. Sida ku cad Jadwalka 2(A), guddida labaad ee la Socodka waxa ay awoodo muhiim ah u qoondaysay dowladda federaalka. Awoodahaas, waxa ka mid ahaa arrimaha dibadda, difaaca qaranka, dhalashada iyo socdaalka, siyaasadda lacagta, dekedaha, adeegyada boostada, iyo arrimaha xuquuqda lahaanshaha. Dhanka kale, waxa ay guddidani awoodo muhiim ah u qoondaysay dowlad goboleedyada; Awoodahaas waxa ka mid ahaa waxbarashada, caafimaadka, beeraha, xoolaha, kalluumaysiga, dekedaha, garoommada diyaaradaha ee aan caalamiga ahayn, dhaqanka, deegaanka, arrimaha macaamiisha, bixinta shatiyada gaadiidka, arrimaha bini'aadantinimada iyo doorashooyinka.

Marka la eego khayraadka dabiiciga ah, qodobka 44-aad ee dastuurka kumeelgaarka ah ee hadda jiraa waxa uu sheegayaa in cidda ay khusaysaa ka wada xaajoon doonaan arrintan. Si kastaba ha ahaatee, Guddida kowaad ee La Socodka Baarlamaankii 9-aad waxa ay soo jeedisay in “Khayraadka Dabiiciga ah ee Jamhuuriyadda Federaalka Soomaaliya noqdo hanti qaran, loona isticmaalo si waarta oo ay cid waliba ka faa'idaysato”.<sup>17</sup> Intaas waxa dheer, Guddidani waxa ay golaha sharci-dajinta u soo jeedisay “in la sameeyo sharci sheegaya halbeegyada muhiimka u ah xaqiiqinta hannaanka loo wadaagayo khayraadka dabiiciga ah, iyada oo lagu salaynayo waaritaanka iyo danta guud.”<sup>18</sup>

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14. See the Option 1, Draft of the first Oversight Committee chaired by Maryan Arif Qasim; Article 54 of this draft lists twenty-one exclusive powers of the federal government.

15. Ibid. Article 55 lists seven exclusive powers of the federal member states.

16. Ibid. Article 6(4) and Article 51(4), which proposed the use of “regional states” instead of “federal member states” and “Governors” instead of “Presidents.”

17. Ibid. Article 42(1).

18. Ibid, Article 42(3).

Ugu danbayn, guddigu waxa ay masuuliyiinta awoodda u leh ku dhiirrigaliyay in ay xaqiijiyaan “saami-qaybsi caddaalad ku dhisan”, kaas oo khayraadka dabiiciga ah u xaq-sooraya heerarka dowladaha. Arrinta xiisaha lihi waa in uu sida oo kale madmadow ku jiro aragtida guddida la Socodka labaad ee ku salaysan arrimahan muhiimka ah, inkasta oo lagu daray hal qodob oo oranaya “waa in ay Dowladda Federaalka Soomaaliya dammaanad qaadda in ay dowladda federaalka, dowlad goboleedyada iyo dowladaha hoose khayraadka dabiiciga ah u wadaajinayso si caddaalad ah.”<sup>19</sup>



*Guddidii koowaad ee la Socodku waxa ay doorbideen in hal xafiis la iskaga dhigo labada xafiis ee fulinta, sidaas darteed, madaxweynuhu waxa uu noqonayaa hoggaamiyaha xukuumadda iyo sida oo kale hoggaamiyaha dowladda.*

Sida uu dhigayo dastuurka kumeelgaarka ahi, madaxwaynaha waxa dooranaya labada aqal ee baarlamaanka, kadibna madaxweynahu waxa uu magacaabayaa raysalwasaare. Golaha Shacabka ayaa awood u leh in ay codka kalsoonida siiyaan Golaha Wasiirrada. Si la mida awoodahii uu madaxweynaha siiyay Dastuurkii 1960-kii, dastuurkan kumeelgaarka ahi madaxweynaha ma siinayo awood uu ku eryi karo raysalwasaaraha; arrintaasina dhowr maamul ayay khilaaf siyaasadeed ka dhex abuurtay madaxweynayaasha iyo raysalwasaarayaasha. Iyada oo taas laga duulayo, dibu-eegista ay soo jeediyeen, Guddidii koowaad ee la Socodku waxa ay doorbideen in hal xafiis la iskaga dhigo labada xafiis ee fulinta, sidaas darteed, madaxweynuhu waxa uu noqonayaa hoggaamiyaha xukuumadda iyo sida oo kale hoggaamiyaha dowladda. Si kale haddii loo dhigo, marka ay fulintu midaysan tahay, waxa ay baarlamaanku dooranayaan madaxweynaha, waxaanay codka kalsoonida siinayaan golaha wasiirrada.

Haddii ay timaaddo in ay Golaha Wasiirradu codka kalsoonida waayaan, Madaxweynahu xilka wuu sii haynayaa. Madaxweynaha waxa xilka lagaga qaadi karaa xilkaxayuubin.<sup>20</sup> Marka loo eego cidida noqon karta, guddigu waxa uu soo jeediyey in uu madaxwayne noqon karo qof Soomaali ah oo labadiisa waalid iyo lammaanihiisuba ay Soomaali yihiin. Madaxweynaha la doortay haddii uu leeyahay laba dhalasho, waa in uu jinsiyadda labaad ka tanaasulaa, marka la doorto ka hor inta aanay maxkamaddu dhaarinnin.

Guddida labaad ee la Socodku sidooda ayay u daysay hay'adaha fulinta ee la kala qaybiyay. Sida ay ku taliyeen, waxa ay dalka ku sii nagaynaysaa nidaamka kumeelgaarka ah, kaas oo baarlamaanku soo dooranayo madaxweyne, madaxweynuhuna soo magacaabayoo raysalwasaare. Si kastaba ha ahaatee, warbixinta qabyada ah ee Guddidu soo saartay ayaa lagu sheegay in madaxweynuhu soo magacaabo raysalwasaare ka socda xisbiga siyaasadda ama isbahaysiga doorashada ku guuleysta.

19. See Article 42, p.44 of the draft produced by Gen. Qeybdiid's committee in 2020.

20. See the proposed new design in Option 1, Article 72 of the report of the first Constitution Review report (2016).



Waxaa intaa dheer, guddida labaad ee la Socodku waxa ay soo jeedisay in dadka haysta labada dhalasho aan loo ogolaan in ay u tartamaan jagada madaxwaynenimada, iyada oo aan dhalashada labaad laga tanaasulin doorashada ka hor. Ugu danbayn, Guddida labaad ee La Socodku waxa ay kordhisay oo shan sannadood ka dhigtay muddo-xileedka oo hore u ahayd afar sano.<sup>21</sup>

Marka la eego qaabka baarlamaanka, Dastuurka Kumeelgaarka ahi waxa uu jideeyay laba aqal oo sharci-dejin ah, kuwaas oo ka kooban Golaha Shacabka iyo Aqalka Sare. Waxa xiise gaar ah leh, Guddidii kowaad ee La Socodku, waxa ay doorbidday oo ay soo jeedisay in loo noqdo baarlamaan hal aqal ah. Cutubka lixaad, waxa ay Guddidu awoodaha sharci-dejinta iyo kuwa la socodka oo dhan siinaysaa Golaha Shacabka. Talo soo jeedintan ujeeddadeedu waxa ay ahayd in kor loogu qaado waxtarka iyo hufnaanta hannaanka sharci-dejinta. Sida lagu sharraxay cutubka lixaad, guddida koowaad ee la Socodku, waxa ay sheegtay in “khilaafka u dhaxeeya fulinta (madaxweynaha iyo raysalwasaaraha) uu noqday mid joogto ah oo ka sii daraya oo ay taas oo kale ka dhex dhacayso haddii la dhiso laba aqal oo sharci-dejin ah. Waxaana laga yaabaa in ay arrintaasi abuurto khilaafyo aan loo baahnayn iyo dibu-dhac ku yimaadda hannaanka sharciga, waa haddii ay labada gole leeyihiin shaqooyin iyo awoodo isku mid ah.”<sup>22</sup> Runtii, arrintani waxa ay ka dhacday baarlamaankii tobnaad, xilligaas oo ay labada gole dhowr goor isku dhaceen.

Guddida labaad ee la Socodka ayaa is khilaaftay. Aqalka sare, guddidu umay dayn sidiisii hore oo kaliya, balse waxa ay kordhiyeen awoodihiisa. Tusaale ahaan, marka laga yimaaddo awoodaha sharci-dejinta, Aqalka Sare waxa ay ansixinayaan hoggaanka ciidamada amniga ee la magacaabo, waxa kale oo ay ansixiyaan heshiisyada caalamiga ah. Si kale haddii loo dhigo. Aqalka Sare waxa uu haysta awoodaha Golaha Shacabka badankooda.<sup>23</sup> Intaa waxa dheer, guddida labaad ee la Socodka ayaa jagada ka riixday oo awoodda gudaha kula tartamay qurbajoogta. Waxa ay xaddidday xuquuqda dadka haysta labada dhalasho ee raba in ay noqdaan madaxweyne, raysalwasaare, afhayeenka ama guddoomiye-ku-xigeenka labada gole ee baarlamaanka.<sup>24</sup> Arrinta muhiimka ahi waa in aanay qurbaha ka iman xubnaha guddiga la Socodka badankeedu. Tani waxba tari mayso. Runtuse waa in ay bulshadu ku sii kala fogaaynayso haddii ay koox gaar ahi gacanta ku dhigto dajinta iyo dibu-eegista dastuurka oo ay u adeegsato in ay gaashaan uga dhigtaan cid kasta oo ay la dirirsan tahay.

