

[http://www.somalilandlaw.com/Citizenship\\_Law/body\\_citizenship\\_law.htm](http://www.somalilandlaw.com/Citizenship_Law/body_citizenship_law.htm)

The Somaliland Citizenship Law (Law No:22 of 2002) is [the second law](#) dealing with the citizenship of the independent state of Somaliland. The first law was passed On 23 June 1960, and was the [Somaliland Nationality and Citizenship Ordinance 1960](#) and came into force three days later on the independence of Somaliland on 26 June 1960. Although the independent State of Somaliland joined the former Italian Somalia on the independence of the latter on 1 July 1960, the first Somali Republic Citizenship Law was not passed until 1962. That Law, the [Somali Republic Citizenship Law](#) (Law No:28 of 22/12/1962) which is [re-produced here](#) for historical purposes, no longer applied to Somaliland from the date of the re-assertion of Somaliland's independence on 18 May 1991.

The relevant references to the the Somaliland Nationality & Citizenship Ordinance 1960 are made in the footnotes of this translation of the Somaliland Citizenship Law 2002 and the issue of state succession and citizenship is addressed in this [postscript](#).

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**THE REPUBLIC OF SOMALILAND[1]**

**CITIZENSHIP LAW[2]**

**(LAW No: 22/2002)**

**[\(Click here for the Somali version\)](#)**

***(Translated and annotated by Ibrahim Hashi Jama LL.B, LL.M.)***

**THE HOUSE OF REPRESENTATIVES of the Republic of Somaliland**

**Having Seen:** Article 4[3] of the Constitution of the Republic of Somaliland;

**Having noted:** The need, at the moment, for the promulgation of a law which governs matters relating to Somaliland citizenship, and which is a component of the exercise of the rights of citizens to vote in elections[4];

**Having considered:** The contents of the Bill and having based (its provisions) on our own culture [5], Islamic religion [6], governmental practices [7] and the (current) state of our economic development;

HEREBY PASSES THIS LAW

### **Article 1: Definitions**

**CITIZEN:** means an individual who descended [8] from persons who were resident in the territory of Somaliland on 26 June 1960 or before, and a person who had Somaliland citizenship conferred on him lawfully.

**REFUGEE:** means a person who has been granted asylum [9] and is resident in a host country.

**ALIEN:** means anyone who is not a Somaliland citizen.

**ADULT:** means any citizen who is 15 years old [10] or more.

**CHILD:** means any citizen who is less than 15 years old.

**COMMITTEE:** means the National Citizenship Committee appointed by the President

**CHILD WHOSE PATERNITY IS UNKNOWN:** means a child the identity of whose father has not been acknowledged, but who has a single parent who is his birth mother.

### **Article 2: Citizenship by birth**

1. A Somaliland citizen by birth is anyone whose father [11] is a descendent of persons who resided in the territory of Somaliland on 26 June 1960 [12] and before.

2. A Somaliland citizen by birth may acquire the citizenship of another country (dual nationality [13]) without losing his Somaliland citizenship [14].

3. Unless he has not voluntarily renounced the right to Somaliland citizenship, any adult progeny [15] of a male [16] Somaliland citizen, who resides in a foreign country or is a citizen of another country or is a refugee in another country may acquire Somaliland citizenship on his [17] first return [18] to the territory of Somaliland.

### **Article 3: Obtaining confirmation of citizenship**

1. The confirmation of proof of Somaliland citizenship may be obtained by an individual on the production of:

- a) A declaration relating to the individual made at a court by the Ministry of Internal Affairs registered Akil (clan chief) of the individual's community[19].
  - b) The form designed for the purpose by the Citizenship Office [20] and signed by the individual.
2. The confirmation of Somaliland citizenship shall be done in a uniform manner and recorded serially by the Ministry of Internal Affairs. It shall be signed by the Chairman of the relevant region[21].
  3. The layout and colour of the document showing confirmation and conferment[22] (of citizenship) and its printing and administration shall be set out in regulations[23] issued by the Minister of Internal Affairs.

