

Somalia Election Crises: A State-Building Opportunity or the Beginning of State Disintegration



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Acronym

CPC	Council of Presidential Candidates
FEIT	Federal Electoral Implementation Team
FIEIT	Federal Indirect Electoral Implementation Team
FGS	Federal Government of Somalia
FNP	Forum for National Parties
FMS	Federal Member States
NLF	National Leadership Forum
NCF	National Consultative Forum
NIEC	National Independent Electoral Commission
LNF	Leadership National Forum
OPOV	One-Person, One-Vote
SEIT	State Electoral Implementation Team
SIEITs	State Indirect Electoral Implementation Teams
SNA	Somali National Army
SRSG	Secretary General for Somalia
TSC	Technical Selection Committee

Introduction.

Somalia, a country transitioning to a statehood, is facing political and constitutional crisis after leaders have failed to break a deadlock over the country's elections, uncertainty looms that could trigger widespread violence. The parliament and the president mandates expired on 27 December 2020 and 8 February 2021 respectively. As a consequence, the current government mandate ended without organizing election and election talks between Federal Government of Somalia (FGS) and Federal Member States (FMS) collapsed. Without an agreement on the electoral process and with no competent institutions in place to manage the simmering political dispute, Somalia is stuck in a fragility trap and current election crises is a huge setback to country's state building agenda.

President Mohamed Abdulahi Farmajo accused the regional leaders and foreign entities over the impasse and told parliament in an emergency meeting on 6th February 2021 (two days before end of his term). He insisted that he will remain president until a new election date is agreed upon. Somalia's opposition leaders say President Farmajo had four years to organise an election but he failed to do that and they no longer recognise him as President. They accuse the President of deliberately sabotaging the electoral process to ensure his stay in power. The international partners warned that Somalia risked entering uncharted territory and called for Somalia's leaders to resume their dialogue urgently and

reach consensus on the arrangements for the conduct of inclusive elections.

In the absence of any mandated or capable judicial institutions, the only constitutional provision that seemed to matter was the term of four years for the Federal Parliament and Government. The timely organization of the election became more important than the finalization of the Provisional Constitution and the Somali state-building process. This led to a vicious cycle of repeating indirect elections, in 2016 and in 2021, which contradict the constitutional order and thereby undermine the whole idea of reinstating constitutionalism and rule of law in Somalia.

To avoid power vacuum and avert violence, it is paramount to critically analyse current situation and develop legitimate options with clear road map and deliverables that is acceptable to all stakeholders. In this paper it is divided into four sections; firstly we review how the current crises developed, secondly we briefly analyse Somalia stakeholders, thirdly we take stock of past transitions and how it was managed and lastly we put forward number of possible options with recommendation.

The Making of the Current Crises.

According to Article 91 of the Somalia Provisional Constitution the term of the President is four (4) years, starting from the day he takes the oath. President Farmajo was sworn in on the 8th February 2017. Hence, President Farmajo government was mandated to advance Somalia state-building efforts; prioritizes the passage of a permanent constitution, the establishment of a federal governance system, and the holding of popular elections. For more than three years, Farmajo's administration was vowing to hold a one-person, one-vote (OPOV) election – an ambitious goal of holding its first “one-person, one-vote” ballot since 1969. The UN and Western donors pressed the Farmajo government to move towards a OPOV system for 2020-2021¹, in part to address suggestions that indirect voting had opened up the 2016-2017 elections to manipulation and corruption. However, it was clear right from the onset that OPOV was largely not viable due to prevailing political and security conditions.

In February 2020, President Farmajo signed an electoral law that was passed by both houses of parliament after nearly two years of negotiations. The adoption of the 2020 Elections Law in February 2020 was hailed as milestone. Unfortunately, it failed short of providing a workable electoral framework to conduct such direct elections later in 2020. Fundamental questions, such as the distribution of electoral constituencies for both Houses (Parliament and the Upper House), women representation, the representation of Somaliland and of Benadir in

both Houses were unaddressed. For that reason, a Joint Ad Hoc Committee was established by the

Federal Parliament to resolve those outstanding issues of the 2020 Electoral Law. At that point, however, it remained highly questionable though, that this Joint Ad Hoc Committee would come up with workable solutions. Key stakeholders, including some FMS, rejected the law as unimplementable. For months, President Farmajo insisted that a OPOV election was implementable, despite mounting evidence that lack of preparations and the absence of political consensus among key stakeholders was making it impossible to realize a universal suffrage election by early 2021. Worsening health crisis caused by the Covid-19 pandemic added another dimension to the dilemma the Federal Parliament was facing, which already resulted in an extension of the recess until end of May 2020.

According to Article 13(3) of the 2020 Electoral Law, the National Independent Electoral Commission (NIEC) is to set the date for the election 180 days before the election and time was running out to come up with viable and agreeable solutions. In June 2020, the NIEC announced that the committee couldn't organize OPOV election by the end of the mandates of the parliament and the president (27 November 2020 and 8 February 2021 respectively). NIEC cited the political crisis, insecurity, COVID-19 and humanitarian disasters as key factors scuttling OPOV elections.

Neither the universal suffrage election promised by the government nor an alternative modality was in place, and only a few short months remained from the constitutional mandates of the federal parliament and the president. International partners started exerting pressure

¹ [https://undocs.org/S/RES/2472\(2019\)](https://undocs.org/S/RES/2472(2019)), UN: Security Council Press Statement on Elections in Somalia. 28 February 2020.

on FGS and FMS to find common ground. By late June 2020, leaders of the FGS and the FMS began meeting in Dhusamareb, the capital of Galmudug state and discussed how to create a workable electoral model. After over one week of negotiations, the FGS and FMS agreed on an outline of an indirect electoral modality that was broadly mirrored the 2016 elections. Both Somalis and international partners hailed the agreement as a major breakthrough. However, President Farmajo wasn't happy as he felt that prime minister Hassan Ali Khaire had conspired against him.