Waxa intaas dheer in maqaamka caasimadda uu ahaa mid ka mid ah arrimaha la isku hayo. Qodobka 9-aad ee dastuurka kumeelgaarka ah ayaa sheegaya in ay Muqdisho tahay caasimadda Soomaaliya, isaga oo dhigaya in arrinta maqaamkeeda lagu dhammeeyo dibu-eegista dastuurka iyo in baarlamaanku ka soo saaro sharci gaar ah.

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21. See Article 90(1) of the 2020 Committee report.

22. See the comments on Article 56, Option 1, written by the first Committee (2016).

23. See Article 73 of the 2020 Review Committee Report.

24. Ibid, Articles 70 and 75.



*Guddidii koowaad ee la Socodku waxa ay ku talisay in Muqdisho noqoto dowlad goboleed si “loo dammaanad qaado xuquuqda siyaasadeed ee dadka u deegaanka ah.” Guddida labaad ee La Socodku way ka aammuseen arrintan muhiimka ah.*



*Guddida koowaad ee la Socodka ayaa arrintan balaariyay iyaga oo ku daray weedho si wacan u caddaynaya. Tusaale ahaan, waxa ay guddidu dastuurka ku dartay qodobka 8(4) oo oranaya “ilmo kasta oo ay dhalaan aabbe ama hooyo haysta dhalashada Soomaaliya, waxa uu xaq u leeyahay dhalashada Soomaaliya”.*

Guddidii kowaad ee la Socodka baarlamaankii 9-aad ayaa baaris ku samaysay saddex arrimood oo kala ah: Muqdisho oo ah qayb ka mid ah dowlad goboleedyada, Muqdisho oo ah degmo hoos timaadda dowladda federaalka iyo Muqdisho oo ah dowlad goboleed. Guddidii koowaad ee la Socodku waxa ay ku talisay in Muqdisho noqoto dowlad goboleed si “loo dammaanad qaado xuquuqda siyaasadeed ee dadka u deegaanka ah.”<sup>25</sup> Guddida labaad ee La Socodku way ka aammuseen arrintan muhiimka ah. Taas beddelkeeda, waxa ay dib u soo saareen saddexdii ikhtiyaar ee hore, ka dibna dowlad goboleeyada iyo dowladda federaalka ayay u dhaafeen in ay heshiis siyaasadeed ka gaaraan maqaamka caasimadda.<sup>26</sup>

Dastuurka Kumeelgaarka ah ayaa si aan leexleexad lahayn u sheegaya in muusliyadda maamulka jinsiyadda ay leedahay dowladda Federaalka Soomaaliya, inkasta oo ay dowlad goboleedyada badankoodu sameystaan jinsiyad u gaar ah. Guddida koowaad ee la Socodka ayaa arrintan balaariyay iyaga oo ku daray weedho si wacan u caddaynaya. Tusaale ahaan, waxa ay guddidu dastuurka ku dartay qodobka 8(4) oo oranaya “ilmo kasta oo ay dhalaan aabbe ama hooyo haysta dhalashada Soomaaliya.”<sup>27</sup> Tani waa arrin muhiim ah oo ay guddidu soo kordhisay, maadaama uu dastuurku haweenka Soomaaliyeed u ogolaanayo in ay jinsiyaddooda u gudbiyaan carruurtooda. Arrinta xiisaha lihi waa in guddida labaad ee la Socodka baarlamaanka tobnaad ku khilaafeen qodobkan oo ay dabadeed laaleen fakhraddii ay guddidii hore ku dareen. Wax sharraxaad ah kamay bixin sababta ay u diiddeen in haweenku jinsiyaddooda u gudbiyaan carruurtooda. Guddida labaad ee la Socodku waxa ay ku ammaanay yihiin in ay dibu-eegista dastuurka kumeelgaarka ah ku soo ku dareen qoondada haweenka, laakiin maysan keenin qodob haweenka u oggolaanaya in ay jinsiyaddooda u gudbiyaan carruurtooda.

Waxa intaas dheer, Guddidii La Socodka Baarlamaanka 9-aad waxa ay ku talisay in la sameeyo nidaam garsoor oo isku dhafan, kaas oo ay tahay in ay dowladda federaalku “maalgeliso, oo ay maamusho sharciyada federaalka iyo sharciyada dowlad goboleedyada.”<sup>28</sup> Marka la dhugto qaab-dhismeedka maxkamadaha, waxa ay Guddidu soo jeediyeen in loo qaabeeyo sidan: “Maxkamadda Dastuuriga ah, Maxkamadda Sare, Maxkamadaha Racfaanka ( oo xarunteedu noqonayso caasimadaha Maamul Goboleedyada) iyo Maxkamadaha darajada koowaad ee heer gobol iyo degmo”. Guddida labaad ee la Socodka ayaa guddida kowaad ee la Socodka ku raacday in la sameeyo nidaam caddaaladeed oo isku dhafan.<sup>29</sup> Sababta loo soo jeedinayo nidaamkan, ayay Guddidu ku sheegtay in lagu yaraynayo khilaafka la xiriira garsoorka iyo waaya-aragnimada taban ee bulshadu qaabkan ka haysato. Dhanka qaab-dhismeedka labada guddi waxa ay samayeeyeen maxkamad dastuuri ah, maxkamado sare oo heer gobol ah, maxkamad racfaan iyo maxkamadda darajada koowaad.

25. See Article 9 of the first Review Committee Draft (2016). See also the Committee’s explanation of Article 9.

26. See Article 9 of the second Review Committee Draft (2020).

27. See Article 8(4), Option 1 of the first Review Committee Draft (2016).

28. Ibid. See the Introduction. The committee explains the structure of the court system and provides the rationale for adopting that option.

29. See Article 108 of the Committee Draft (2020).



Guddida kowaad ee La Socodku waxa ay soo jeedisay qaab kakan oo dastuurka wax lagaga beddelayo. Waxa ay ku talisay in Golaha Shacabku hawshaas bilaabo. Dabadeedna, baarlamaannada dowlad goboleedyadu u codeeyaan wax ka beddelka dastuurka; tallaabadaasna ay ku xigto in saddex-meelood marka loo qaybiyo labo-meelood oo ka mid ah Golaha Shacabku u sii codeeyaan. Arrinta xiisaha lihi waa in Guddidii kowaad ee La Socodku doorbideen oo ku taliyeen hal aqal oo baarlamaan ah, taas oo muujinaysa in aanay qabin aragtida ku talinaysa Aqal Sare oo baarlamaan. Dhanka kale, Guddida Labaad ee La Socodka, ayaa Baarlamaanka Federaalka (Golaha Shacabka iyo Aqalka Sare) iyo Baarlamaannada Dowlad Goboleedyada awood u siinaysa in ay wax ka beddelaan Dastuurka.<sup>30</sup>



*Guddidii kowaad ee La Socodka ayaa 2016-kii soo jeedisay in heesta calanka loo beddelo “Soomaaliyey Toosoo” halka ay Guddida labaad ee La Socodku 2020-kii ku talisay in heesta calanka loo daayo “Qoloba Calankeedu Waa Cayn*

Marka laga yimaaddo meelaha lagu muransan yahay ee aannu kor ku soo xusnay, waxa ay labada guddi isku khilaafeen arrimo kale oo dhowr ah. Tusaale ahaan, Guddidii kowaad ee La Socodka ayaa 2016-kii soo jeedisay in heesta calanka loo beddelo “Soomaaliyey Toosoo” halka ay Guddida labaad ee La Socodku 2020-kii ku talisay in heesta calanka loo daayo “Qoloba Calankeedu Waa Cayn.”<sup>31</sup> Heesta “Soomaaliyey Toosoo” waa hees dhaqdhaqaaq xorriyadeed ku salaysnayd oo shacabka Soomaaliyeed ku guubaabinaysa in ay iska kiciyaan gumaysiga. Dhanka kale, heesta “Qoloba Calankeedu Waa Cayn,” waxa ay ammaanaysaa oo u ducaynaysaa calanka Soomaaliya. Malaha waxaa habboon in dood toos ah arrintan laga yeesho. Sida oo kale, waxa ay Guddida kowaad ee La Socodku soo jeedisay in ay Maxkamadda Dastuuriga ahi go’aan ka gaarto in xeerka la keenay waafaqsan yahay Sharecada iyo in kale, laakiin guddida labaad ee La Socodku way ka aamustay cidda ka garnaqaysa arrintaas. Waxa xusid mudan, in guddida labaad ee la Socodku soo kordhiyey cutub cusub oo xeer-dhaqameedka ku saabsan. Waa arrin muhiim ah oo soo korodhay, maadaama inta badan xeer-dhaqameedka Soomaalidu u adeegsato xallinta khilaafyada u dhaxeeya shaqsiyaadka iyo beelaha Soomaaaliyeed.

Guddida kowaad ee La Socodka ayaa soo jeedisay in la sameeyo guddi is waafajisa dastuurrada dowlad goboleedyada iyo kan dowladda Federaalka Soomaaliya.<sup>32</sup> Iyada oo maanka lagu hayo su’aasha ka taagan Somaliland, waxa ay guddidu soo kordhisay qodob cusub oo sheegaya in dastuurku si ahaan doono kumeelgaar inta dalka oo dhan laga midaynayo.<sup>33</sup>

30. See the second Constitution Review Committee (2020) Draft, Chapter 16

31. See Article 6(3) of the first Oversight Committee Draft Constitution (Option 1), 2016; see also Article 6(3) of the second Oversight Committee’s Draft Constitution, 2020.