#### **Article 4: Conferment of citizenship on a person who is an alien or a refugee**

1. Any alien or refugee who is lawfully resident in the territory of Somaliland and who applies for Somaliland citizenship may be granted such citizenship when he fulfils the following conditions:
  - a) He must be an adult[24].
  - b) He must have resided lawfully in the territory of Somaliland for an unbroken period of no less than 10 years.
  - c) He must be known for his good character and behaviour.
  - d) He must not have been subject of a sentence for an offence proven in a court, and must not have participated in activities which were contrary to the sovereignty of Somaliland.
  - e) He must have been taxpayer during his period of residence in the territory of Somaliland.
  - f) He must submit a declaration in which he is renouncing his previous citizenship, and must, at the same time, make the oath set out in Article 6 of this Law.

2. Any person[25] whose mother is a Somaliland citizen and has been proved to have no father[26] may be granted citizenship if he applies for it and fulfils the conditions[27] set out in this Law at paragraph 1 of this Article.

#### **Article 5: Procedure for conferment of citizenship**

1. The conferment of citizenship as set out in Article 4 shall be undertaken by the President who shall issue it in a decree after he has considered the advice of the National Citizenship Committee[28]. The Committee shall consist of 12 members of the Council of Ministers[29] and the Minister of Internal Affairs shall act as its Chairman.

2. The members of the (National) Citizenship Committee shall be citizens who are known for their honesty and who are representative of the wider society of Somaliland[30].

### **Article 6: Oath**

1. The decision to confer citizenship shall not be valid if the applicant has not renounced his previous citizenship, or if he has sought the protection of another state[31] or if he has not made the following oath:

#### **“ OATH:**

**I SWEAR BY ALLAH THAT I SHALL REMAIN TRUE TO THE COUNTRY OF SOMALILAND, OBSERVE THE CONSTITUTION AND LAWS OF SOMALILAND AND RENOUNCE FULLY MY PREVIOUS CITIZENSHIP.”**

2. The applicant shall make the oath in front of the Chairman of the relevant region and a judge of the District Court shall administer the oath.

### **Article 7: Loss of citizenship**

Somaliland citizenship may be lost [32]:

1) When the person renounces it voluntarily and acquires another citizenship[33].

2) When the person accepts the service of another government or becomes a member of the armed forces of another government and such service or membership is detrimental to the sovereignty of Somaliland and the person refuses to relinquish such service or membership within the time limit set by the Somaliland government.

3) The citizenship acquired as set out in Article 4 may be withdrawn when the National Citizenship Committee is satisfied that the person who had the citizenship conferred on him was not suitable for it or has broken one of the conditions[34] upon which citizenship was granted.

4) The conferment of citizenship may be withdrawn if it becomes clear that the evidence relied upon to grant the citizenship has been false. Any person who tenders such false evidence shall be dealt with under the law[35].

5) The withdrawal of the conferment of citizenship shall be issued in a Decree [36] by the President after he has considered the advice of the National Citizenship Committee.

### **Article 8: Re-acquisition of citizenship**

1. A person who has lost Somaliland citizenship and applies to acquire it again may be allowed to do so if he fulfils the conditions set out in Article 4 [37] of this Law.

2. The re-acquisition of citizenship shall be issued in a Decree by the President after he has considered the advice of the National Citizenship Committee.

### **Article 9: Marriage of a female citizen and an alien**

1. Any female alien who marries a male (Somaliland) citizen shall acquire [38] Somaliland citizenship and, unless she has renounced it, shall retain such citizenship even after her divorce.

2. Any female (Somaliland) citizen who marries a male alien shall lose her citizenship if she accepts [39] her husband's citizenship.

3. A female citizen, who is married to a husband who has renounced his Somaliland citizenship and acquired another citizenship, shall lose [40] her (Somaliland) citizenship unless the husband was a refugee.

4. A woman who loses Somaliland citizenship because of marriage may re-acquire such citizenship if the circumstances [41] set out in this Law apply to her.

### **Article 10: Children**

1. Children under the age of majority [42] whose father acquired or lost or re-acquired Somaliland citizenship shall, in all these circumstances, be treated like their fathers under this Law.

2. When a child reaches the age of majority, he may request confirmation [43] of his (Somaliland) citizenship.

### **Article 11: Children in special circumstances**

Confirmation of citizenship may also be granted to a child who is born in the territory of Somaliland and whose parents are not known [44]. The request for confirmation in such circumstances shall be made by the persons who have custody of or are caring for the child.

