

Ending Somalia Election Stalemate and Averting Government Shutdown.

Executive Summary

March 15 election deadline is fast approaching and will surely be missed as over 50 MPs seats are remaining to be elected. After repeated delays, the election of the 54-member Upper House was concluded in November 2021 and as at 10th March, 222 MPs of the 275-member House of the People were elected. The election process is still going on after nine months and no end date. Because these delays, Somalia is facing political and constitutional crisis and uncertainty looms amid severe draught in many parts of the country, increased insecurity and imminent risk of government shutdown.

To end Somalia election stalemate and averting government shutdown it is recommended to inaugurate both houses of the Parliament without further delay so that they can elect their respective speakers, adopt an interim National Budget and elect president. The National Consultative Council to urgently meet to find a political solution to the Gedo crises.

Introduction

March 15 marks yet another election deadline that will surely be missed.

The parliament and the president mandates expired on 27 December 2020 and 8 February 2021 respectively. The long, drawn-out process of achieving consensus on the electoral model has eaten up much of the time needed to prepare for the 2021-22 elections.

After repeated delays, the election of the 54-member Upper House started in July 2021 and concluded on 13 November 2021. The process took over four months to conclude and after almost five months senators are yet to be sworn.

Elections for the 275-member House of the People commenced on 1 November in Mogadishu, more than a year after its original set date, and is taking close to five months to conclude. As at 10th March, 222 MPs were elected. The prolonged delay to conclude election, caused by Somali leaders who deliberately withhold seats for political bargain, is having huge ramification for the country's future.

Somalia, a country transitioning to a statehood, is facing political and constitutional crisis after leaders have failed to conclude country's elections, uncertainty looms amid severe draught in many parts of the county, increased insecurity and imminent risk of government shutdown. Somalia is stuck in a fragility trap and current election crises is a huge setback to country's state building agenda.

On the other hand, Somalia is still trying to establish a viable democratic governance systems with functioning parliamentary system and credible elections to fulfil its citizens' aspirations. Somalis also hoped to get leaders who will respect the constitution and enhance the government capacity to deliver services to its citizens. Many observers acknowledged the ongoing election process dims that hope. Current election is marred by widespread procedural irregularities, lack of transparency, intimidation and corruption. At best it can be described as "a show election" where candidates cherry-picked by the FMS leaders and most of the seats were not contested.

To end the stalemate, in this Policy Brief we look first at what is at stake for the country, share 2012 experience in terms meeting election deadline and tackling the Gedo dispute and then conclude with a set of recommendation which we hope will contribute the debate about the way forward beyond 15 March deadline.

Why We Need To Proceed With Parliament Inauguration

The following are justifications for swearing in UH senators and MPs immediately and kick-starting elections for speakers of both houses without further delay;

1. Somalia is facing one of the most severe droughts in decades following three consecutive failed rainy seasons. Around 7.7 million Somalis require humanitarian assistance this year, with 4.3 million impacted by extreme drought and more than 270,000 displaced.[1]

2. Somali people are deeply frustrated by the endless political infighting, protracted election and rigged election. They would like to see this process concluded and a new government formed urgently.

3. According to the PFM Act, the Federal Parliament is responsible for approval of the annual national budget by December 31 of each year. If the National Budget is not approved before the start of the financial year, the Act allows the previous year budget to be used temporarily for three months.[2] This means the Government faces shut down after 30th March.

4. The IMF three-year financial assistance package of \$395.5 million is due for a review in mid-May, but a new administration may not be in place in time to endorse planned reforms. IMF warned of automatic lapse of the IMF-supported program, which would jeopardize disbursement of budget grants and derail the timing for full debt relief at the HIPC Completion Point.[3]

5. The security situation remained volatile. Al-Shabaab emboldened by the ongoing political instability, the transitioning AU mission in Somalia and the Taliban's success in Afghanistan, has increased its attacks recently. Al-Shabaab continued to carry out targeted attacks through suicide bombings with a 17 per cent increase in the group's activities compared with in 2020.[4]

6. AMISOM's mandate in Somalia will end March 31, 2022 and will start transitioning to the African Transition Mission in Somalia (ATMIS). The time frame and Concept of Operations (CONOPs) for the new mission will be adopted by the AU Peace and Security Council later this month. Somalia new ATMIS needs urgently to work together new FGS on the transition and on the country's future security arrangement.[5]

7. The election of the members of the Upper House was concluded in November 2021. They have not been sworn as they have been waiting for almost five months for the election of the members of the lower house to be completed.

8. The Parliamentary Rules of Procedure states that parliamentary sessions can take place if they are present two thirds of the MPs. As at 10th of March, 222 MPs have been elected, which is equivalent to 80.7% of the total number of MPs which is more than the required quorum. .

9. Somali people are being devastated by the coronavirus. The pandemic aggravated existing economic and human challenges. Only 6% of Somalia population are currently fully vaccinated.

10. Recently the food inflation has shot up, in part because of bottlenecks due to pandemic and Ukraine-Russia war. Lockdowns, border closures, and social distancing led to localized supply disruptions and put pressure on food prices.

11. International Community repeatedly warned Somali stakeholders to meet election deadline. Despite the US threat of visa restrictions, the deadlines are keep on being missed.

12. Lastly, the holy month of Ramadan is on the corner.

[1] OCHA. Somalia: 2022 Drought Impact Snapshot. 9 Mar 2022.

[2] Somalia PFM Act 2019 Article 17 and 22.