32. See Article 155 of the second Constitution Review Committee Draft, 2020.

33. Ibid, Article 158(2).

## 5. Dastuurka Dowladda Federaalka iyo Dastuurrada Dowlad-Goboleedyada

Dastuurka kumeelgaarka ah ee Federaalka iyo dastuurrada dowlad goboleedyada, ayaa waxyaabo badan ku kala duwan.<sup>34</sup> Daraasaddani waxa ay diiradda saaraysaa dhinacyada awood qaybsiga oo kaliya. Guddida kowaad ee La Socodku waxa ay afar awoodood oo gaar ah u qoondaysay dawladda Federaalka Soomaaliya.<sup>35</sup> Awoodahaasi waa: arrimaha dibadda, jinsiyadda iyo socdaalka, siyaasadda lacagta, iyo difaaca qaranka. Guddida kowaad ee La Socodku, waxa ay dowlad goboleedyada siisay kaalinta talobixinta iyo xuquuqda matalaadda. Dhanka kale, sida uu dhigayo dastuurkoodu, dowlad goboleedyadu waxa ay kula tartamayaan dawladda dhexe afartaas awoodood ee gaarka ah. Si kale haddii loo dhigo, qaar ka mid ah dastuurrada dowlad-goboleedyada waxa ay awood la mid ah tan federaalka siinayaan baarlamaankooda iyo xukuumadahooda.

Dawladda Federaalka Soomaaliya ayaa awood gaar ah u leh maammulka xiriirka arrimaha dibadda. Guddida Koowaad ee La Socodka ayaa dalbanaysa in dawladda federaalku kala tashato dowlad goboleedyada marka ay fulinayso hawlaha quseeya xiriirka dibadda. Waxa intaas dheer, haddii ay dhacda heshiisku saamayn ku yeelato hal ama dhowr dowlad goboleed, dowladaha ay dhacdadu saamaysay ayaa ka mid noqonaya ergooyinka.<sup>36</sup>



*Taa lidkeeda, waxa ay dowlad goboleedyada oo dhammi si madaxbannaan u sameeyaan xiriir dibadeed. Dhab ahaantii, qaar ka mid ah dowlad goboleedyada ayaa uu dastuurkoodu u sharciyaynayaa awoodo ay ku fulin karaan hawlaha sharci-dejinta iyo hawlaha arrimaha dibadda*

Taa lidkeeda, waxa ay dowlad goboleedyada oo dhammi si madaxbannaan u sameeyaan xiriir dibadeed. Dhab ahaantii, qaar ka mid ah dowlad goboleedyada ayaa uu dastuurkoodu u sharciyaynayaa awoodo ay ku fulin karaan hawlaha sharci-dejinta iyo hawlaha arrimaha dibadda. Tusaale ahaan, baarlamaannada Puntland<sup>37</sup> iyo ka Jubbaland<sup>38</sup> ayaa leh awood ay ku ansixiyaan heshiisyada caalamiga ah. Sida oo kale, madaxweynayaasha dowlad goboleedyada ayaa geli kara heshiisyo caalami ah, inkasta oo aanay arrintani ku caddayn dastuurka Jubbaland. Galmudug,<sup>39</sup> Koofur Galbeed<sup>40</sup> iyo Hirshabelle ayaa dawladda federaalka ku ixtiraamayaan heshiisyada caalamiga ah, dastuurradooduna ma siinayaan madaxweynayaashooda iyo baarlamaankooda awoodaha gelitaanka iyo ansixinta heshiisyada caalamiga ah.

34. For those interested Mohamed Riyad M. Almosly, "Comparative Analysis of the Constitutions of the Federal Member States of Somalia and the Federal Provisional Constitution of Somalia," Max Planck Institute Report, 2020. The Max Planck Institute has produced a comprehensive report that covers all aspects

35. See Article 54 of the Federal Provisional Constitution.

36. Ibid, Article 53(2).

37. Puntland State's constitution has several articles that explicitly empower different organs in international affairs. Article 20 allows Puntland to grant asylum and implement extradition agreements. Article 64(4) authorizes the parliament to ratify international agreements. Article 80(8) allows the president to negotiate and sign an international agreement.

38. Article 31 of Jubbaland's constitution empowers the parliament to ratify international agreements. The parliament has the power to approve debt agreements that Jubbaland enters into with international partners.

39. We found three constitutions for Galmudug State that were prepared in 2013, 2015, and 2018, respectively. The first, the 2013 constitution, was made for Galmudug when it represented part of the former Mudug region; it is similar to that of Puntland in the powers and responsibilities provided to its parliament and executive. However, when the region expanded in 2015, delegates of the newly formed Galmudug approved a revised constitution. Again, when Galmudug and Ahlu-Sunna Waljama'a reached agreement, the two sides approved a revised constitution in 2018. After a violent conflict in 2021, the parliament decided to use the 2015 version. For this study, we will use the 2015 version. This revised version commits Galmudug to respect international laws and treaties to which Somalia's federal government is part. See Article 5(3) of Galmudug Constitution, 2015.

40. Like Galmudug, the South West and Hirshabelle states commit to respect international law. See Article 35 of the South West Constitution, 2014 and Chapter Seven of the Hirshabelle state constitution, 2016.

Waxa intaa dheer, dhammaan dowlad goboleedyadu waxa ay leeyihiin wasaarado u xilsaaran horumarka iyo iskaashiga caalamiga ah. Madaxweynayaasha dowlad goboleedyada ayaa si joogta ah ugu socdaala dalka dibaddiisa, waxaanay dunida la sameeyaan xiriirro caalami ah – xiriirradaas oo aanay badankooda ka warhaynin ama aanay u ogolaannin dowladda faderaalku. Marka laga yimaaddo Somaliland oo illaa iyo 1992-kii raadineysay ictiraaf ay goonni isugu istaageyso, madaxweynayaasha Puntland, Jubbaland, Galmudug, Koofur Galbeed iyo Hirshabeelle ayaa u safra dalalka Kenya, Itoobiya iyo Imaaraadka Carabta, iyaga oo aan ogolaansho ka helin dowladda Federaalka.

Sida oo kale, madaxda dowlad goboleedyada ayaa la kulma deeqbixiyayaasha caalamiga ah, waxaanay kala hadlaan arrimo siyaasadeed oo kala duwan. Sidaa darteed, marka ay doodu taagan tahay arrinta jinsiyadda iyo socdaalka, dastuurrada dowlad goboleedyadu waxa ay ka hor imaanayaan kan dowladda federaalka. Dastuurka federaalka ayaa qeexaya arrimaha la xiriira jinsiyadda Soomaaliya. Waxaanay baarlamaanka Soomaaliya siinaysaa awoodda sharciyaynta jinsiyadda iyo arrimaha socdaalka. Dhanka kale, Puntland iyo Koofur Galbeed waxa ay samaysteen jinsiyad u gaar ah, waxaana arrimahan sharciyayntooda u xilsaaran baarlamaannadooda.<sup>41</sup> Galmudug iyo Hirshabeelle ayaa sida oo kale qaatay nidaam jinsiyadda Soomaaliya ka takooraya gobollada kale Soomaalida iyaga oo adeegsanaya erayga “u dhashay” ama ‘ka soo jeeda’.<sup>42</sup>

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*Taas macnaheedu waa in qabiillada dega afarta gobol ee aynnu kor ku soo xusnay oo kali ahi leeyihiin xuquuqda dhalashada - taas oo lagu mutaysanayo xuquuqda la doortaha iyo tan wax doortaha*

Taas macnaheedu waa in qabiillada dega afarta gobol ee aynnu kor ku soo xusnay oo kali ahi leeyihiin xuquuqda dhalashada - taas oo lagu mutaysanayo xuquuqda la doortaha iyo tan wax doortaha. Jubbaland sida ay wax u waddaa waa qaab u gaar ah. Jubbaland waxa ay samaysatay muwaaddin “Jubbalander” ah, iyada oo muwaaddinkaas ku qeexday “qof kasta oo Dawlad Goboleedka Jubbaland deggan ugu yaraan lix bilood oo xiriir ah”.<sup>43</sup> Warbixin u soo saaray machadka Max Planck, ayaa tilmaamaysa in xitaa muwaaddiniinta aan Soomaalida ahayni noqon karaan reer Jubbaland.<sup>44</sup> Sida inta badan lagaga dhaqmo, dowlad-goboleedyadu waxa ay xaddideen xuquuqaha muwaaddiniinta Soomaaliyeed ee aan ka tirsanayn qabiillada dega gobolladooda.

Tan Saddexaad, dastuurka kumeelgaarka ah ee federaalka ayaa sheegaya in baarlamaanka federaalka Soomaaliya awood u leeyahay sharci-dejinta, halka bangiga dhexe ee Soomaaliya awood u leeyahay maamulka siyaasadda lacagta dalka. Balse dowlad goboleedyada ayaa arrintan maamulkeeda ku loollamaya, iyaga oo awoodda sharci-dajinta iyo maamulka siyaasadda maaliyadda siinaya baarlamaannadooda iyo dowladahooda.