### **Article 12: Repeal**

All laws which are conflict with or do not conform to the provisions of this Law are hereby repealed.

### **Article 13: Regulations for implementing this Law**

After seeking the advice of the National Citizenship Committee, the Minister of Internal Affairs shall issue regulations for implementing this Law.

### **Article 14: Coming into force**

This Law shall come into force on its signature by the President of the Republic after its approval by Parliament [45].

**This Law was passed by the House of Representatives on 1<sup>st</sup> March 2002 and was signed by the President on 3<sup>rd</sup> June 2002.**

**(See here for the postcript [46] notes on Somaliland nationality and issues of state succession)**

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[1] The Republic of Somaliland was the British Somaliland Protectorate from the mid 1880s to 26 June 1960, and was then the independent “State of Somaliland” until 1 July 1960 when it joined (Italian) Somalia to form the Republic of Somalia. In May 1991, the Somaliland people at a Grand Conference, reasserted their sovereignty and the Republic of Somaliland was re-born. The fact that Somaliland was an independent state with a defined territory and population that has voluntarily joined another state and then withdrew from that union on the disintegration of the united state and re-asserted its sovereignty in 1991 has a bearing on how issues of succession under international law (in terms of both treaties, other commitments and nationality) have to be looked at in this unique situation. Although citizenship is essentially governed by national legislation, the competence of states in this field may be exercised only within the limits set by international law. This is often said to be the difference between the terms “citizenship” and “nationality”, the latter importing the international context. Indeed as far back as 1930, Article 1 of The Hague Convention of 1930 on Certain Questions relating to the Conflict of Nationality Laws provided that whilst it is for each State to determine under its own law who are its nationals, such law shall be recognized by other States only "insofar as it is consistent with international conventions, international custom and the principles of law generally recognized with regard to nationality". The footnotes below therefore take note of the international law in this area, and in the **postcript**, below, the vexing issue of how succession of states affects nationality and its relevance to this law, specially in the light of the International Law Commission’s “*Draft Articles on Nationality of Natural persons In Relation to the Succession of States*” and the relevant clauses in the European Convention on Nationality (which take into consideration legal developments in the new East European States) are addressed.

[2] This Law is the second Law governing citizenship in the independent state of Somaliland, but the first Law pre-dated the union with Somalia. At the Constitutional Conference between the UK Government and the Somaliland leaders on 11 May 1960 **the first Somaliland Citizenship Law** was drafted as the “*The Conference recognised that upon withdrawal of Her Majesty’s protection all persons, who are British Protected Persons by virtue of their connection with the*

*Somaliland Protectorate under the British Nationality Act 1948, and the British Protectorates, Protected States and Protected Persons Order-in-Council 1949 will lose that status. The Somaliland delegation stated that it would be the intention of the Government of independent Somaliland to enact legislation creating Somaliland citizenship immediately upon independence.*" (Paragraph 29 of the Report of the Conference which was presented to the UK Parliament in May 1960 as a Command Paper). **On 23 June 1960, the Nationality and Citizenship Ordinance 1960 was enacted and came into force three days later on the independence of Somaliland.** I shall be referring to the relevant provisions of this Law in my footnotes.

[3] Article 4 of the Constitution of the Republic of Somaliland states:

*"1. Any person who is a patrial of Somaliland who is a descendent of a person residing in Somaliland on 26 June 1960 or earlier shall be recognised as a citizen of Somaliland.*

*2. The law shall determine the acquisition or loss of the citizenship of Somaliland".*

[4] Somaliland is embarking on its first free direct elections since the re-assertion of its sovereignty as an independent state in May 1991. Under Article 22 of the Constitution, citizens have the right to vote or be elected to an office.

[5] This indicates Parliament's wish that the cultural traditions of Somaliland will be reflected in the Law, and justifies, to a large measure, the choice of the patrilineal nature of the Somaliland society as the cornerstone of citizenship by descent. Whilst Islamic religion is also mentioned as forming the basis of the law, the provisions relating to women and children are tilted more towards tradition than Islam.

