



Aman Obsiye's and Osman Hassan's irrational diatribes against Puntland

By Mohamed Abdullahi

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In recent weeks, there has been a significant increase in articles critiquing Puntland State's deal with P&O Ports and President Abdiweli's travel to Abu Dubai. While most of the pieces are of good quality and high standard to foster lively debate, one could not miss the odd apocryphal account, unsupported claims and an uncalled-for opprobrium, which could stem from self-righteous atavistic resentment to the way of life of the Somali people in Puntland.

I would endeavour to comment on two such articles; [Aman Obsiye's article](#) (Puntland: Federalist or Quasi secessionist?) on Hiiraan Online and [Osman Hassan's piece](#) (Abdiweli: A shameless incorrigible betrayer of his nation) on Wardheernews. I unreservedly respect the views and intellectual capacity of the authors but both of them could be criticized of banality, bigotry and absolute mendacity in their arguments. Particularly, Hassan's article is awash with outrageous slur and his ignorance of federal system of government is all too obvious.

As much as one may be tempted to address all the obvious errors, baseless assertions and biased reasoning - some of which do not warrant discussion and dissection - my main aim is to contribute constructively to the discourse and lay out my perspectives on *Abdiweli's visit to UAE, the legality of Bosaso port deal and Puntland's federalist political inclinations*. In the end, I have to touch on some of Obsiye's irrelevant claims, specially his erroneous presumptions on the establishment of Puntland.



President Abdiweli's visit to UAE

Abdiweli's recent visit to UAE was one of many similar visits he had paid to foreign countries in the last four years as Puntland president. The visit came at a critical time when the federal government is contending with a diplomatic row with the United Arab Emirates. I would agree that the timing of this visit could appear suspicious and unsettling but no, not treacherous or treasonable act.

I sympathize with the views of those who wish to see a united front to deal with the Gulf crisis but one has to accept that Abdiweli's visit was also very significant for his constituency, Puntland. Abdiweli made this visit to stave off the fallout of the diplomatic wrangle between UAE and Somali Federal government to stand in the way of UAE financial support and investment to Puntland.

Article 53(3) of the Somali provisional constitution requires the Federal government "to regard itself as the guardian of the interests of the Federal Member States, and must act accordingly".

The Federal government has failed to safeguard the interests of Federal Member States (FMS), in this case Puntland and has done nothing to allay the concerns of Somali people in Puntland. Abdiweli gave the Federal Government ample time (more than two months) to resolve the issue. He was left with no other choice but to visit Abu Dubai in a bid to protect the interests of his State.

Abdiweli undertook his visit within accepted para-diplomatic norms. Puntland has been exercising effective para-diplomacy in the last 18 years. Puntland para-diplomacy is widely accepted within the scope of socioeconomic development, investment and other constitutional competencies.

Para-diplomacy is not a new phenomenon in international relations field. It has been practiced for decades in a number of both federal and unitary states as diverse as Spain, Canada, Switzerland, Germany, Brazil, Russia and China where sub-national governments engage in foreign relations in coordination with their national foreign policy institutions. Since Somalia adopted a federal system of government, some level of para-diplomacy will be expected as States are given more autonomy to set planning and programming priorities.

Abdirahman Said Bile has done an interesting research on Puntland para-diplomacy (*Puntland para-diplomacy: a paradigm shift in Somalia foreign relations, 2015*). He used Noé Cornago's (1999) definition to test whether "the permanent and ad hoc contacts Puntland established with foreign public and private entities to promote foreign dimensions of its constitutional competency" amounted to sound para-diplomacy.

Abdirahman studied the history of Puntland paradiplomacy and concluded that it had manifested all the hallmarks of viable sub-national international relations. He delved into Puntland's use of para-diplomacy not only to attract donor support and investment for its development projects but to seek support for its participation, influence and contribution in both Somali and international forums.

He provided evidence-based examples of how globalization, regionalization, Somali federalism, problems of Somali state building, foreign policy domestication (international terrorism, human rights, global health issues, etc.) and internationalization of domestic policies (piracy, etc.) all contributed to the active and far reaching Puntland paradiplomacy. Abdirahman also examined the federal government insufficient effectiveness in foreign policy and its role in augmenting Puntland para-diplomacy.

While Abdirahman could not underscore any asymmetry of Somali federal constituent units in terms of territory and population, economic features, climatic conditions, cultural patterns, social groupings and political institutions, he suggested that Puntland had unique socioeconomic, cultural, political and development priorities which would separate it in important ways from the rest or at least somewhat different from those of any other state or the system considered as a whole.