41. Several articles establish parallel citizenship and limit the rights and responsibilities of citizens from other regions. Article 35 of the Puntland Constitution states that citizenship can be obtained through legal means. During the pilot local elections in Qardho, Ufeyn, and Eyl, the Puntland government allowed hundreds of internally displaced citizens from other regions to vote. One council representative was elected to the Qardho city council. That said, the law establishes “Puntlander” citizens as including those from clans that originated in the region and residents who legally obtain citizenship. The residency requirement is five years. See also Articles 8 and 9 of the constitution of the South West state.

42. See Article 30(4) of the Hirshabelle constitution, 2016. See also Article 29(4) of the Galmudug constitution, 2015.

43. See Article 5(1 and 2) of the Jubbaland constitution.

44. For detailed discussion, see Max Planck Institute Report, “Comparative Analysis of the Constitutions of the Federal Member States of Somalia and the Federal Provisional Constitution of Somalia,” 2020, p. 13.

Tusaale ahaan, dastuurka Puntland iyo ka Koofur Galbeed ayaa jidaynaya oo dhigaya bangiyo dhexe oo u gaar ah.<sup>45</sup> Gaar ahaan, dastuurka Puntland ayaa sheegaya in baarlamaankeedu awood u leeyahay soo saarista lacagta.<sup>46</sup> Sida oo kale, dowlad goboleedyada ayaa hay'adahooda fulinta awood u siiyay in ay maammulaan siyaasadda dhaqaalaha iyo cashuuraha kala duwan ee laga soo ururiyo dadka deegaankooda.

Ugu danbeyn, Dastuurka Kumeelgaarka ah ee Federaalka ayaa dowladda Federaalka siinaya awoodaha sharci-dejinta iyo nidaaminta difaaca qaranka, sida dhisidda Ciidamada Booliska, Ciidanka Nabad Sugidda iyo Ciidamada Asluubta.<sup>47</sup> Sida oo kale, Guddida koowaad ee La Socodka ayaa dawlad goboleedyada u ogolaatay in ay samaystaan boolis u gaar ah.<sup>48</sup> Si kastaba ha ahaatee, hab-dhaqanka jira iyo dasturrada dowlad goboleedyada ayaa ku loollamaya awoodahan oo ah door federaalku leeyahay. Dawlad goboleedyadu waxa ay dhisteen ciidamada sirdoonka, ciidamada xaaladaha degdegga ah, ciidamada ilaalada xeebaha, booliska xuduudaha, ciidamada asluubta iyo ciidamada daraawiishta.<sup>49</sup>

Sidaa darteed, Qodobka 54-aad ee Dastuurka Kumeelgaarka Federaalka ayaa sheegaya in ay Dowladda Federaalka Soomaaliya iyo Dowlad Goboleedyadu ka wadahadli doonaan “Qoondaynta khayraadka iyo awood qaybsiga.”<sup>50</sup> Ilaa haddana wada xaajoodkaasi ma aha mid fulay. Hase yeeshee, heer kasta oo dowladeed waxa uu qoondaystay shaqooyin iyo awoodo ka badan inta u suuragal ah. Dowladda federaalku waxa ay siddeeddii sano ee la soo dhaafay soo saartay sharciyo badan oo ku saabsan arrimo kala duwan. Tusaale ahaan, sharciga batroolka, oo dhawaan la isku khilaafay waxaa ansixisay dowladda dhexe. Dhanka kale, qaar ka mid ah dowlad goboleedyada (gaar ahaan kuwa horumaray sida Puntland) ayaa iyagu samaystay shuruuc u gaar ah, iyada oo aan weli la gudagalin wada xaajoodka labada heer ee dowladda.

Marka laga tago dastuurka, hab-dhaqanka dhabta ah ee jiraa waxa uu muujinayaa in dowladda federaalka Soomaaliya iyo dowlad goboleedyadu isku haystaan dhammaan arrimaha maamulka. Daraasaddan ayaa sida oo kale baaritaan ku samaysay Golayaasha Wasiirrada labada heer ee dowladda, waxaana lagu ogaaday in labadan xukuumadood ay doonayaan in ay abuuraan hay'ado isku mid ah. Dowladda dhexe iyo dowlad goboleedyada ayaa leh hay'ado isku mid ah oo ka shaqeeya arrimaha amniga, maaliyadda, horumarinta, tamarta, beeraha, xoolaha, kalluumaysiga, dekedaha, iyo meelaha kale ee muhiimka ah.

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45. See Article 109 of Puntland constitution, 2012. See also Article 58e of South West state's constitution, 2014.

46. See Article 64(20) of Puntland Constitution, 2012.

47. See Article 126(1) of the Federal Provisional Constitution, 2012.

48. Ibid. Article 126(2).

49. For detailed discussion, see the Max Planck Institute's Report, 2020, p. 55–56. See also the constitutions of the federal member states of Puntland, Galmudug, Hirshabeelle, South West, and Jubbaland, which create different types of forces.

50. See Article 54 of the Federal Provisional Constitution of Somalia.

Daraasad uu Machadka Max Planck ku falanqeeyay isbarbardhigga dowlad goboleedyada ayaa ku doodaya in aanay qaar ka mid ah dowlad goboleedyadu “si cad” u aqoonsanayn sarraynta Dastuurka Kumeelgaarka Federaalka. Sida warbixinta lagu sheegay, “in kasta oo qodobka 4(1) ee Guddida kowaad ee La Socodka qeexayo in shareecada kadib, Dastuurka Jamhuuriyadda Federaalka Soomaaliya yahay sharciga ugu sarreeya dalka, haddana dhammaan dastuurrada dowlad goboleedyada si cad looguma aqoonsan sarraynta Guddida Koowaad La Socodka.”<sup>51</sup>

## 6. Falanqaynta: Geedi-socodka Arrimaha Dastuurka

Muddadii kumeelgaarka ahayd, lixda saxiixe waxa ay afduubeen hannaanka qoritaanka iyo soo bandhigidda dastuurka kumeelgaarka ah ee hadda jira, iyaga oo hannaanka ‘dedejiyay’ islamarkaana ‘sir ka dhigtay.’<sup>52</sup> Tani waxa ay wiiqday tayada iyo sharcinimada dokumentigan. Waxa kale oo ay dhantaashay ku habboonaanta hay’adaha iyo hawlihii loo dejiyay. Gabagabadii geedi-socodka hawshan, saxiixayaashu waxa ay isku raaceen in la dhiso gole kooban oo si kumeelgaar ah u ansixiya dastuurka. Tallaabadaas ugu danbaysay waxa loo isticmaali karayay in wax lagu saxo, waa haddii ay saxiixayaashu siin lahaayeen golahaas awood ay wax kaga beddeli karaan dastuurka. Taa lidkeeda, golaha ansixinta dastuurku waxa ay noqdeen gole aan waxtar lahayn, maadaama taladooda laga dul tallaabsaday. Lixdii saxiixe waxa ay howshaas gacanta ku hayeen illaa ay gaartay heer ay ku sheegeen in dokumentigii ugu danbeeyay yahay kii ay ku heshiiyeen iyaga oo (lix saxiixe ah), sidaasna waxa ay ku xardheen bog kasta saxiixooda.

Geedi-socodka labaad waxa uu bilaabmay markii la doortay baarlamaankii 9-aad ee 2012. Golaha Shacabka ayaa 2016-kii doortay toban xildhibaan oo noqonaya Guddidii koowaad ee La Socodka, kuwaas oo loo xil saaray Dibu-eegista Dastuurka Kumeelgaarka ah ee Federaalka.<sup>53</sup> Intaa ka dib, 2014-tii ayay dowladdu magacawday Guddida Farsamada ee Guddida Madaxabannaan ee Dibu-eegista iyo Hirgalinta Dastuurka.<sup>54</sup> Sida Lorianne Toler oo ah aqoonyahan ku xeeldheer dastuurrada uu qoray, “kooxaha laga saaray hannaanka dastuur dajinta oo ay ka mid yihiin haldooroka bulshadu, ayaa keentay in ay natiijooyinka dastuurku noqdaan kuwo tayo liita.”<sup>55</sup> Tan iyo 2014-kii labadan guddi (oo ka kooban ilaa labaatan qof) ayaa isku koobay oo ku kaliyaystay hannaanka dibu-eegista dastuurka kumeelgaarka ah. Si kale haddii loo dhigo, guddiyadii kala danbeeyay waxa ay ku guuldarraysteen in ay abuuraan dastuur u taagan lahaansho qaran.

51. See Max Planck Institute Report, 2020, p. 7.

52. See Afyare Elmi, “The Limits to UN-Controlled Constitution-Making,” 2012.

53. Since the Upper House had not been established in 2012, the House of the People elected all ten members. Maryan Arif Qasim became the chair of the first review committee in 2012. The committee produced three drafts (Option 1, Option 2, and Option 3); they preferred Option 1.

54. The FGS passed the establishment law for the Independent Constitution Review and Implementation Commission (ICRIC) in 2014 and selected five members from outside the parliament. Asha Gelle became the chair of the committee. When she resigned, Dr. Mohamed Dahir Afrah became the chair; he passed away in 2021.

55. Lorianne Updike Toler, “Mapping the Constitutional Process,” Cambridge International Law Journal 3, no. 4 (2014), p. 1284.