On 25 July 2020, a day after Dhusamareb meeting ended, Somalia's parliament has an expectedly removed Prime Minister Hassan Ali Khaire by a vote of no confidence accusing him of not enough progress had been made on election planning.² Puntland and Jubaland sharply criticized the move as a ploy by President Farmajo to undermine the Dhusamareb agreement and demanded that President Farmajo urgently appoint a new prime minister. Instead President Farmajo invited FMS leaders to Mogadishu to finalize the Dhusamareb agreement. After pressure by international partners, the FMS leaders came to the capital in early September and the FGS and FMS signed an electoral agreement, known as the 17 September Agreement. The new agreement reduced the number of electoral delegates from 301 to 101 and gave substantial powers to the presidents of FMS to select the electors.

Disagreements over the implementation of the 17 September Agreement came to fore when the FGS appointed the Federal Electoral Implementation Team (FEIT). Puntland, Jubaland and an opposition umbrella group, made of presidential hopefuls, rejected it - they alleged that FEIT members are drawn from the office of the president, security agencies and the diplomatic

corps. Other points of contention have also arisen. The speaker of the Upper House, Abdi Hashi Abdillahi, rejected the FGS-appointed electoral management body for Somaliland's parliamentary seats. Further contributing to the unraveling of the agreement is how to handle the 16 parliamentary seats allocated for Gedo province in Jubaland state.

On January 9 2021, FGS (along with Southwest, Galmudug and Hirshabele states) declared that unilateral elections would be held, excluding Puntland and Jubaland. The opposition groups on their part threatened to start a parallel process. Somalia's donors ruled out both partial or parallel elections and urged the FGS and FMS to resolve the election impasse.³ FGS and FMS held emergency talks over election crisis in Dhusamareb on February 3, 2021.⁴ Stakeholders failed to compromise on the contentious issues chiefly Gedo crises. President Farmajo left the meeting without agreement and accused the regional leaders and foreign entities over the stalemate in an emergency parliament meeting on 6th February 2021. He also said he will remain president until a new election date is agreed upon. Puntland and Jubaland states and the opposition groups declared that President Farmajo term has ended and they would not consider him as a president.

On 19 February 2021 Somalia witnessed unfolding chaos in the capital (Mogadishu) after demonstrators led by opposition leaders had been attacked by the government forces. The violence, which followed fighting overnight, is a flash point in a deteriorating political situation in Somalia.

² <https://www.aljazeera.com/news/2020/7/25/somalias-parliament-votes-to-remove-pm-hassan-ali-khaire>

³ <https://unsom.unmissions.org/international-partners-urge-resolution-electoral-impasse>

⁴ <https://www.dw.com/en/somalia-holds-emergency-talks-over-election-crisis>

Why Election Contentious Issues Matter?

1. Somaliland is not part of the current federal arrangement. The region has a total of 46 MPs in Somalia's 275-member Lower House and 11 in the 54-seat Upper House. Lawmakers from Somaliland, including the senators are elected in Mogadishu. The presidential candidate who has Somaliland's backing stands a good chance of being elected president. State Electoral Implementation Team (SEIT) for the Somaliland parliamentary caucus are appointed by the FGS prime minister for procedural reasons. The Somaliland SEIT members were selected and proposed by the deputy prime minister, Mahdi Guled, who is the highest executive official from Somaliland, he is also close ally of President Farmajo. Upper House Speaker Abdi Hashi Abdillahi, who is the highest elected Somaliland official in Somalia, argued that he should have a say in the appointment of the Somaliland SEIT.
2. Gedo is part of the Jubbaland administration and shares a border with Kenya. It's also one of the two places in the Jubbaland that is planned voting to take place in the upcoming parliamentary selection. Out of the designated 43 seats for Jubaland, 16 were to be picked in Gedo. The 16 seats in Gedo are potential swing votes that could decide who occupies the presidency. Jubbaland president Ahmed Madobe insists that there will not be an election until the Somali FGS forces that were deployed in this region in 2019 withdrawn. But the FGS insists that these forces are necessary in guarding the border towns with Kenya.
3. Presidential candidates have rejected the electoral committees, the Federal Electoral Implementation Teams (FEIT), appointed by FGS and demanded a neutral body to oversee a fair and free vote in Somalia. The Council of the Presidential aspirants accused Farmajo of appointing intelligence officers and other loyalists in key federal and regional poll bodies in a bid to influence the upcoming elections in his favour. They have vowed to boycott the upcoming elections if the government leaders fail to accept their demand for an inclusive and transparent electoral process. Somalia's international partners have expressed deep concern about the ongoing disagreements and urged stakeholders to resolve concerns about the management of the electoral process through consensus-building.⁵
4. In January 2021 President Mohamed Abdullahi Farmajo has signed resolution allotting 13 seats at the Upper House to Banadir Region which encompasses the capital Mogadishu into law. Incumbent president's support to Mogadishu representation in the Upper House, it seems a purely political agenda for 2021 elections. As the resolution requires constitutional amendment and Benadir's status must first defined and enshrined in the constitution before assigning seats.