[6] As stated above, although traditions appear to be the main issue in relation to citizenship, almost all the Islamic countries have similar provisions relating to the issue of women and nationality. For example, It is very likely that had the Somaliland (or for that matter the Somali Democratic Republic) signed the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), it would have submitted reservations on Article 9 (dealing with nationality), which are similar to those submitted by other Islamic countries. The reservations can be seen at [http://www.unhchr.ch/html/menu3/b/treaty9\\_asp.htm](http://www.unhchr.ch/html/menu3/b/treaty9_asp.htm)

[7] This is recognition of the importance of taking note of the practices of other countries in respect of citizenship. States are free to determine under their own laws who their citizens are, but because the concept of nationality has an international flavour, international customary law and conventions have a considerable bearing on the formulation and interpretation of citizenship laws. Ever since the Hague Convention on certain questions relating to the conflict of nationality laws was concluded in 1930, the number of international instruments containing provisions on nationality has grown considerably, and has been affected further by the development of human rights. The most important other agreements include the 1948 Universal Declaration of Human Rights, the 1951 Convention on the Status of Refugees, the 1954 Convention on the Status of Stateless Persons, the 1957 Convention on the Nationality of Married Women, the 1961 Convention on the reduction of statelessness, the Optional Protocols concerning Acquisition of Nationality to the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations, the 1964 Convention of the International Commission on Civil Status on the exchange of information concerning acquisition of nationality, the 1966 International Convention on the Elimination of Racial Discrimination, the 1966 International Covenant on Civil and Political Rights, the 1967 European Convention on the Adoption of Children, the 1969 American Convention on Human Rights, the 1973 Convention of the International Commission of Civil Status to reduce the number of cases of statelessness, the 1979 Convention on the Elimination of All Forms of Discrimination against Women and the 1989

Convention on the Rights of the Child. The most up to date Convention in this area of law is the European Convention on Nationality (ETS no: 166).

[8] Descent or blood ties (*jus sanguinis*) is the basic foundation of this Law, but it is acknowledged that citizenship can be acquired through conferment. In the **1960 Somaliland Nationality and Citizenship Ordinance**, citizenship was accorded to Somalis who were born in the territory of Somaliland or whose fathers (or, in the case of illegitimate children whose mothers) were born in Somaliland – (sections 1 and 2 of the Law)- and so birth (*jus soli*) was the basis of the law. That would have certainly covered all Somalilanders then, but since then many countries have moved away from citizenship based solely on place of birth. In any case, this Law reflects the desire of Somalilanders to re-assert their distinct identity. It also reflects the reality that being a Somali is finally and correctly seen as a term defining ethnicity and not nationality.

[9] According to the United Nations High Commissioner for Refugees (in its 1999 *Statistical Overview*) refugees are persons recognised under the 1951 Refugee Convention; persons recognised under the 1969 Organisation for African Unity Convention on Refugee Problems in Africa; persons granted humanitarian or comparable status; and persons granted temporary protection. The OAU (now the AU) defines as a refugee “*every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality*”.

[10] Various Somaliland laws fix the onset of adulthood (age of majority) at differing ages.

[11] This patriarchal nature of citizenship is based on Somali tradition of lineage through the father and is therefore grounded on traditional (and Islamic) practices. However, this concept is nowadays considered to be discriminatory against women citizens and falls foul of article 9 of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) which came into force in 1981. Almost all the muslim countries which ratified the Convention have lodged reservations to article 9 of the Convention (see note 6 above). The Somali Republic has not acceded to the Convention and, of course neither has the Republic of Somaliland. Article 8 of the Constitution of Somaliland affirms equality of citizens, but this has to be read with Article 36 which expressly states that “the rights, freedoms and duties laid down in the Constitution shall be enjoyed equally by men and women save for matters which are specifically ordained in Islamic Sharia”. The interplay between tradition, Sharia and citizenship is an issue of contention in countries like Egypt. Interestingly Egypt’s reservation to Article 9 of the CEDAW is said to be needed “... *in order to prevent a child's acquisition of two nationalities where his parents are of different nationalities, since this may be prejudicial to his future. It is clear that the child's acquisition of his father's nationality is the procedure most suitable for the child and that this does not infringe upon the principle of equality between men and women, since it is customary for a woman to agree, upon marrying an alien, that her children shall be of the father's nationality*”.

[12] This date was when Somaliland became independent and changed from the British Somaliland Protectorate to the State of Somaliland. It is common for citizenship laws to refer to significant dates relating to a country’s nationhood or independence. See also Article 3(1)(a) and note 19 below as to how the Somaliland clan system makes possible the identification of persons through their lineage.