Ugu danbayn, Dowlad goboleedyadu waxa ay adeegsadeen dastuurro u gaar ah oo ay samaysteen. Afar bilood uun ka hor dhammaystirka guddida kowaad ee la socodka, dowladda Puntland waxa ay diyaarsatay dastuur ay iyadu gaar u leedahay, kaas oo ay 2012-kii ansixiyeen goale weyn oo bulshada matalayey.<sup>56</sup> Waxa intaas dheer, afar dowlad goboleed oo kale ayay midiba mar soo ifbaxday: Jubbaland waxa ay dhalatay 2015, Galmudug waxa la unkay 2015, Hirshabeellena waxa la dhidibbada loo taagay 2016: marka loo eego si heer qaran ah, kooxaha iyo shakhsiyaadka ka soo jeeda gobolladaas ayaa shiikhiyay dastuur-dajinta gobollada kale oo dhan. In kasta oo ay afartaas gobol dowladda dhexe dhistay ama ay dhismahooda wax ka caawisay, haddana waxa muuqata in aanay dawladda dhexe wax kaalin ah ku lahayn qoritaanka dastuurrada gobolladaas. Sidaa darteed, dastuurrada dowlad goboleedyada ayaa inta badan lid ku ah dastuurka kumeelgaarka ah ee federaalka.

Sida ka muuqata xogaha ku saabsan dibu-eegista iyo dajinta dastuurrada, waxa sharciyadda dastuurka go'aaminaya nidaamka ama hannaanka loo maro sameyntiisa.<sup>57</sup> Aqoonyahan Bereket Salassie ayaa sheegay in "hannaanka la maray iyo natiijada ama maxsuulka soo baxay ay isku xiran yihiin. Hannaanka la raacay waxa ka dhasha natiijada; natiijaduna waxa ay ku xiran tahay isla hannaanka la raacay."<sup>58</sup> Brandt, Cottrell, Ghai, iyo Regan ayaa aqoonsaday afar qodob oo kala duwan, kuwaas oo loo arkay in ay muhiim u yihiin hanashada dastuur guulaysta, waana kuwan: in kooxaha oo dhan ay ka qaybgalaan, kaqaybgal dadwaynaha, daahfurnaanta, iyo adeegsiga khabarada maxalliga ah.<sup>59</sup> Toler oo isbarbardhigay siddeed iyo toban dastuur, waxa uu ku soo gebagebeeyey arrin taas sare la mid ah. Marka laga yimaaddo, daahfurnaanta, u dhammaanta, kaqaybgalka, iyo adeegsiga khabarada maxalliga ah, Toler waxa uu aqoonsaday laba arrimood oo kale, kuwaas oo loogu talagalay geeddi-socodka dastuur-dejin guulaysata: ballan-oofin iyo waqti ku habboon oo macquul ah.<sup>60</sup> Hannaankan qaab-dhismeed oo ah mid aasaasi ayaa loo adeegsaday falanqaynta geeddi-socodka dajinta iyo dibu-eegista dastuurka Somaaliya.

Ugu danbayn, Jon Elster, oo ah khabiir hormuud ka ah dastuur-dejinta, ayaa daraasad ballaaran oo uu sameeyay ku yiri: "Waa in ay dastuurka qoraan goleyaal gaar ah oo loo agaasimay, ee ma aha in ay qoraan hay'adaha sharcidajinta ee caadiga ahi. Mana aha in golaha sharci-dejinta xuddun looga dhigo ansaxinta dastuurka. Nasiib darro, geeddi-socodka dastuur-dejinta Soomaaliya waxa ku keliyaystay dhowr qof oo siyaasiyiin ah."<sup>61</sup>

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56. A constituent assembly of 478 members ratified the Puntland constitution in April 2012. See Interpeace, "A Historic Moment: Puntland's Constitution Now Ratified," <https://www.interpeace.org/2012/04/a-historic-moment-puntland-s-constitution-now-ratified/>.

57. See Max Planck Institute Report, 2020.

58. Selassie, Bereket Habte, "Framing the State in Times of Transition: Focus on Five Core Values," *Journal of Third World Studies* 28, no. 1 (2011), p. 21.

59. Brandt, Michele, Jill Cottrell, Yash Ghai, and Anthony Regan, *Constitution-Making and Reform: Options for the Process*, Geneva: Interpeace (2011).

60. Toler, Lorianne Updike. "Mapping the Constitutional Process," *Cambridge International Law Journal* 3, no. 4 (2014), p. 1260–1286.

61. Jon Elster, "Forces and Mechanisms in the Constitution-Making Process," *Duke Law Journal* 45 (1995), p. 395.

Dhanka kale, guddida la Socodka iyo hay'adda sharci-dejinta ayaa gacanta ku hayay hannaanka dibu-eegista dastuurka. Elster ayaa ku doodday in haddii “baarlaman hal aqal ka kooban loo sameeyo dastuur dhisaya dowlad hal aqal leh, halka haddii baarlamaan laba aqal ka kooban ay sameeyaan dastuur ay inta badan dhisaan baarlamaan laba aqal leh.- waa saadaal si wayn u faaftay.”<sup>62</sup> Soomaaliya, saadaashani waxa ay ka rumawday guddidii koowaad (oo hoos imanaysay sharci-dejintii halka aqal ahayd) oo ku talisay in la baabi'yo golaha sanatarrada, halka ay guddida labaad ee dibu-eegistu (oo hoos imanaysay sharci-dejin laba aqal ah) u codeeyeen aqalka labaad.

## 7. Siyaasadda aan loo Dhameyn iyo Habka Samaynta Dastuurka

Marka la dhugto heerarka siyaasadda aan loo dhammayn, dastuur-dejintu waxa ay leedahay laba waji: heer gobol iyo heer qaran. Qaar ka mid ah daneeyayaasha siyaasadda heer gobol ayaa u arka in aanay guddidani dhammaystirnayn oo ay xaddidan tahay. Sidaas darteed, gobollada badankoodu wali may aqbalin sarraynta dastuurka ay guddidani dajisay. Marka lagu eego aragtidan, geeddi-socodkii dastuur-dejinta may ahayn mid loo dhan yahay, maadaama ay siyaasiyiin koobani gacanta ku hayeen dejintiisa. Sida oo kale, hannaanka dib-u-eegista dastuurku looma abuurin fagaare loo dhan yahay oo ay ku tartamaan xoogagga siyaasaddu. Kooxo iyo shakhsiyaad dhawr ah ayaa qabsaday dejinta iyo dib-u-eegista dastuurka, taas oo keentay in ay meesha ka saaraan ra'yiga cidda ay is hayaan. Qaar ka mid ah dowlad goboleedyada ayaa ka hor yimid markii laga xirtay hannaanka dastuur-dejinta. Natijaduna waxa ay noqotay in dastuur-samayntu ku koobanto kooxo aad u tiro yar oo iyagu isku koobay. Kooxaha laga takooray ka mid noqoshada guddiyada ayaa u arka in guddiyada lasocodku u dhaqmayaan sidii oo lagu aamminay “dokumeenti sir ah.”<sup>63</sup>

Halkii ay ahayd in doodaha la xiriira geeddi-socodka dastuur-dejintu ay noqdaan kuwo loo dhan yahay, oo daahfuran, waxa ay guddiyadii kala duwanaa dan moodeen in ay aad u soo koobaan ka qaybgalka, sidii uu qarsoodi yahay hannaanka dibu-eegista dastuurka. Arrintan ayaa inteeda badan loo aanaynayaa Guddida la Socodka oo awood badan iyo guddida Madaxabannaan ee Dibu-eegista iyo Hirgelinta Dastuurka oo bilaa awood ah.

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62. Ibid, p. 381.

63. Interview with an expert, Nairobi, Kenya, October 2021.



Marka la eego muhiimadda iyo faa'iidooyinka ay leedahay in loo dhammaado wejiyada kala duwan ee geeddi-socodka dastuur-dejinta – waxa hubaal ah in la iska indhatiray daneeyayaasha kala duwan ee siyaasadda oo door ku lahaa jaangooyada go'aannada masiiriga ah.<sup>64</sup> Hawshan oo lagu soo koobay dhawr qof ayaa keentay in la dhaawaco sumcadda, sharciyadda iyo dhamaystirnaanta dastuurka, marka loo fiiriyo heerka haldoorka bulshada. Run ahaantii, daraasado isbarbardhig ku sameeyay arrimahaas ayaa tilmaamaya in ay guusha dastuur kastaa ku xiran tahay isu keenidda aqoonyahanka ku tartamaya siyaasadda iyo qaybaha kala duwan ee bulshada. Waana jid muhiim ah oo aysan raacin hannaanka dastuur-dejinta Soomaaliya. Waxa ka sii mudan in ay qaybaha kala duwan ee bulshadu u dhan yihiin geeddi-socodka dastuur-dejinta, taas oo u gogolxaarta kalsoonida iyo oggolaanshaha dadwaynaha.

Dhanka kale, baarlamaanka federaalka Soomaaliya ayaa ku guuldarraystay in hawlaha dastuur-dejinta la dhex keeno masraxa siyaasadda qaranka. Labada guddi ee la socodku marnaba maysan horseedin doodo waaweyn oo ku saabsan gaabisnimada hannaanka dastuur-dejinta. Daraasado isbarbardhig ku sameeyay nidaamyada dastuur-dejinta ayaa daaha ka fayday in ka saaritaanka daneeyayaasha siyaasadda iyo faquuqidda qaybaha bulshadu ay curyaamiso natiijooyinka loo socdo. Dhibkaasna Soomaaliya ka badbaadi mayso haddii aan laga fiirsan jidka loo marayo dejinta iyo dibu-eegista dastuurka Soomaaliya. Waxaa caqabaddaas lagaga gudbi karaa mabaadii siyaasadeed oo ku salaysan siyaasadda loo dhan yahay.