[3] IMF Staff Completes Virtual Mission to Discuss the Second and Third Reviews of the Extended Credit Facility to Somalia. March 7, 2022

[4] Security Council resolution 2592 (2021). 8 February 2022

[5] The East African. Somalia enters transition as Amisom gives way to ATMIS. March 06 2022

Lessons from 2012 Election

The TSC and Its Role in Ending the Transition in 2012.

In this section we examine the end of the Somali political transition in 2012, when on August 20, 2012, a 275-member parliament was constituted, which subsequently elected a president on September 12 of the same year.

The selection protocol were signed on June 22, 2012 and the UN and Somali politicians created a Technical Selection Committee (TSC) consisting of twenty-seven members. It was tasked with the responsibility of vetting the nominees to the parliament with the deadline of establishing the Federal Parliament by August 20, 2012.

The TSC's task was monumental despite the lack of adequate time, funding, facilitations, and direction. This committee was designed to function as an election commission According to the protocol, the tasks of the TSC were:

- 1.To establish and publish the legitimate list of the 135 traditional leaders
- 2.To receive and vet the 825 delegates of the National Constituency Assembly approve the constitution, and
- 3.To receive and vet the 275 nominees for the new federal parliament.

The first problem was the time factor; the publication and vetting of delegates was completed within a month. With less than twenty days left for the completion of the Federal Parliament on August 20, 2012, the TSC faced its most daunting task of vetting candidates in a highly politicized Mogadishu environment. The most dangerous challenge that the TSC faced was the operationalization of the criminal history clause to tackle impunity in Somalia. A number of candidates with criminal history were rejected and the list of the rejected candidates created a huge controversy and risk to derail entire process.

On August 17, 2012, the TSC published the names of 202 MPs, excluding the rejected list, which made meeting the August 20 deadline a reality. However, on the morning of August 20, access to all possible venues to the use for the swearing in of the MPs were blocked citing issues of security. The TSC and UNPOS decided to hold the swearing-in ceremony at the Mogadishu airport grounds using a makeshift theatre by bringing chairs and tables into the parking lot. The federal parliament inauguration ceremony began around five o'clock in the afternoon and continued until well after dark, flashlights and car lights were used until it ended around nine o'clock. On August 28, parliament elected its speaker. The rejected candidates did not take part in the parliamentary election. As the pressure mounted, on the morning of the presidential election on September 16, 2012 the members of parliament adopted the motion to include the rejected candidates and allow them to be MPs, and swore them in immediately.[6]

Decisions taken in 2012 can be applied now to avert the country going into deeper crises. Political stakeholders need to weight the country's future and the desire of the Somali people against endless political infighting. Bold decisions are needed to end the impasse and have a roadmap with firm timeline to quickly conclude the remaining stages of the 2021-22 elections.

[6] The End of Transition in Somalia. Abdulahi A. Osman (JOSS) Volume 2, Numbers 1 & 2, 2015, Pp 99-126

Gedo Issue

A major bone of contention involved the current electoral process in Gedo. As the elections nearing finish there is still no consensus on how to deal with the Gedo issue. Jubaland President stand is to hold elections in another constituency within Jubaland whereas President Farmajo insist that the September 17 agreement be implemented. To avoid further delays stakeholders need to find a political solution to Gedo issue.

Gedo constituency has constitutional right to be represented and take part the election process of the speakers of both houses and the president. Regretfully, Gedo crises is manufactured by leaders not for the interest of the Gedo people but for their own political gain. Therefore dilemma for the National Constituency Council is ascertaining rightful representation the Gedo people while they have to end the protracted election which put the country in limbo.

Another lesson from 2012.

One of the most contentious issues in the 2012 elections was the controversy over who would nominate the eight (8) Dhulbahante MPs. The Puntland Administration wanted traditional elders in Garowe to have the nomination rights while TFG supported the elders in Mogadishu.

Under the auspices of the United Nations Special Representative for Somalia, late Augustine Mahiga, the Principal Signatories of the Roadmap met in Nairobi on 4-5 August, 2012 to resolve the Dhulbahante dispute. They agreed on the following:

The 8 Dhulbahante MPs will be 3 and 5, chosen respectively, by the Dhulbahante elders who came from Garowe and those who stayed in Mogadishu. The elders of the two groups will get together in Mogadishu to consult and agree on the list of eight MP nominees and collectively sign the list of the agreed nominees and submit them to the Technical Selection Committee. [7]

The Gedo dispute is similar to that of the Dhulbahante issue in 2012. The dispute is political rather than election process or security. Therefore it requires bringing both sides together to facilitate a political solution.

[7] Communiqué Consultative Meeting of the Somali Signatories of the Process for Ending the Transition Nairobi, 4-6 August 2012.

Recommendations

- Under the auspices of the United Nations Special Representative for Somalia, James Swan, the National Consultative Council to meet in Mogadishu to find a political solution to the Gedo dispute.
- To swear in senators of the Upper House immediately and proceed with the election of Upper House speaker.
- FEIT to publish the list of 222 MPs already elected without delay (not including seats with active dispute). Then proceed with Parliament inauguration in order to elect a new Parliament speaker.
- The New Parliament first order of business to adopt an interim National Budget in order to avert government shutdown.
- Presidential election to be concluded in April to allow FGS to commit IMF reform agenda and engage ATMIS on country security arrangement.
- International Community to hold the National Consultative Forum members and the President accountable for any further delay and to publicly sanction individuals who tries to derail the process directly or indirectly.

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