[13] These English Language words “dual nationality” appear in the Official Somali text in brackets.

[14] This is a very welcome recognition of the growing acceptance of dual nationality in this era of globalisation. Many Somalilanders live abroad and have acquired other nationalities. Note,

however, that aliens and others who acquire citizenship under Article 4 (i.e by naturalisation) have to renounce their previous nationality before they have Somaliland citizenship conferred on them. But wives of Somaliland citizens, who can acquire Somaliland citizenship and retain it, even after divorce, face no requirement to renounce their own citizenship and can, technically, therefore, hold dual nationality (see Article 9 (1)).

[15] This refers to the immediate adult children of either gender.

[16] The phrase used is “uu dhalay” which means “born to a male” rather than the “ay dhashay” which would mean “born to a female”. This is also in line with Clause 1 of the Article which confirms that citizenship passes through the male lineage.

[17] He includes she in this context.- see also note 15 above.

[18] This Clause appears to be procedural, rather than substantive in that Clause 1 gives the progeny of a male Somaliland citizen citizenship by birth, and so would have been, in my view, more appropriate to be included in the following Article which sets out the procedures for confirmation of citizenship. The significance of the “first return” rather than “first visit” is not clear and would hopefully be set out in more detail in the regulations. It cannot be the case that such an entitlement to citizenship will be lost if it is not claimed on the first “visit” to the country – I have chosen the word “return”, rather than “visit” as the former signifies an element of settlement. It remains to be seen how this clause will be interpreted, but it is relevant to note that the earlier version of the Bill did not include the word “first”. The other potential difficulty in this Clause is that it leaves unclear the position of adult grandchildren of a male a Somaliland citizen residing abroad. Clearly they are entitled to citizenship by birth under Clause 1 of this Article, and it is arguable that as their fathers were also Somaliland Citizens, then they could also be covered by the procedure in this Clause (3) which allows them to claim citizenship on their first return. If that is the case, then this Clause is simply procedural in its effect. But if that is not correct, then they have to await the return of their father to Somaliland, before they, in turn, return and exercise their right to citizenship. The latter may be in line with the practice of some countries, which set up some form of a “take-up” procedure for descendants of citizens who habitually live abroad so as to avoid automatic retention of nationality by new generations who have no longer any links with their forefather’s country.

[19] All Somalilanders (and other Somalis) belong to identifiable clans which are based on male lineage. The clans which lived in the Somaliland Protectorate and, on independence on 26 June 1960, in the new “State of Somaliland” are all well known. The sub clans of each such clan have accredited chiefs (Akils) who know exactly the members of their sub clan. For a detailed study of the Somaliland clanship and lineage system, see I M Lewis (1961) *A Pastoral Democracy*, reprinted, IAL. In a largely nomadic society with no birth registration system and, so far, no nation-wide identity card system, there is no other comprehensive way of recognising the identity of individuals. The independent National Elections Commission has announced recently that, for electoral purposes, the first nation-wide local government elections will be used as an opportunity to compile the first ever electoral register in independent Somaliland. It should also be noted that

[20] Presumably regulations issued under Article 13 of the Law will set out the details of the designated forms and of the Citizenship Office.

[21] There are six regions in the Republic of Somaliland, and the Chairman of each region is appointed by the Minister of Internal Affairs and is usually referred to as the Governor or, in Somali, “*badhasaab*” – see Article 12 of the Region and Districts Law (2002), Law No; 23/2002.

[22] For conferment of citizenship, see the following Article 4.

[23] Note also that Article 13 of this Law gives the Minister a general power to issue regulations, which will implement this Law.

[24] Aged 15 years or more.

[25] As this clause treats such persons exactly like aliens, it is not clear why it appears here. The early draft Bill granted citizenship to such persons on the basis of residence of 5 years and did not oblige them to fulfil all the other detailed conditions set out in Article 4. Nonetheless this clause and Article 9 of this Law treat female citizens differently (see also notes 6 & 11 above) and is clearly contrary to the CEDAW Convention. Since CEDAW came into force in 1981, about 10 countries changed their citizenship laws to give women the right to pass on their nationality to children. Other than Tunisia, no muslim country has done so. The 14 countries which lodged reservation to the Convention and declared not to be bound by article 9 of the Convention which states that women will be granted “equal rights with men with respect to the nationality of their children” include Algeria, Egypt, Iraq, Jordan, Kuwait, Lebanon, Malaysia, Maldives, Morocco and Turkey.