⁵ Daily Nation, Somalia's Opposition Calls For Dissolution Of Electoral Teams. 27 November 2020

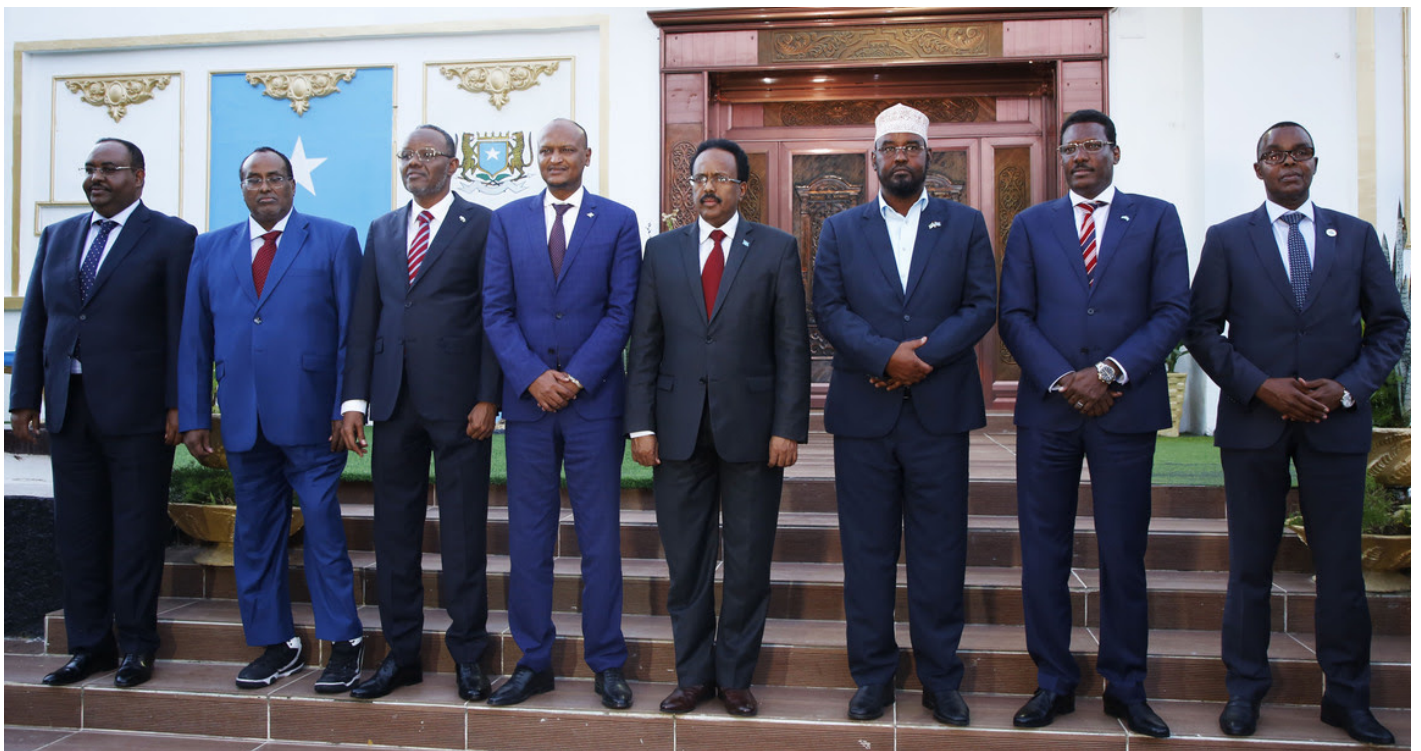
Somalia Political Stakeholders.

President Mohamed Abdulahi Farmajo.

President Farmajo is running for a second four-year term, and the difficulty of agreeing on a process highlights the low levels of trust the Somali political stakeholders have that the FGS is committed to a free and fair process. President Farmajo's installation of compliant allies in leadership positions in three FMS was aimed to improve his prospects for re-election and thus his quest to centralise power. President Farmajo is relying on what Alex de Waal described about African leaders - the standard playbook for an African president in these circumstances is to use the instruments of coercion—army, intelligence and police—along with the de facto international recognition of the resident of state house, simply to remain in office.⁶

FMS Relevance in the Federal Elections.

Tensions between FGS and FMS have dominated the run-up to the parliamentary and presidential elections in 2016 and 2021 exacerbating clan-related cleavages and perpetuating the country's fragility. The introduction of federalism as a system of government in Somalia allowed the different clans to set up their own administrative units through an ad hoc process rather than constitutional implementation. Thus FMS are yet to be fully and legally recognized as the Constitution requires. FMS leaders are potentially antagonistic to the FGS due to unresolved questions over power and resource sharing between FGS and the FMS.



⁶ LSE. Alex de Waal: Somalia's Disassembled State. Feb 9, 2021

When President Farmajo took office he dismantled the National Leadership Forum – the only platform created in 2015 that FGS and FMS used to discuss national issues. He was then engaged in a precarious, costly and futile political fistfight with all the FMS since 2017. Between 2017 and 2020, state parliamentary and presidential elections were to be held in all five FMSs, and the FGS tried to influence these state level elections so as to get more political allies elected, who would support the FGS's position in terms of federal governance and state-building. He replaced three south-central state leaders with his allies to control the federal electoral.

Friction over power and resource sharing between FGS and FMS has damaged their cooperation on security arrangements, completion of a provisional constitution and elections.

As a result, again, major state-building issues remain unresolved, the constitution an unfinished job and Somalia is heading towards the next indirect election to be held through clan-based electoral colleges. The current election stand-off is merely a repeat of the 2016 debacle. No lessons were learned and nothing has been done to improve the Somali election structures and processes. It is important to understand dynamics of each FMS in relation to the current political gridlock.

Puntland

Puntland state was created on August 1, 1998. Since it was established before the FGS, Puntland considers itself as the only fully-fledged FMS in Somalia. Thus, notwithstanding its squabbles with Mogadishu, Puntland has been probably the most influential actor in the Somali political dispensation. Puntland is mature administration and therefore asserts itself to secure its interests

within the federation – for instance in 2016 Puntland secured lion share of the Upper House with extra three seats - in contrary to the Constitution which stipulates that all FMS to have equal number of upper house seats. However during President Farmajo term Puntland role has diminished which led Puntland President Said Deni accusing the FGS of violating the country's constitution and plans to destroy the federal system.⁷ The President Farmajo in turn accused Puntland of scuttling an earlier deal to hold indirect parliamentary and presidential elections.⁸

Jubaland

The creation of Jubaland was marred with controversy as it was IGAD led process without much local community involvement or FGS. Jubaland is the only FMS which has a stable leadership. Since its creation in 2013 it has only president though elections were held three times. Jubaland also has good source of income enabling them not to be dependent on FGS. The relationship between Jubaland and the FGS has been acrimonious since the 2019 presidential election when the incumbent (Ahmed Madobe) was reelected and in response the FGS deployed federal forces to Gedo to dislodge the Jubaland-appointed local administration and replace it with one aligned with President Farmajo. Now Gedo become a contentious national election issue - Jubaland state objected to holding polls in the contested Gedo region. The frictions in Gedo reflect political fault lines that cut from national politics down to local clan tensions and constitute a major source of instability for Somalia.