Noé Cornago's paper (On the Normalization of Sub-State Diplomacy, 2010) focused on paradiplomacy of sub-states in the developed world or stable countries but acknowledged the paradiplomacy of Trans-Dniester, Puntland and Somaliland as so-called "states within states". He argued that "states all over the world have, during recent decades, established different legal and institutional mechanisms in order to acknowledge, albeit reluctantly, a new and more active role by sub-state governments in their foreign policy designs and diplomatic machineries".

He explains that "constitutions in some countries assign an international role to constituent units, recognizing a certain international dimension to their exclusive or shared competences while constitutions in other countries reserve exclusive powers in the international sphere for central or federal government, ignoring any international dimension for sub-state competences".

Noé Cornago pointed out the inevitability of the normalization of the paradiplomacy of sub-states in a changing world and the pressure on central governments to change their consideration of "sub-state diplomacy as a relatively low-profile activity that is always submitted to the ultimate consent of the sovereign state". He described that "strictly legal arguments never resolve the case of paradiplomacy. Only factual politics will resolve the case".

Faisal Roble's percipient article (Sensible lessons from an ungodly corner, 2018) provided very invaluable examples of such consideration of the important role of the sub-states and the coordination of national foreign policy with the interests of subnational governments.

Puntland's relationship with UAE and other foreign entities predates the restoration of the Somalia central government and, it has to be accepted, that its para-diplomacy is not going to vanish at the stroke of a pen. The biggest challenge for Federal Somalia lies in its ability to accept this paradiplomacy and allow political bargaining at the local to help shape its foreign policy as Michelmann (Foreign Relations in Federal Countries, 2008) put it "The cooperation of the two orders of government requires consultation through durable and adequately conceptualized institutions of intergovernmental relations, and it requires the willingness to make compromises".

The legality of Bosaso port deal

Bosaso port deal was signed in 2016 with the blessing of the Federal government at the time. It is very critical to study Bosaso port deal before we jump our guns to describe it as illegal. Bosaso port does not entirely come under any of the exclusive powers of the Federal government. The port fits into four different spheres of authority:

1. It is a port of entry (border control, immigration and protection function)

2. It is a national revenue source (customs)
3. It is a public infrastructure (fishing, marine safety, environmental protection)
4. It is a commercial facility (docking, commercial & trading space, storage, etc.)

As our federalism evolves, a health debate about the power and competency limits of the Federal government and Federal Member States will begin to emerge. Judith Resnik (2009) described the shift toward federal governance in the changing nature of what is “truly local and truly national and whether a particular sector or natural resource is regulated at the State level or at national” in her lecture series on Internationalization of American Federalism.

There is no question that Bosaso port is a national asset in which both the federal and state governments have stakes, but which part of the port is “locally state owned or managed” need conscious understanding and agreement. I argue that the commercial facility part of the port is not covered by the exclusive powers of the Federal government nor does it affect directly the sovereignty of the nation.

Puntland has entered the agreement with P&O Ports to manage the port’s commercial facilities, to expand and modernise it in order to enhance trade and revenues for the State. The agreement does not infringe on the activities of border control, immigration, protection functions, marine activities and customs. It is similar to the agreement already in place with Turkish owned Albayrak Group at Mogadishu port.

In this debate, sovereignty issue only comes to play when the decision of Somali Federal parliament to ban DP World from Somalia is considered. Even so, the constitutionality, legality and due diligence of that decision is challenged.

It is common knowledge in Puntland that Abdiweli sought legal advice from both international and local legal professionals before entering the agreement. Puntland is very fortunate to have a well-respected and knowledgeable Chief Justice in its High Court – Dr Yusuf Haji Nur - someone who does not shy away challenging the presidents over legal issues.

Obsiye’s article contains contradictory justifications for the illegality of Bosaso port deal. The supremacy of the provisional constitution is not in question but it is short-sighted to quote one explicit pre-emption clause in this supreme law in isolation and to discount the relevant pre-emption clauses such as article 142(1) or without recognising the context in which these pre-emption clauses were drawn. Puntland was insistent to incorporate this clause in the provisional constitution to protect itself from the covetous power abuse and encroachment of the ruthless and clannish leaders in Mogadishu during the transition period.

This pre-emption clause writes, “until such time that all the Federal Member States of Somalia are established and the adopted Federal Member State Constitutions are harmonized with the Somali Federal Constitution, the Federal Member States existing prior to the provisional adoption of this Provisional Constitution by a National Constituent Assembly **shall retain and exercise powers** endowed by their own State Constitution”.

This pre-emption clause 142(1) overrides all the other articles in the provisional constitution except article 4(1) of its supreme status. It does not make any exceptions to any power,

exclusive or not, nor does it leave any room for argument when Puntland leaders choose to use the powers within their State constitution.