[26] This does not include orphans. Illegitimacy is likely to be the main reason why paternity is unknown. Interestingly, the 1960 Somaliland Nationality and Citizenship Ordinance allowed Somaliland mothers to pass citizenship to their illegitimate children (Sections 1(b) and 2(b)).

[27] It is arguable that the clause meets the requirement in Article 7 of the Convention on the Rights of the Child (1989) which asserts every child’s right to “acquire a nationality”. These conditions, however, are the same ones which apply to aliens seeking naturalisation and include residence in Somaliland of a period of no less than 10 years, but, in the case of the “fatherless” offspring (not orphans) of a Somaliland mother, there is a real danger that they will end up stateless prior to fulfilling these conditions. The Convention on the Reduction of Statelessness (1975) allows conditions to be set for acquisition of citizenship in such cases, but enjoins contracting states to grant citizenship where a person is likely to end up being stateless and has either been born in the country (Article 1) or born abroad and one of his parents was a citizen (Article 4). This is reinforced by Article 6 of the African Charter on the Rights of the Child (1999) which asks states to accord citizenship to children born in their country who have not been granted citizenship by another state. In some ways, it is incongruous that a foundling with no parents born in Somaliland is correctly entitled to citizenship under Article 11 but that a child of a Somaliland mother but no father has to go through a naturalisation process to acquire citizenship.

[28] The National Citizenship Committee which as you can see in the following footnote consists only of members of the Council of members, has been given the power to advise the President on conferment of citizenship, as well as on withdrawal of citizenship (see Article 7). Both the President and the Council of Ministers are part of the Executive, and the denial of citizenship can therefore be effected without the involvement of the judiciary. Article 11 of the European Convention on Nationality, for example, states that “Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality contain reasons in writing” and Article 12 states that there should be a review procedure (see note 36 below). It is likely that the Somaliland Supreme Court will accept jurisdiction in any challenges on the basis of its general powers to review administrative decisions.

[29] See Article 94 of the Somaliland Constitution for the Composition of the Council of Ministers. The President who also chairs the meetings of the Council appoints the members of the Council.

[30] In the draft Bill, the National Citizenship Committee members were to be appointed by the Minister of Internal affairs and their term of office was 2 years. But now, as the members of the Committee are also Ministers or Deputy Ministers, the first part of this clause is rather

incongruous. The second part, however, appears to referring, in a coded way, to the desire that the members ought to be representative of the various communities of Somaliland.

[31] Presumably, this refers to the person taking up residence in another country prior to conferment of citizenship.

[32] The first two circumstances (in clauses 1 and 2 of this Article) which could lead to loss of citizenship, apply to all citizens. The last three clauses apply to citizenship gained through conferment (naturalisation). Deprivation of citizenship is a serious violation of human rights unless it is done within the narrow permitted grounds. Article 15(2) of the Universal Declaration of Human Rights states that “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”. The provisions of this Law on loss of citizenship fall very much within accepted grounds for deprivation or loss of citizenship. In deed this does not include the standard provision about deprivation of citizenship for “conduct seriously prejudicial to the vital interests of the state” which although allowed in, for example, the European Convention on Nationality (see para 7(1)(c)) is worryingly liable to be abused.

[33] As Article 2(2) allows dual nationality in respect of citizens by birth, the loss of citizenship or expatriation requires both renunciation of citizenship and acquisition of another citizenship. This clause has implications for Somaliland citizens who take up citizenship of countries that insist on renunciation of previous citizenship in their naturalisation process. A survey in a website on dual nationality ([www.geocities.com/twnwoc/dual-nationality.html](http://www.geocities.com/twnwoc/dual-nationality.html)) suggests that 78 countries prohibit it and a further 37 prohibit it with considerable exemptions; whilst 53 allow dual nationality and a further 16 also do so, but with considerable prohibitions.