Control of Jubaland has long been and will likely remain contentious. Its port of Kismayo is one of Somalia's largest cities and a much sought-after

⁷ <https://menafn.com/1099673780/Puntland-President-Gravely-Accuses-President-Farmajo-of-Hijacking-Somalia-Federal-System-For-Own-Ends>

⁸ <https://www.theguardian.com/world/2021/feb/06/somalia-leaders-fail-to-reach-deal-on-elections>

asset. President Ahmed Madobe and President Farmajo hail from two different clan groupings that have contested power in the region for decades. Ahmed Madobe belongs to Ogaden clan

and has struggled to gain acceptance among many Marehan in the Gedo region. Divisions also exist within the Marehan, between those identified as Guri (original inhabitants) and Galti (newcomers). This division is reinforced by Farmajo's background as a *Galti* Marehan, while Ahmed Madobe has tended to favour *Guri* Marehan politicians, appointing many to official positions including Jubaland Security Minister Abdirashid Janan and Jubaland vice president Mohamud Syed.⁹ Hence, for President Farmajo, Gedo is a personal issue. He intended to administer the region directly from Mogadishu and ensure the election of loyalist MPs from his own clan.¹⁰

Southwest

Since late 2018, Southwest become an outpost of FGS after President Farmajo's nephew, Abdiiaziz Laftagareen, ascended to the top seat under sham election on 19 December 2018. The election process was marred with corruption and bloody violence following the arrest of front runner candidate Mukhtar Robow who is still in custody without trial.¹¹ FGS expelled the UN head in Somalia, Nicholas Haysom, after he had raised human rights concerns around government actions in Baidoa.¹² On 1 April 2020, the Southwest state parliament elected Dr. Ali Said Faqi as its new speaker. A former Somali ambassador to the EU, Faqi is also a close ally of President Farmajo whom he worked for as interim chief of staff and a special envoy. President Abdiiaziz Laftagareen not only is already

favourably inclined toward Farmajo, but he looks to Mogadishu for financial support. And with the election of Ali Fiqi as speaker, the state's leadership is considered to be the state most aligned with President Farmajo.

Southwest is very significant for any potential presidential candidate as it is determinant factor for presidential election outcome. A total of 77 federal members of parliament and 8 senators are elected from Southwest, the largest of any state. For that reason with the help of Ethiopian forces in Baidoa controlling the election venue, President Farmajo is banking on Southwest leadership for his re-election bid. With the end of President Farmajo's legal term, President Laftagareen is likely to face increased internal political challenges.

On the other hand, the region is the most blockaded region in the country and the roads in the region are full of road-blocks that continue to hinder both the economic and physical security of the people. Air transport is the only means of transport. Barawe is one of venue allotted federal election to be held. However, since it was liberated from Al-Shabab in 2018 it remained inaccessible. To date there is no regular commercial flights servicing Barawe making it almost impossible to contest in such place without getting FGS or Southwest administrations' "*helping hand*". 2016 elections was marred by staggering corruption¹³ and Southwest witnessed one of the most fraudulent political events in Somalia's history. Judging by his imperial acts in the past two years, President Laftagareen is likely to do President Farmajo bidding through corruption and intimidation.

⁹ Ending the Dangerous Standoff in Southern Somalia. Crisis Group Africa Briefing N°158, 14 July 2020

¹⁰ ECFR: Somalia's election impasse: A crisis of state building. 16 February 2021

¹¹ <https://www.voanews.com/africa/somali-region-gets-new-president-after-deadly-election-campaign>

¹² Human Rights Report Somalia Events of 2019

¹³ The New York Times. Fueled by Bribes, Somalia's Election Seen as Milestone of Corruption. Feb. 7, 2017

Galmudug

The Galmudug state elections took place in February 2020. The election was rigged in favor of a federal state minister, Ahmed Abdi Karie (Qoorqoor), was elected as the president of Galmudug, forcing his rivals to boycott the polls. After military standoff, in February 2020, Ahlu Sunnah wal Jama'ah, who have for many years wielded power and influence in Galmudug, have surrendered to FGS forces in Dhusamareb and announced their withdrawal from the region's politics.¹⁴

Galmudug hosted series of consultative meetings between FGS and FMS but President Qorqor attempt to reconcile FGS leadership and opposition groups have failed. President Qorqor is likely bend in Farmajo's direction but deteriorating security situation and strong clan dynamics in Galmudug makes him very vulnerable. Alshabab have recently increased their attacks in parts of Galmudug. It is important to note that most of President Farmajo vocal critics and former prime minister Hasan Ali Kheyre all have local influence in Galmudug while President Farmajo constituency also is in Galmudug – making Galmudug potentially one of the most contested state.

Hirshabele

In November 2020, another ally of the FGS leadership, Ali Abdullahi Hussen (Ali Guudlaawe), was installed as the president of Hirshabelle largely uncontested becoming the 3rd president Hirshabelle to have since its creation in 2016. However, tension is building up in Hiiraan region following mobilization of forces by an armed faction opposed to the newly elected government in Hirshabelle state. There was expectation based on clan arrangements that a new president would

be from Hiiraan region.¹⁵ Jowhar the provisional capital of Hirshabele and home of many presidential candidates with strong local influence making President Guudlawae very vulnerable. Therefore it is not easy for FGS to coercively influence the elections without major repercussion for President Guudlaawe. On the other hand Djibouti contingent of AMISOM based in Hirshabele will unlikely support Guudlaawe if he attempt to rig election in favour of President Farmajo.