Andrea Bonime-Blanc ayaa ku doodaya in hannaanka dastuur-dejinta ay inta badan jaahwareeriyaan loollanka siyaasadda, doodaha xad-dhaaf ah ee baarlamaanka, gorgortan haldoorka bulshada, heshiisyada iyo khilaafyada u dhexeeya kooxaha kala duwan iyo madaxda dalka.<sup>65</sup> Marka laga hadlayo Soomaaliya, habraacyada iyo sifayaasha dastuur-dejinta ayaa gabi ahaanba ka maqan nidaamka geeddi-socodka dastuurkeeda. Jilayaasha siyaasadda ayaa laga saaray wadhadallada ku saabsan arrimaha la isku hayo, sidaa darteed geeddi-socodka dastuurka waxa ka qaybqaata koox yar oo isku koobtay. Waxa aad mooddaa in dastuur-dejintu tahay hawl dhinac ka raran, umana muuqato shaqo qaran.

Faquuqa iyo takoorka lagu hayo muwaaddiniinta, kooxaha haweenka, bulshada rayidka ah, qurbajoogta iyo dawlad goboleedyada ayaa dhaawacay kalsoonida iyo sharcinimada geeddi-socodka dejinta iyo dib-u-eegista dastuurka Soomaaliya. Muhiimadda ay leedahay in daneeyayaashu u dhammaadaan hannaanka dastuurka waxa tusaale u ah farqiga u dhexeeya daraasadaha dibu-eegista 2016 iyo 2020, kuwaas oo ku saabsan in dumarka iyo raggu ka siman yihiin carruurta dhaxlaysa jinsiyadda waalidkood.

“  
Faquuqa iyo  
takoorka lagu hayo  
muwaaddiniinta,  
kooxaha haweenka,  
bulshada rayidka  
ah, qurbajoogta  
iyo dawlad  
goboleedyada  
ayaa dhaawacay  
kalsoonida iyo  
sharcinimada  
geeddi-socodka  
dejinta iyo dib-u-  
eegista dastuurka  
Soomaaliya

64. Some of the interviewees for the study argued that the Oversight Committee intended to include all groups, but the political atmosphere did not allow for this.

65. Andrea Bonime-Blanc, “Constitution-Making and Democratization: Spanish Paradigm,” in Miller, Laurel E., and Louis Aucoin, eds., Framing the State in Times of Transition: Case Studies in Constitution Making, US Institute of Peace Press, 2010. Chapter 15.

2016-kii, haween saamayn leh ayaa xubno ka ahaa Guddida la Socodka. Maryan Cariif Qaasim ayaa guddoomiye u ahayd Guddida la Socodka koowaad, waxa kale oo xubin ka ahayd Fowsiya Yuusuf Xaaji Aadam, oo hore u soo noqotay raysalwasaare-ku-xigeenka iyo wasiirka arrimaha dibadda ee Soomaaliya. Guddidan ayaa ku guulaysatay in ay hooyada iyo aabbuhuba u gudbin karaan jinsiyadda carruurtooda. Taas lidkeeda, Guddida La socodka labaad dastuurka kumay darin qodob ragga iyo haweenka u oggolaanaya in ay jinsiyaddooda u gudbiyaan ubadkooda. Guddida 2016, waxa saamayn muuqata lahaa Joogitaanka haweenkii firfircoonaa ee kartida lahaa.



*In kasta oo qaybsanaantu si dabiici ah u curyaamisay dastuur-dejinta, haddana arrinta Soomaaliya waa mid gaar ah. Waayo marnaba lama tixgalin rabitaanka bulshada, lamana soo bandhigin aragtiyo siyaasadeed iyo talooyin kaalmaynaya hannaanka dastuurka*

In kasta oo qaybsanaantu si dabiici ah u curyaamisay dastuur-dejinta, haddana arrinta Soomaaliya waa mid gaar ah. Waayo marnaba lama tixgalin rabitaanka bulshada, lamana soo bandhigin aragtiyo siyaasadeed iyo talooyin kaalmaynaya hannaanka dastuurka.

Waxa intaa dheer, afkaarta ku saabsan in dastuurku yahay mabaadiida aasaaska u ah dawladnimada, marnaba lama faafin, lagumana darin geeddi-socodka dastuurka. Marka laga duulayo, sheegashada ah in dastuurku yahay awoodaha aasaaska u ah dawladnimada, waa in kuwa la doonayo in dastuurka lagu maamulaa ay wax ka yiraahdaan qaabka loo dejiyay. Marka la dheehdo hannaanka dastuurka Soomaaliya ee hadda jira, fikradahaas waa la iska indhasabay, taasina waxa ay keentay in ay daneeyayaashu gabi ahaanba ka biyodiidaan geeddi-socodka dastuurka-dejinta.

## 8. Maqnaanta ka qaybgalka dadweynaha iyo daahfurnaan la'aanta

Daraasado isbarbardhigaya geeddi-socodka dastuur-dajinta ayaa kaqayb galka dadweynaha ku qeexay, “Awoodda bulshadu u leedahay in ay aragtiyaheeda u cabbirto qaab dadku ka rumaysan yihiin in uu saamayn ku yeelan karto nuxurka dastuurka.”<sup>66</sup> Dadweyuhu saddex siyaabood ayey uga qaybqaadan karaan dastuur-dejinta. Ugu horreyn, bulsho u abaabulan qaybo kala duwan, sida bulshadda rayidka ah, haweenka, iyo dadka laga tirada badan yahey – ayaa lagu casuumaya in ay metelaan codka shacabka iyo danaha bulshada. Marka labaad, golayaasha iyo guddiyada baarlamaanka ayaa si toos ah bulshada u hawlgalinaya - si dadban iyo si daalacanba. Mar saddexaadka, golaha sida kumeelgaarka ah u ansixinaya waxa laga soo xulayaa muwaaddiniinta dalka.

Sida uu sheegay Jan Amilcar Schmidt oo ka tirsan Machadka Nabadda iyo Sharciga Caalamiga ah ee Max Planck ayaa sharraxay habkii ay Guddigii Dastuurka ee IFCC ee ugu horreeyey u abbaareen kaqaybgalinta dadweynaha. Waxaa uu sheegay in guddida dastuurku ay hawl-galisay warbaahinta kala ah BBC Media Action, Star FM, Universal TV, iyo Souktel.<sup>67</sup>

66. See Max Planck Institute Report, 2020.

67. Jan Amilcar Schmidt, “Mission Impossible? Opportunities and Limitations of Public Participation in Constitution-Making in a Failed State – The Case of Somalia,” in Public Participation in African Constitutionalism, p. 194–209, Routledge, 2018, p. 199.

Ugu danbayn, IFCC waxa ay heshay “faallooyin iyo tallooyin badan oo la xiriira dastuurka kumeelgaarka ah, kadib markii ay adeegsaday wicitaano telefoon, kulanno shaqsiyaadka lagu dabagalayo, xog-iswaydaarsi iyo madalo aragtiyeedyo...”<sup>68</sup> Dadkani, waxa ay aragtidooda ka dhiibteen lahaanshaha hannaanka, doorka shareecada, jinsiyadda, federaalaynta, meeqaamka Muqdisho, dumarka iyo dhallinyarada iyo xuduudda jamhuuriyadda Soomaaliya. Schmidt waxa uu ku soo afmeerey in lix saxiixe qabsadeen hannaanka dastuur-dejinta, iyaga oo xaqiraya talo-bixinta dadweynaha. Waxa uu qorey in aanay “natiijada ka dhalatay wacyiglainta badan ee bulshada iyo ololayaasha wadatashigu ka turjumaynin nuxurka dastuur dhammaystiran oo aan si dhab ah ugu adeegin sharcinimadiisa iyo aqbalaaddiisa ”.<sup>69</sup>

Edmond Efendija oo ah khabiir la taliye u noqday guddiyo kala duwan, ayaa ku raacay, oo qoray in “Dastuurka Kumeelgaarka ah loo arko dukumenti la soo dhoofiyay, oo aan ahayn mid ay Soomaalidu leedahay.”<sup>70</sup>



*Haddii aragtida shacabka lagu biirin lahaa, Soomaaliya horumar la taaban karo ayay ka samayn lahayd dhammaystirka dastuurka. Niyad-jabka ugu wayni waa Soomaaliya oo ku guuldarraysatay in ay dadwaynaha ka talagaliso hannaanka dejinta iyo dibu-eegista dastuurka*

Haddii aragtida shacabka lagu biirin lahaa, Soomaaliya horumar la taaban karo ayay ka samayn lahayd dhammaystirka dastuurka. Niyad-jabka ugu wayni waa Soomaaliya oo ku guuldarraysatay in ay dadwaynaha ka talagaliso hannaanka dejinta iyo dibu-eegista dastuurka,<sup>71</sup> taasina waxa ay dhaawacday natiijada. Gaar ahaan, dariiqooyinkii lagu hubin lahaa ka qaybgalka dadweynaha ee ku aaddanaa geeddi-socodka dibu-eegista dastuurka ayaan laga faa'iidayaan. Labada guddi ee la socodka ayaan dadwaynaha la wadaagin xogo badan oo aqooneed iyo warar ku saabsan hannaanka dejinta dastuurka. Sidaa darteed, doodda dastuur-dejintu may kasbannin taageero qaran. Waxaanay ku urursan tahay dad kooban. Sidaas darteed, ma aysan kasban kalsoonida dadwaybnaha.