Puntland's federalist political inclinations.

Puntland has never been referred to as a politically sovereign entity nor has there any serious discussions in Puntland about secession. The Somali people in Puntland are proud unflinching federalist unionists. They pledge their allegiance to the unity, sovereignty, independence and territorial integrity of Somali nation. To suggest otherwise or a conflict of allegiance in their efforts to juggle the national and local interests is preposterous and baseless assertion.

Obsiye's total misunderstanding of federalism is once more apparent in his proclamation of "tenants of federalism". There is no such thing as "tenants of federalism. Federalism as a system of government attracted debate and in depth analysis for over two centuries, from Wheare's work (1946) titled *Federal Government* in which he proposed his widely accepted definition of federalism to the present Law's (2013) attempt to sift through many overlapping definitions of federalism and explore whether the existing of a mere "multi-level polity such as the European Union" is enough to earn the term "federal governance". Law (2013) defined two categories of federalism: "federal union" and "federal state".

*"A federal union of states is a multi-state political system in which there is a division of powers between **two levels of government of equal status**".*

*"A federal state is a single state political system in which there is a division of powers between **two levels of government of equal status**".*

There is universal understanding of significant differences among Federal structures around the world, mainly related to the division of power between the levels of government determined by societal, political and economic factors as well as the unique circumstances that led to the establishment of such federation. These factors together with dynamic intellectual and regulatory evolutions shape the type of federalism which predominate at any one time: Cooperative federalism, dual federalism, executive federalism or joint decision making federalism

The thinking behind Puntland's pursuit of Federal structure for Somalia is beyond Obsiye's juxtaposition of trends in Somaliland and Puntland or Hassan's narrow spurious patriotic posturing and vilification of President Gas.

Hundreds of volumes of original literature were written about Somali people in Puntland. It would be worthwhile use of their time to read the rich educational material from the 18th century accounts of its Sultanates to the most recent research on its peace and state building efforts. Some very interesting and informative contemporary papers to look for are: Life and Peace Institute research papers (1993), UN Research Institute's War-torn Societies Project research documents (North East Somalia Regional Notes - 1997), and Interpeace/PRDC research study on peace building in Puntland (The search for peace - 2007).

Mohamed Abshir Waldo (2010) explained in his article (Federalism In Somalia: Birth of Puntland State and The Lessons Learned) that “Puntland’s verdict of the federalism choice was based on three considerations, one of them being that it offered a middle solution between an autocratic, centralized system of governance and outright secession”.

Despite the much flaunted homogeneity of Somali people in terms of ethnicity, language, religion and colour, Somali people have diverse ways of life, traditions and political thinking that are attributable to the differences in geographic, socioeconomic and educational background, interaction with other societies, cultures and civilisations.

Participatory decision-making has always been the way of life for Somali people in Puntland. They fully support the Federal government but expect consultations, political negotiations and co-decision making between the Federal government and the governments of the Federal Member States.

Puntland following Somaliland footsteps

Obsiye has cherry-picked a few similar sequential events in Somaliland and Puntland. These similarities are simply a trend in peace and state building processes irrespective of which State has achieved them first. They are not ideological, social or political convergence.

It is evident that Obsiye has not read much about the history of Puntland. It will be fair to enlighten him, and point out that first post-civil war local regional authorities were successfully piloted in North East regions (Puntland) in 1992 – 1993 and these regions have enjoyed some semblance of rule of law and governance ever since.

Puntland as Clan enclave

Obsiye’s blame on Puntland establishment along tribal territory boundaries is misplaced. He did not posit anything new, but just muttered a common knowledge of the composition of the Somali people in Puntland. The administrative boundaries of Somali regions and districts delineated under colonial rulers or by successive Somali governments are not rigid irrevocable borders. Whether they resided in a single region or straddled across five regions would not make any much difference to these clans in their choice to form their own state.

Conclusion

It is befitting to conclude this piece with the words of President Lincoln to accept the emergence of disagreement and difference of opinions in governance and legal jurisdictions.

‘... no organic law can ever be framed with a provision specifically applicable to every question which may occur in practical administration. No foresight can anticipate, nor any document of reasonable length contain express provisions for all possible questions’.

Obsiye’s and Hassan’s articles lay bare the nostalgic feelings of those who wish to return us to the autocratic centralist system of government and the familiar prejudice against federalist tendency of the Somali people in Puntland.

This present constitutional crisis necessitates a realistic consultative approach, an acceptance of co-ownership and co-decision making between the Federal government and Federal member states.

It also makes a case for an urgent political agreement to complete the constitutional review and the establishment of the long overdue Somalia's Constitutional Court.

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