Somalia Legislative Assembly.

The 2012 provisional constitution establishes bi-cameral legislative branches: House of the people with 275 members based on the clan formula of 4.5. The second, which is the Upper House, was formed in 2015. Parliament has full lawmaking powers including election laws. Working relationship between the two houses and their relationship with the executive are very important in terms of seeking solution to the current political deadlock.



The House of the People

Article 47 of the Constitution stipulates the regulations concerning elections at the Federal Government level shall be defined in special laws enacted by the Parliament. The House of the

¹⁴ <https://www.somaliaffairs.com/news/leaders-of-somalias-ahlu-sunnah-armed-group-surrender-to-govt>.

¹⁵ https://www.hiiraan.com/news4/2020/Nov/180810/tension_in_hiiraan_as_faction_masses_forces_against_new_hirshabelle_government.

People effectively gives it oversight powers over government activities, which in turn ensures that the government remains accountable and answerable for its actions before parliament. The battle between the presidency and Parliament taps into a longstanding fight between Somalia's government institutions, a struggle that is likely to continue.

To undermine Parliament oversight role, President Farmajo tried to remove Somalia's Parliament Speaker, Mohamed Osman Jawari, through intimidation and illegal voting tactics.¹⁶ On April 8, 2018 Speaker Jawari resigned sparing the country of the weeks of armed standoff that threatened to descend into violence.¹⁷

President Farmajo emboldened after a proposed impeachment motion against him was shelved on December 20, 2019 following backroom deal with parliamentary speaker Mohamed Mursal.¹⁸ Since then Parliament and the executive become entwined.

Learning lessons from 2016 election preparation, the Parliament committed not to be sidelined this time around for all decisions related to the 2020/21 elections. First order of its business was dealing with NIEC which had strong international partners packing and was very vocal against indirect elections.

On June 28, 2020 the chairperson of NIEC, Halima Ismail Ibrahim, has told the parliament that upcoming parliamentary and presidential elections will not take place on time, as scheduled. Ibrahim says the biometric registration necessary for holding popular election as stated in the

electoral law cannot be completed in time. She said this type of election could only take place in 13 months starting from July 2020 and ending by August 2021. But the move to postpone the election earned swift denunciation from the country's main opposition umbrella calling on the electoral commission to resign for failing to hold the election on schedule. In a statement, the Forum for National Parties (FNP) accused the NIEC of collaborating with the current government on term extension.¹⁹

In August 2020 President Farmaajo, in a speech in Parliament, stated that the Parliament would look over any electoral agreement before it comes into full effect. This means that, by default, for any deal to have legitimacy, it needs parliamentary approval. On 26 September 2020 Somalia's parliament approved the electoral model reached by FGS and the five FMS, paving the way for an indirect election.²⁰

Parliament has secretly extended its term, though there have been no reports of sessions held or votes casted to extend the legislative body's term for further one year (till December 2021). Parliament speaker Mohamed Mursal had earlier said MPs will continue serving, even if their terms expire, until 11th parliament is sworn in.²¹

To overcome 2021 election crises, both opposing groups (President Farmajo and opposition groups) looked to the parliament as their first choice. President Farmaajo hoped that the legislature would grant him a term extension until elections can be held while the opposition has pressured Speaker Mohamed Mursal to take the helm as an acting president

¹⁶ https://www.hiiraan.com/op4/2018/apr/157847/a_failure_of_epic_proportion_or_boil_the_frog_politics_somali_political_discours

¹⁷ <https://www.nytimes.com/2018/04/09/world/africa/somalia-parliament-speaker.html>

¹⁸ Oxford Analytica (2019), "Somalia's emboldened president will remain embattled", Expert Briefings.

¹⁹ <https://www.voanews.com/africa/somali-elections-wont-take-place-schedule>

²⁰ <https://www.theeastafrican.co.ke/tea/news/east-africa/somalia-parliament-endorses-delegate-voting-2373528>

²¹ <https://medium.com/@thebluestars/parliament-secretly-extends-terms-4045e1bfd2e5>

in line with the provisional constitution. Both sides have so far been disappointed.²²

The Upper House

Upper House representing the interests of FMS is supposedly to compose of an equal number of delegates from each member state. No doubt, it plays a critical role in the Somali political spectrum. Meanwhile, the process of electing the upper house members is similar to 2016 whereby respective state parliament will select who will represent that state in the upper house.

The Upper House has been very ineffective since it was first added to the legislative body in 2016. Yet, it was a significant bargaining platform throughout the successive dialogues between the FGS and FMS. The Speaker of Somalia's Upper House of Parliament, Abdi Hashi Abdullahi, has repeatedly accused President Farmajo, of violating the constitution and disregarding the role of the Upper House.²³ On November 4, 2020 the Upper House Speaker Abdi Hashi has opposed the appointment of an electoral commission by the FGS.²⁴

On the other hand, the cooperation between the Parliament and the Upper House for the 2016-2020 period was lukewarm. This is mainly ambiguous nature of the Upper House role in the Provisional Constitution and political savvies of FMS leaders which made the role of the Upper House redundant.

The Parliament has constitutional relevance to seek solution to the current political gridlock in order to avert the Country from going into deeper crises.

²² <https://ecfr.eu/article/somalias-election-impasse-a-crisis-of-state-building/>

²³ <https://www.somaliaffairs.com/news/somalias-upper-house-speaker-accuses-president-of-violating-constitution/>

²⁴ <https://www.radiodalsan.com/en/2020/11/05/upper-house-speaker-rejects-the-appointment-of-the-new-electoral-committee/>

Opposition Groups.