Muddo dheer ayaa uu socday hab-dhaqankan ku salaysan in dastuurka laga dhigtay mashruuc cid u gaar ahi ku danaysato. Laga soo bilaabo 2012, waxaa jiray talooyin furan, faallooyin iyo qoraallo kooban oo ku saabsan nuxurka dastuurka. Ma aysan ku kordhin dadwaynuhu wax weyn arrinta, balse Guddiyada dibu-eegista dastuurka iyo guddiyada baarlamaanka ayaa howsha isku koobay kaligood. Waxaanay ku guuldarraysteen in ay doodaha soo dhaafiyaan kulammadooda gaarka ah, taas oo keentay in aan waxqabadkooda aad loo dareemin. Si loo ballaariyo wadatashiga geeddi-socodka dastuurka, marnaba guddiyadu ma aysan abuurin faragaare u furan ka qaybgalka dadwaynaha. Sidaas darteed shacabku fursad uma aysan helin in ay ogaadaan horumarka laga sameeyay geeddi-socodka dib-u-eegista dastuurka. Kulammada guddida dibu-eegista iyo kuwa guddiyada baarlamaanka ayaa ah kuwo aan la shaacinin inta badan. Waxa dhif iyo naadir ah in ay xayaysiisyada, doodaha iyo faallooyinka dadwaynaha iyo kuwa siyaasadda ee ku saabsan howlaha guddiyadu ka soo muuqdaan shaashadaha warbaahinta dawladda iyo ta gaarka loo leeyahay.

68. Ibid, p. 199.

69. Ibid, p. 206.

70. Edmond Efendija, The Implementation of the Provisional Constitution of Somalia from 2012–2016: A Critical Assessment, 2016, p.26; report on file with the Heritage Institute.

71. The Oversight Committee's final report includes a section summarizing its engagements with civil society, federal member states, organized groups and the parliament. The Committee also argues that it has conducted civic education for the public. See section five of the Oversight Committee's Report on the Second Phase of the Review Process. There are a few messaging clips (about two minutes,) some talk shows, two radio dramas, and one documentary. Universal TV, Somali TV, and Dalsan TV have carried these messaging programs. Based on what literature considers public consultation, this is far from sufficient.

Waxa intaa dheer, hay'adaha iyo jaaliyadaha dhaqaalaha ku taageera dejinta iyo dibu-eegista dastuurka, ayaan guddiyada la socodka cadaadis ku saarin ilaalinta siyaasadda loo dhan yahay, hufnaanta iyo wadatashiga geeddi-socodka dastuurka. Dastuurku waa heshiis bulsho oo ay muwaaddiniintu leeyihiin, haddana fikraddaas laguma dabakhin qorista, hirgalinta, iyo dibu-eegista geeddi-socodka dastuur-dejinta Soomaaliya. Shaqadii guddidu waxa ay noqotay hawl aan laga faa'iideysan, natiijadeeduna waxa ay noqotay mid dhaawacan. Waxa yaab leh in aanay siyaasiyiinta badankoodu wax dan ah ka lahayn dastuurka kumeelgaarka ah, sababta oo ah waxa ay u arkaan in hawsha oo dhammi tahay mashruuc deeq-bixiye. Geeddi-socodka dastuur-dejinta oo dhaqan mashruuc yeeshay ayaa sida oo kale hal-doorka siyaasadda ku xanbaaray in ay ka kaaftoomaan nuxurkiisa, islamarkaana ku tartamaan sharcinimadiisa.

Si kastaba ha ahaatee, waayo-aragnimada arrintan laga dhaxlay ee dunida taalla ayaa tilmaamaysa in dareenka lahaanshaha dadwaynuhu ku kobco kaqaybgalka dastuur-dejinta, taasina kor u qaaddo sharcinimada iyo waxtarka dastuurka, waa haddii xitaa lagu fulinayo arrimo siyaasadeed oo aan nuxur badnayn. Waxa ay ka dhigan tahay in la yiraahdo kaqaybgalka dadweynaha iyo daahfurnaantu waa lafdhabarta dastuurka, waxaanay kaabaan sharcinimada, kalsoonida iyo nuxurka dastuurka. Waxa aad u muhiim ah in ay dadwaynuhu ka qayb-galaan geeddi-socodka dejinta iyo dibu-eegista dastuurka, mana aha arrin ikhtiyaari ah ee waa qodob lagama maarmaan u ah dhismaha dawladnimada. Waddamada colaadaha ka soo doogaya, sida Soomaaliya, codka shacabka ayaa lagama maarmaan u ah, waayo geeddi-socodka dastuur-dejinta ayuu ka dhigayaa hab dimuqraaddi ah.<sup>72</sup>

Kaqaybgalka dadweynahu waa dareen abuuraya fagaaraha uu Alexander Hudson ku tilmaamay 'Shuruuc gunta laga soo unko.'<sup>73</sup> Sharciga noocaas ah ayaa looga baahan yahay kaqaybgalka muwaaddiniinta muddada lagu guda jiro heerarka qoraalka iyo dibu-eegista dastuurka, iyada oo loo marayo codayn, talobixin dadweyne, doodo iyo waliba qoraallo iyo hadallo loo gudbiyo guddiyada arrimaha dastuurka. Soomaaliya, doorka bulshooyinka rayidka ah iyo doorka dadweynaha ayaa ah kuwo aan la qiimaynin marka la eego qaab dhegaysiga dadweynaha ama talooyinka. Waxaa aad u xaddidan arrimaha geeddi-socodka dastuur-dejinta ee ku salaysan bulshada iyo siyaasadda. Tani waxa ay muujinaysaa in geeddi-socodku ka baxsan yahay dhaqanka bulshada iyo nidaamyada casriga ah ee dastuur-dejinta. Nidaamku kuma salaysna gorgortan dimuqraaddi ah, mana dhexdhexaadinayo xisbiyada siyaasadda ku soo biiraya iyo kooxaha mabaadiidu hagto. Dastuurkan looma soo rogin si awood leh, lagumana hirgalin kacdoon shucuureed.

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72. Joanne Wallis, *Constitution Making during State Building*, Cambridge University Press, 2014.

73. Andrew Arato, *Constitution Making under Occupation: The Politics of Imposed Revolution in Iraq*, Columbia University Press, 2019.

Caadi ahaan, waxa ay ahayd in baarlamaanku soo shaacsaaro hannaanka geeddi-socodka dastuurka, isaga oo abuuraya fagaare loogu talagalay wacyigelinta bulshada iyo kaqaybgalka daneeyayaasha siyaasadda. Baarlamaanka qaranku lamay imanin hufnaan iyo isla xisaabtan ku saabsan laga cabbir qaato halka uu marayo geeddi-socodka dibu-eegista dastuurka; waxa cajiib ah in ay u muuqato in meesha laga saaray nimaadkii loo igmaday ilaalintiisa. Haddii ay u dhammaan la'aantu salka ku hayso danayn la'aan guud ee la xiriirta geeddi-socodka dastuur-dejinta, waa arrin u furan in laga doodo. Balse baarlamaanka federaalku ma hayn waddo kale oo lagu heli karo matalaad salbballaaran oo ku aaddan qaallobixinta hannaanka dibu-eegista dastuurka. Si kooban, maqnaanta doorka baarlamaanku waxa ay yaraynaysaa hufnaanta, waxaanay sharci darro ka dhigaysaa natiijada, iyada oo dhicisaynaysa dareenka lahaanshaha qaranka ee ku aaddan geeddi-socodka dastuur-dejinta dalka. Sida xafladaha ayaan hannaanka dastuur-dajinta dibadda loo galasoo bixin xayndaabyada iyo huteellada aadka loo ilaaliyay ee Muqdisho. Sidaas darteed, hannaankani waxa uu lumiyay kalsoonida dadweynaha. Qolada siyaasaddu waxa ay u arkaan dastuurku in uu yahay dukumenti aan dhammaystirnayn oo illaa xad aan xuduud lahayn. Inta waxaa dheer, guddiyadii la socodka baarlamaanka ee isku xigay ee dibu-eegista dastuurka ka shaqaynayay waxa ay sameeyeen wadatashi dadweyne oo kooban. Sidaa si la mida, deeq-bixiyeyaasha caalamku waxa ay hannaanka geeddi-socodka dastuur-dejinta ula dhaqmeen sidii mashruuc oo kale.

Daraasadaha isbarbardhiga ee ku saabsan geeddi-socodka dastuur-dejinta ayaa caddaynaya in kaqaybgalka dadweynahu door wanaagsan ka ciyaarto dibu-heshiisiinta, isla markaana uu yareeyo damaca la doonayo in lagu siyaasadeeyo geeddi-socodka dastuurka, oo uu kor u qaado sharciga iyo dawlad-dhiska. Marka la sii dhuuxo, dastuur-dejintu waxa ay ku soohan tahay dawlad-dhiska. Waase laba kala gaar ah, balse isku lammaan. Sidaas darteed, waxa hannaankan lafdhabar u ah isku-tiirsanaanta iyo kaqaybgalka dadweynaha, gorgortanka dimuqraadiga ah iyo isu-tanaasulka siyaasadda. Soomaaliya, waxa lagu guuldarraystay in la abuurto fagaare furan oo ay dadweynuhu si hufan ugaga qaybgalaan geeddi-socodka dastuur-dejinta, taas oo meesha ka saartay kalsoonidii lagu qabay sharcinimada dastuurka.