[34] The conditions referred to here are those set out in Article 4, but it is unlikely that this clause extends to the conduct of naturalised citizens after the conferment of citizenship, although, like other citizens, they could lose citizenship through clauses 1 and 2 of this Article. Any other interpretation would mean that citizens by conferment would have inferior rights – a concept which is contrary to the equality of citizens enshrined in the Constitution. Fraudulent conduct, false information or even concealment of a material fact in the past would all be covered by these clauses (3 & 4). It is open, therefore, for the State to conclude that either the citizenship was lost as from the date the decision is confirmed in a Presidential Decree or to declare on that date that the person never acquired Somaliland citizenship (void *ab inito*) – The Law is silent on this point, and as the latter may involve more drastic consequences, this point may well need to be addressed in the regulations. Note, however, though, that, other than in cases where citizenship is obtained by “misrepresentation or fraud” or where the state has retained a right to deprive citizenship on set grounds on ratification, Article 8 of the Convention on the Reduction of Statelessness (1975) states that a person shall not be deprived of his citizenship if that would render him stateless.

[35] Book II, Part VII of the Somali Penal Code deals with offences such as false certification by private individuals (Article 372), false statements as to identity (Article 385), “personation” (Article 383) etc.

[36] It is of serious concern that there is no appeal process or judicial oversight of the recommendations of the National Citizenship Committee and the decision of the President. It is possible, however, that the Somaliland Supreme Court will assume jurisdiction under its general powers to review administrative action and decisions. The European Convention on Nationality, for example, makes it mandatory for decisions about citizenship, including applications for naturalisation and, in cases of deprivation of citizenship, to be subject to review – see “Article 12 – Right to a review: Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality be open to an administrative or judicial review in conformity with its internal law.”

[37] See Article 4(1) above.

[38] This important right of passing citizenship to an alien spouse is reserved for male citizens. There is no obligation on the alien wife to renounce her previous citizenship. Similarly, the 1960 Somaliland Nationality and Citizenship Ordinance extended citizenship to any wife of a Somaliland citizen by operation of the Law, but if she was liable to lose her own citizenship by virtue of the marriage, she was still entitled to apply for registration as citizen of Somaliland. Registration under section 5 of the Law involved normal residence for a year, intention to continue such residence and renunciation of former citizenship. The Law was drafted at a time when dual nationality was not widely accepted.

[39] I have translated the act which will lead to the loss of citizenship as “acceptance” rather than “acquisition” because the former word involves a positive act on the part of the female citizen whilst the latter includes automatic acquisition by operation of the law of husband’s country. The Somali word used in this clause is “qaadato” which literally means “take up”. This interpretation is more in line with Article 9(1) of CEDAW which states that “State Parties .... shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife , render her stateless or force upon her the nationality of the husband”. Also Article 5(1) of the Convention on the Reduction of Statelessness enjoins contracting states that where the law entails loss of nationality as a consequence of any change in personal status, such as marriage, divorce, adoption etc, “such loss shall be conditional upon possession or acquisition of another nationality”. Interestingly, in this respect, the 1960 Somaliland Nationality and Citizenship Law stated that loss of citizenship arose “If a woman, upon marriage to a person who at the time of such marriage posses the nationality or citizenship of a foreign state provided that she acquires her husband’s nationality or citizenship by operation of the law of that State.”

[40] This clause is clearly contrary to Article 9(1) of CEDAW (see note 39 above) in that the woman’s citizenship changes automatically with the actions of her husband. There is also a serious danger that the woman may end up stateless if the citizenship laws of the husband’s country of choice do not allow her to acquire that citizenship. Also the obligation on states to avoid creating “statelessness” has become part of customary international law – see, for example, the 1961 Convention on the Reduction of Statelessness.

[41] It is not clear which circumstances this clause refers to, but they are likely to be the ones set out in Article 8(1) and Article 4(1).

[42] The age of majority is set out as 15 under Article 1 of this Law.

[43] See Article 3 for the procedures for confirmation of citizenship, which applies to citizens by birth and, under Article 11, children born in Somaliland but with no known parents.

[44] This is a standard clause in Citizenship Laws and is based on Article 2 of the Convention on the Reduction of Statelessness (1975) relating to foundlings.

[45] The House of Representatives approved this Law on 1<sup>st</sup> March 2002 on a vote of 39 for, 4 against and 10 abstaining.