In December 2017, NIEC started registering political parties. This marked a milestone in transition from the clan based system into a political party option. At the end of 2020, over 100 parties were provisionally registered by NIEC.²⁵ In November 2019 six political parties have united under the umbrella of the Forum For National Parties (FNP). Following FGS and FMS agreement to an indirect electoral formula to conduct the upcoming National Elections, the opposition group abandoned FNP. In November 2020 they formed a Council of Presidential Candidates (CPC) consisting of 14 presidential candidates. Among the leading opposition candidates are former presidents Sheikh Sharif Ahmed (2009-2012) and Hassan Sheikh Mohamud (2012-2016) as well as Ali Khaire, who was a former prime minister under President Farmajo until July 2020.

The CPC has proposed the creation of a national governing council, after the president's term expired with no clear plan for succession.²⁶

However creating such entity proved in the past to be impractical given Somalia clan politics and competing interest of Somali stakeholders including member within CPC. The proposed council also goes against the constitution and drifts away from the state-building process.

To their credit, CPC have sustained pressure on President Farmajo and in a press statement they vowed to continue their public demonstrations despite they were attacked by government forces on 19 February 2021. Unfortunately, CPC to date have not offered workable and legitimate solution to overcome the impasse nor they have presented to the public a coherent national policy. They are united to unseat President Farmajo and then compete in hastily organized election instead of crafting forward looking national strategy. President Farmajo benefited immensely in the absence of organised political parties with clear national vision.



²⁵ <https://niec.so/en/parties/registered-political-parties>

²⁶ Reuters - Somalia's Opposition Cease Recognising President As Election Row Escalates. February 8, 2021

Security Concerns.

Security remains the overarching tableau for Somalia's 2021 elections, especially as the number of voting locations in Somalia will expand. A National Election Security Task Force was set up in 2020 but not functioned effectively. Despite US\$1 billion of international financial assistance and international training since 2012, the Somali National Army (SNA) continues to lack the gamut of fighting capacities, relying instead on international forces to wrest territory from al-Shabaab.²⁷ In recent years, internationally-backed efforts have tried to mould militias into national forces under the control of the fledgling federal government. President Farmajo was alleged to have deployed the federal security forces as instruments of political control, conquering FMS and using them against his political opponents.²⁸ Eritrea reportedly training secretly large Somali force which has raised concern among lawmakers and politicians in the country, some of whom have accused President Farmajo to use these troops to intimidate opposition leaders and hijack the election. Individual commanders and clans remains strong raising the spectre of rival forces once again battling in the streets of the capital. As consequence, donors are losing their appetite for the State-building project in Somalia.

Amid the bickering and political infighting because of the delayed polls, al-Shabab is likely to take advantage of this volatile political situation. Al-Shabab, controlling over large swathes of the countryside, appears determined not only to disrupt the balloting process through violent means, but also to steer the course of the elections to its favor. The group also relies on violent intimidation to suppress participation in

the elections. In July 2019, it summoned all clan elders and delegates in its territory who participated in the 2016 election and ordered them to repent publicly. Dozens of people who did not comply were executed.²⁹ Al Shabaab was linked to an estimated 1,742 violent events and 2,369 reported fatalities in 2020, making it the most active and, arguably, most entrenched militant Islamist group in Africa.³⁰

The Role of International Partners.

Somalia has been a country of concern for the international partners for over three decades. Since the civil war in 1991, there have been numerous peacekeeping operations, international conferences for political reconciliation. Given dearth of state resources, Somalia did not have the capacity to hold meaningful elections, international partners helped mediate negotiations, provide material support to the electoral process particularly in the area of electoral logistics, planning, and security. To date, Somalia's donors have not held FGS accountable for failing to hold elections and manufacturing an electoral and constitutional crisis. International partners issued statements regarding Somalia's escalating electoral crisis and called for a free and fair inclusive elections.³¹ The lack of clarity in their recent statements creates ambiguity at an extremely inopportune time. While the international partners focuses on the immediate electoral impasse, it can broaden its scope to address the root cause and advance state-building project.

²⁷ <https://www.brookings.edu/research/the-problem-with-militias-in-somalia-almost-everyone-wants-them-despite-their-dangers/>

²⁸ The European Council on Foreign Relations (ECFR): Somalia's election impasse: A crisis of state building. 16 February 2021.

²⁹ World Politics Review (WPR): Fears of Al-Shabab Attacks Rise Ahead of Somalia's Delayed Elections. Dec. 8, 2020

³⁰ <https://africacenter.org/spotlight/2021-elections/>

³¹ <https://www.foreign.senate.gov/press/chair/release/chairman-menendez-on-electoral-crisis-in-somalia>. February 09, 2021

During 2017-2020 the role of the international partners is characterized by passiveness and disunity. There were high expectations when a number of career diplomats were nominated for Somalia. Regrettably, after the expulsion of the UN Special Envoy, FGS reckless action created fear among the diplomats. Consequently in order not to tarnish their career key foreign diplomats aligned themselves with the current regime, others opted to downplay Somalia's governance crises. For instance, EU have provided generous direct budgetary support to the FGS yet for 3 years no financial returns were submitted to the Parliament. Similarly the US Embassy has not issued any statements when former Speaker Jawari was ousted illegally and looked the other way about the violent Southwest election which led to the expulsion of the UN Special Envoy; yet US was first to endorse new Galmudug administration (before FGS) which FGS manipulated. Resolving this impasse requires intervention of the international community. Unfortunately, as key ambassadors' posting either ended or about to end so they would like to see a rushed cosmetic agreement reached among Somalia stakeholders instead of addressing the root cause of current crises. For sure, Somalia election debacle would hound these diplomats for sometime as they ignored warning signals.

Furthermore, Somalia become a central battleground for influence among competing regional players, principally Saudi Arabia, the UAE, Egypt, Turkey, Qatar and Iran. In both the 2012 and 2017 elections, Qatari money allegedly played a decisive role in influencing the outcomes. In recent years, Qatar has taken a more prominent role in positioning itself as the main backer of the current Somali president. As they pursue their interests these competing states are the main drivers of Somalia political course as they try to influence the outcome of the election and their desire to have an ally at Villa Somalia and they are

one of the major causes of current political gridlock.