## 9. Gunaanad

Sida ay murtidu xusayso, “Dastuurku waa dabarro iyo silsilado uu soohday Peter [qofku magaca uu doono ha lahaadee] markii uu miyirka qabay, si ay u qabtaan marka uu maandoorsamo.”<sup>74</sup> Tan iyo markii la aasaasay jamhuuriyadii saddexaad ee Soomaaliya 2000, geeddi-socodka dastuur-dejintu waxa ay ahayd mashruuc aan dhammaad lahayn. Laga soo bilaabo axdigii kumeelgaarka ahaa ilaa iyo dastuurka kumeelgaarka ah ee hadda jira, waxa jiray kalsooni darro siyaasadeed iyo ka qaybqaadasho la’aan dadweyne, kuwaas oo wiiqay habsami-socodka dastuur dejinta. Qoobadaynta iyo qarsashada geeddi-socodka dastuur-dejinta ayaa ragaadiyay dhammaystirka dastuurka, isla markaana nuxur tiray sharcinimadiisa. Markii lagu gudo jiray marxaladdii qoritaanka dastuurka ayay hormoodkiisu hagradeen oo ay ka takooreen dhammaan qaybaha kale ee bulshada, manay samaynin la tashiyo badan.

Iyada oo aan talooyin qaran oo wax ku ool ah laga yeelan, islamarkaana aan qaybaha kala duwan ee bulshada rayidka ah door laga siinnin ayaa si degdeg ah loo meel mariyey dastuurka kumeelgaarka. Sannadkii 2012-kii, waxa hawsha la socodkeeda oo dhan maroorsaday lix saxiixayaal iyo Ergayga Gaarka ah ee Xog-hayaha Guud ee Qaramada Midoobay u Qaabilsan Soomaaliya, taas oo keentay in shacabku dastuurka ka aammino figrado taban oo ah mashruuc shisheeye ka wadaan Soomaaliya.

Guddiyadii kala danbeeyay ee baarlamaanka iyo Guddida Madaxabannaan ee Dibu-eegista iyo Hirgelinta Dastuurka oo hormuud ka ahaa geeddi-socodka dibu-eegista ayaa ku guuldarraystay in ay soo afjaraan kala qaybsanaanta siyaasadeed iyo in ay bulshada ku dhex faafiyaan xogaha ku saabsan dibu-eegista dastuurka. Si kale haddii loo dhigo, guddiyada la socodka, gaar ahaan guddida dibu-eegista dastuurka laguma darin qaybaha kala duwan ee bulshada. Sharcinimada iyo habsami-socodka dastuur-dejinta waxa shaki galiyay oo wiiqay ka maqnaanta qaybaha kala duwan ee bulshada, talooyinka isburinaya ee ay soo jeediyeen guddiyadii kala dambeeyay, nuxurka hannaanka ee mashruucaysan iyo la’aanta doodo baarlamaan oo lafaguraya dastuurka. Dhibaataada ugu wayn ee haysata geeddi-socodka dastuur-dejinta waa maqnaanshaha kaqaybgalka dadweynaha, caqabadaha ragaadiyay wadaxaajoodiyada dimuqraadiga ah, dibu-heshiisiinta iyo geedd-socodka dawlad dhiska.

Si kooban haddii loo yiraahdo, kooxaha ku danaystay ee afduubay geeddi-socodka dejinta iyo dibu-eegista dastuurka, ee waliba ka dhigtay gaashaan ay kula dagaallamaan kuwa la tartamaya, waa in meesha laga saaraa haddii ay Soomaaliya doonayso in ay hesho dastuur sugan oo ay dadkeedu ixtiraamaan-hadda iyo mustaqbalkaba.

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74. Alexander Hudson, *The Veil of Participation: Citizen and Political Parties in Constitution-Making Processes* (Comparative Constitutional Law and Policy series), Cambridge University Press, 2021.



## 10. Talobixinta Daraasadda

1. Rabitaanka ama doonista siyaasadeed ee madaxda sare ayaa fure u ah dhammaystirka dastuurka. Sidaas darteed, waa in ay saammilayda siyaasadda Soomaaliya mudnaanta kowaad siiyaan hannaanka dibu-eegista dastuurka. Tan, macnaheedu waa in si daacad ah loo wada hadlaa, guddiyadana waa in loo magacaabaa shakhsiyaad aqoon iyo karti u leh hawlaha hannaanku tabayo, waana in la aqbaloo talooyinka kooxaha abaabulan iyo afkaarta muwaaddiniinta. Si taas loo gaaro, waa in uu xafiiska Madaxweynaha ama ka Raysalwasaaraha hoggaamiyo geeddi-socodka dibu-eegista dastuurka.
2. Si dalku u yeesho dastuur rasmi ah, baarlamaanku waa in ay helaan xal lagu ballaarinayo guddiyada dibu-eegista dastuurka. Arrintani waxa ay u baahan tahay in wax ka beddel lagu sameeyo qodobbada dastuuriga ah ee 133 iyo 134, kuwaas oo lagu soo dhisay Guddida la Socodka iyo Guddida Madaxabanaan ee Dibu-eegista iyo Hirgelinta Dastuurka iyo waliba qodobbada kale ee arrintan quseeya. Ururrada waddaniga ah, ururrada bulshada rayidka ah, kooxaha haweenka, qurbajoogta, iyo xisbiyada siyaasaddu waa in ay kaqaybgalaan dibu-eegista dastuurka. Haddii awoodahan lagu xoojiyo geeddi-socodka dastuurka waxa kobcaya sharcinimda dastuurka iyo dhismaha dawladda.
3. Si aan loo siyaasadayn dibu-eegista dastuurka, waa in aanay baarlamaanka oo kali ahi yeelan go'aanka u danbeeya ee dibu-eegista dastuurka. Ansaxinta kama danbaysta ahi, waa in ay noqtaa masuuliyadda shirwayne awood u leh oo ay ku jiraan ergooyin ka socda dowlad goboleedyada, bulshada rayidka ah, xisbiyada siyaasadda, qurbajoogta, kooxaha haweenka, dhallinyarada iyo ururrada xeeldheerayaasha
4. Ciddii loo igmaday dibu-eegista dastuurka waa in ay soo bandhigtaa dastuurka qaran, isla markaana waa in ay abuurtaa fagaare ay bulshadu kaga qayb qaadan karto. Waa in qaybaha dadwaynaha la siiyaa fursado ay kaga qaybgalaan geeddi-socodka dibu-eegista dastuurka. Muwaaddiniinta waxa laga wacyigalin karaa xafladaha dadweynaha, waxaana laga ololayn karaa warbaahinta.
5. Hab-dhaqanka dibu-eegista dastuurka ee mashruuca noqday waa in la soo gabagabeeyaa. Dowladda Soomaaliya waa in ay mudnaanta koowaad siisaa dibu-eegista dastuurka. Si taa loo sameeyo, oo fariin adag loo diro, waa in dowladdu kaqayb qaadato maalgelinta geeddi-socodka dibu-eegista dastuurka.
6. Guddiyada imanaya waa in la ballaariyo oo waa in aanay guddiyada hawsha hogaaminayaa dib u soo bilaabin mar kale. Waana in guddiyada cusubi sii naashnaashaan oo ay dhammaystiraan shaqadii la soo qabtay labaatankii sano ee la soo dhaafay. Gaar ahaan, guddidu waa in ay ka taloqaadataa warbixinta latashiga dadwaynaha ee IFCC iyo talooyinkii ay bixiyeen guddidii dastuurka ee 2012-kii.



7. Waxa jira arrimo badan oo la isku maandhaafsan yahay: awood qaybsiga; qaabaynta laamaha fulinta, garsoorka iyo sharci dejinta; wadaagista khayraadka; iyo maqaamka Muqdisho. Haddaba si arrimahaas xalkooda loo gaaro, waxaa lagama maarmaan ah in la qabto golayaal iyo madalo badan oo ay siyaasiyiinta, kooxaha danaynaya, iyo guud ahaan bulshadu kaga doodi karaan arrimahan muhiimka ah.
8. Waa in dastuurka dowlad goboleedyada la waafajiyo dastuurka federaalka. Habka kaliya ee arrintan lagu xaqiijin karaa waa in dowlad goboleedyadu door muhiim ah ku yeeshaan geeddi-socodka dibu-eegista dastuurka, habkaasina waa in uu baarlamaanka dowlad goboleedyada ka qaybgalinayaa hannaanka dibu-eegista dastuurka.
9. Baarlamaanku waa in uu dib u eegaa cutubka ka hadlaya ansixinta dastuurka. Aftida dadwaynuhu ma aha dariiqa kaliya ee dastuur lagu ansixiyo. Waxa maaquul ah in baarlamaannada dowlad goboleedyada awood loo siiyo ansixinta dastuurka.
10. Geedi-socodka dastuurka Soomaaliya ayaa qaatay muddo ka badan laba iyo labaatan sano. Haddaba waa in dowladda Soomaaliya dadkeeda la wadaagto waqti macquul ah oo lagu dhammaystirayo dastuurka. Haddii la helo rabitaan siyaasadeed oo hoggaanka ka yimaada iyo magacaabista xubno guddiya oo karti u leh dibu-eegista, waxa dastuurka lagu soo gabagabayn karaa laba sano gudahood.

# HERITAGE

I N S T I T U T E