[46] **Poscript- Note on Somaliland Citizenship and issues of state succession:** As stated in note 1 above, Somaliland’s case is unique in that it involves the re-birth of a state after the dissolution of a union, when at the same time the united state has itself disintegrated. The citizenship of the State of Somaliland existed prior to the July 1960 union (and, for all purposes, technically, continued until the adoption of a common Citizenship Law in 1962). It was then re-asserted, in May 1991 at the Grand Conference of the Somaliland Communities held at Burao, by the re-birth of the same state, which has the same international borders and indigenous population. The Somaliland population (like that of the former Italian Somalia) is uniquely identifiable through the Somaliland clan system, and despite the existence of the union for some

30 years, this clan structure of the population remained the same and was indeed targeted for oppressive and near genocidal treatment during the long brutal regime of the Somalia dictatorship. It is, therefore, understandable that citizenship of the Somaliland Republic is based primarily on descent from persons who were resident in the territory of Somaliland prior to the union, or as Article 1 of the Law states on 26 June 1960, the date of the independence of the State of Somaliland. Other countries also base their citizenship by birth on a descent from persons at an operative date – an example of a nearby country is Article 10 of the Uganda Constitution which bases citizenship by birth primarily on descent from persons who were “*of the indigenous communities existing and residing within the borders of Uganda as at the first day of February 1926*”.

Somaliland has already repeatedly made clear that when the issue of the peace and statehood of Somalia (i.e ex Italian Somalia) is settled by the communities in those territories, it shall be ready to discuss with whatever state/s formed by them matters of concern to both countries, such as issues of succession in respect of the defunct state of the Somali Democratic Republic and future co-operation within the wider Horn and the rest of Africa. So far as citizenship is concerned, the Draft International Law Commission (ILC) Articles on Nationality of Natural Person in Relation to Succession of States consider two situations. The first is where a state is dissolved and ceases to exist and various parts of the territory form two or more successor states, and the other is when part or parts of a territory of a state separate and form one or more successor states while the predecessor state continues to exist. Whilst, many may see the situation of Somaliland as being akin to the latter, it is submitted (as set out above) that neither of these situations apply “on all fours” to Somaliland. As emphasised earlier the case of Somaliland is one of dissolution of a union of two states, with Somaliland re-acquiring its former statehood.

The ILC Articles (see 22 to 26) state that citizenship of successor states in both situations covered by the Articles shall be attributed to persons having habitual residence and persons persons having an appropriate legal connection with it, as well as persons who are not entitled to nationality of any state, but born in or have habitual residence in the territory. Whilst the concept of habitual residence has been used in many countries and was mooted as far back as the 1929 Harvard Draft Convention on Nationality (article 18b), it is by no means the only relevant criterion. The European Convention on Nationality (in Article 18) recommends that “*in deciding on the granting or the retention of nationality in cases of State succession, each State Party concerned shall take account in particular of: a) the genuine and effective link of the person concerned with the State; b) the habitual residence of the person concerned at the time of State succession; c) the will of the person concerned; d) the territorial origin of the person concerned*”.

Some of these other criteria have been used as the basis for defining core citizenship in constituent states after dissolution of a union. Examples of such dissolved unions abound (the United Arab Republic, Cape Verde & Guinea-Bissau etc), but a recent one was the separation of Singapore and Malaysia, whereby Singapore re-asserted its citizenship. Also in Eritrea, another country which was a separate state before its annexation by Ethiopia, Article 3 of the Eritrean Constitution bases citizenship primarily on birth to an Eritrean father or mother. In basing citizenship primarily on descent, and making a provision for aliens to naturalise on the basis of habitual residence, the Somaliland Citizenship Law is therefore not out of step with international law and practice. The question as to whether some special provision should be made for persons residing in Somaliland and who are entitled to citizenship of Somalia (ex-Italian Somalia) because of descent through the Somali clan system and hence through territorial origin is one that will be addressed when one or more peaceful state/s arise out of the Somalia. In the mean time, the Somaliland Government already accords all ethnic Somalis (be they citizens of the Republic of Djibouti, the Federal Republic of Ethiopia or Somalia) preferential status in travel to and residence in Somaliland, but this Law will ensure that, with the coming elections, citizenship of Republic of Somaliland is clearly defined again.

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