Neighboring countries involvements in Somalia political process has also evolved. Despite Prime Minister Abiy Ahmed's reassurance of non-interference, the presence of Ethiopian forces in Somalia (specially Baidoa and Gedo) remains critical factor for election outcome. Under the current AMISOM mandate, the inclusion of troops from neighboring countries within AMISOM

The US and UN to broker a rapprochement between the rival Middle Eastern blocs and remove Somalia as a battleground for their competition.

concerning implementing federalism are limiting factors. Growing tensions between the FGS and Kenya over maritime dispute in the Indian Ocean, Kenya's support of Ahmed Madobe as well as security measures along the bordering Jubaland, add to the mix of regional factors that have stakes in the outcome of the 2021 elections.

Finally, Eritrea is key player to watch in how Somalia crises evolves. Since independent in 1993 Eritrea has no constitution, no parliament, no independent judiciary, no budget and elections have never been held. Isaias Afwerki is authoritarian and his opponents languish in jail. Asis Afarwarki ill-advised President Farmajo and Prime Minister Abiy Ahmed that the rule of force and crushing the opposition is the only way to retain power. Heeding to Afarwarki advise, Prime Minister Abiy Ahmed, is now in deep trouble because of Tigrey conflict. Today, Somalia may be heading similar direction as the political tension is very high and President Farmajo is reportedly relying on thousands of troops secretly trained in Eritrea.

Past Transitions: Lessons Learned.

While the constitution sets out four-year mandates for the presidency, an extension of the government's term by parliament is legally allowed by precedent. Somalia extended elections in both 2012 and 2016 without severe political fallout.

In 2011, following months of wrangling over to hold elections in August 2011, Somali leaders reached a deal on June 9, 2011 in the Ugandan capital named the Kampala Accord which extended the term of the government for one year. In September 2011, following significant pressure from its international partners, the Somali leaders as well as the Special Representative of the Secretary General for Somalia (SRSG) signed the so-called Roadmap to End the Transition. According to this Roadmap, the constitution-making process was to be finalized and a new Federal Parliament be elected by August 2012.

The UN and Somali politicians created a Technical Selection Committee (TSC) consisting 27 members with international partners as observers. This committee was designed to

function as an election commission charged with overseeing the implementation of the end of the transition in Somalia. The TSC tasks were to establish and publish the legitimate list of the 135 traditional leaders and vetting the 825 delegates of the National Constituency Assembly (NCA) and vetting the 275 nominees for the new federal parliament. The committee was given a very short period of time to complete its task with not much facilitation, funding, or direction. Despite these obstacles, the TSC successfully completed its mandate on time - a new constitution was provisionally adopted and new parliament were inaugurated 20 August 2012.

This process was different from earlier ones in two important aspects: 1) it was the first time an entire government had been created inside Somalia since the 1960s, and 2) it ended the transitional governments that had existed since the beginning of the conflict in 1991. On the basis of this Provisional Constitution, a new Federal Government Somalia (FGS) was established, which gained international recognition for the first time in over 20 years and ending the years of transition in Somalia.



On August 20, after all possible venues for the swearing in of the MPs tactically blocked, to avoid missing the deadline TSC with support of UNPOS held swearing ceremony on the Mogadishu airport parking lot under a makeshift theater using flashlights and car lights until it ended around 9pm.

In 2012, the only FMS existing was the State of Puntland. Other FMSs were established in Jubaland (2013), South West State (2014), Galmudug (2015) and Hirshabelle (2016). So, by the time the first term of the Somali Federal Parliament ended in 2016, negotiations between the FGS and the FMSs had not been organized and the constitutional review process deferred to the second term of the Somali Federal Parliament.³² Under the Provisional Federal Constitution, the mandates of the Parliament and of the President ended in late 2016. As universal elections were not yet possible in 2016, a political transition is therefore necessary to re-constitute and re-legitimize the country's political institutions.

In February 2015, in order to engage the FMS a National Consultative Forum (NCF) was established by SFP Resolution, but known to the international partners as National Leadership Forum (NLF), to focus on the electoral model for national elections initially scheduled for August

2016. The NCF included NLF members, representatives from regional administrations, Members of Parliament, federal and regional ministers, civil society representatives, and international representatives as observers. The NCF distributed the 275 seats of the House of the People between the existing and emerging FMS and the voting to take place in the state capitals. In terms of election administration a Federal Indirect Electoral Implementation Team (FIEIT) consisting of 22 members (10 from FGS and 12 from FMS) was responsible for the oversight and overall planning of the electoral process. At state level, six State Indirect Electoral Implementation Teams (SIEITs) were established. Each SIEIT consists of 11 members (8 from FMS and 3 by FGS).³³ FGS leadership was key for political stability within the country and the continued devolution of power to regional governments. Hence, the 2016 parliamentary election was organized and indirect election was held through clan-based electoral colleges - contrary to Articles 64 and 72 of the Provisional Constitution.



³² Schmidt 2017.

³³ UNSOM: Fact Sheet On Somalia's 2016 Electoral Process. 23 Oct 2016

It is expected that universal elections will take place in 2020. Those elections will be administered by Somalia's National Independent Electoral Commission, which was established in July 2015.³⁴

Lesson learned :

- It is important to note that during previous election cycles, there was no fear of an incumbent president attempting to remain in office following the conclusion of his term.
- In 2012, Somalia went through yet another state-building exercise when current provisional constitution was adopted and a new 275- member federal parliament inaugurated in Somalia.
- 2016 LNF and NCF provided platforms to deal with election related issues. FGS leadership has successfully negotiated and reached political compromise with FMS on a number of contentious election issues.
- United Somalia partners' engagement and assertiveness and their timely intervention played a critical role in both election cycles.

Possible Options To Solve Current Electoral Issue.

While holding elections on time is crucial for democracy but equally transparent election should garner greater legitimacy, provide stabilization, opportunity to win back the political space and lead economic and social development. How the 2021 Somalia national elections is conducted will have far reaching implication for future federal elections and Somalia's state-building vision.

We discuss here four possible options: -

1. **Option I: Status quo**
2. **Option II: 3 to 6-month extension**
3. **Option III: 1-year term extension** with a new President in place.
4. **Option IV: 2-year term extension** with a new president and speaker in place.

OPTION I: STATUS QUOI.

This "business as usual" option is the FGS Position. President Farmajo told parliament that there would be no power vacuum in the country. The term of the Presidency expired on February 8th , 2021. There is a consensus among political experts that any attempt by President Farmaajo to remain in office without any prior political agreement will lead chaos as seen on the 19 February 2021. Any length of extensional period (however short) given to the Parliament and to the President due to political circumstances, without, at least, holding new elections for the top offices of both Houses Federal Parliament and President is inconceivable. Without doubt it damages the constitutional integrity of the Republic and a transgression to the political right of the people to hold periodical election or through its representatives to periodically renew its leaders.

³⁴ UNSOM: Fact Sheet On Somalia's 2016 Electoral Process. 23 Oct 2016

OPTION II: 3 TO 6-MONTH EXTENSION.

This option is favored by the international partners to salvage 17 September Agreement. A 3 to 6-month extension that is generally a “*Quick fix*” also favored by the “the candidates in hurry” whose sole concern is just to run for office. The UN and U.S. appears to be the main factor keeping electoral discussions on track. They want Somalia's leaders to urgently resume dialogue to compromise on contentious issues and arrange timely elections. Due to deep mistrust between some FMS and FGS it may not yield much result bringing them together for a 5th time. To make this option work, international partners should take stand on the contentious issues that led Dhusamareb IV failure. The following remedies worth consideration; (1) to reduce voting venues to one per FMS due to disagreement in Gedo, Barawe access issue and Beledweyne local crises. (2) Somaliland case to be dealt as it was done in 2016, (3) the 13 senator seats that President Farmajo signed for Benadir should be shelved for now as it requires constitutional amendment and Benadir's status must first defined and enshrined in the constitution before assigning seats and (4) FIET composition to be revisited with the possibility of accommodating opposition groups.

The unharmonious political situation indicates that this approach is not possible unless all obstacles and mistrusts are removed, all stakeholders are in full agreement and work together in harmony to achieve fair elections that produce agreeable results.

OPTION III: A ONE-YEAR EXTENSION.

A one-year extension for parliament, president and cabinet. This option is similar to Option one except this will require parliament resolution and political agreement with all political actors. This option is not feasible as it will not give sufficient time to achieve to clear the contentious issues related to hold fair indirect (s)election. There is general feeling of public distrust, the unsolved political disagreement between the FGS and FMS and the loss of trust of the opposition group that incumbent government will organise election during the extension. There is also lack of credibility of the main passive electoral body.

OPTION IV: TWO YEARS' EXTENSION.

A two year's term-extension is the more desirable because it is not possible to achieve what is necessary in a period less than this. We propose:

- The Parliament Speaker to assume the role of acting President of the Federal Republic of Somalia for a maximum period of 30 days, in line with Article 95 of the Constitution.
- The seating 10th Federal Parliament to elect the Speakers and respective Deputies of both Houses
- The two houses will then have a joint session in which a new interim President for a period of two year's term of office; who will then appoint a Prime Minister.
- All members of the transitional arrangement are excluded from partaking in the elections they are tasked to organise.

- The candidates for the Provisional President, shall sign a waiver that he shall not run for the following Presidential election, instead, the elected Provisional President, after he successfully completes his two-year term, he shall be given, by right, the status of a permanent Membership of Parliament for life in the House of the People as prescribed in the Constitution;
- The new cabinet will consist of technocrats with deep experience and knowledge of the country systems and institutions. To avoid conflict of interest, the current Members of the Parliament will not be permitted to serve in the new cabinet.

The transition government mandate include amendment of as many articles of the constitution starting with the technical amendments. Other important matters that require consideration are:-

- The constitutional recognition of the FMS will assist greatly as this will also provide legitimacy to the formation of the Upper House.
- The public finance chapter of the constitution,
- Judiciary, and
- Security architecture.

This election impasse is an opportunity to strengthen electoral structures and processes – key components for Somali state-building.

Conclusion and Recommendation.

Abuse of power is one of the major causes of the Somali conflict.³⁵ The legitimacy of Somalia's electoral process is closely tied to its prospects for stability. Since a one-person one-vote is not practical at this time, Somalia's electoral process must be understood within its larger interlocking state-building context. The elections reflect the challenge of infusing clan and regional interests for autonomy within a larger national vision of governance. They also reflect Somalia's geopolitical significance in the Horn and as an epicenter for violent extremism. The elections and resulting leadership, therefore, have far-reaching security and political implications for Somalia and the broader region.

To recover from this collective failure and to steer the country away from potential conflict, the legitimate way through the stalemate is to establish a competent provisional government with 2-year mandate. The new provisional government will focus on the following state-building issues which is essential for Somalia :

- The completion of the Constitutional Review
- To prepare a One Person One Vote election
- Establishing a Competent Supreme Court

This option will need to be backed by a United Nations' Security Council Resolution and buy in from regional players. This is critical considering the country cannot afford the interim arrangement to be undermined by foreign and domestic actors.

³⁵ Elmi, Afyare & Barise, Abdullahi. (2006). The Somali Conflict: Root causes, obstacles, and peace-building strategies. African Security Review. 15. 32-54. 10.1080/10246029.2006.9627386.

Contact Details

HornAfric Suite, National Theatre, Mogadishu, Somalia

Tel: +252 612 777 308

P.O Box 52743 Valley Arcade, Nairobi, Kenya Tel: +254 723 022 444

Email: info@aarancenter.org

Website: www.aarancenter.org