
Protecting stability and inclusivity in Somalia's indirect election process

SOMALI DIALOGUE PLATFORM AND SOMALI PUBLIC AGENDA

Key points

- Key Somalia's federal and state leaders have agreed another indirect election model, which offers the prospect of increased participation and representation in the country's governance. This is an important step forward after a long period of heightened political tensions.
 - The electoral model is similar in many respects to that used in 2016. Clan-based electoral colleges of 101 delegates will vote for each seat in the House of the People, while seats in the Upper House will be voted on by state assemblies. Voting will take place in eleven locations across the country and will be managed by federal and state election committees.
 - There are several unresolved political issues. Disagreements on the credibility of election management bodies, conducting elections in Gedo, and the system to manage voting for the Somaliland seats, could derail the process. There is also a risk that the process becomes protracted, disputed, and even violently contested.
 - The agreed model does not yet guarantee that the process will increase the inclusivity of institutions. The high fees set for candidate registration and lack of specificity on the women's quota may undermine previous progress. The practice of vote-buying will also likely persist, and its scale may further undermine the credibility and inclusivity of the process.
 - These issues can be addressed by revitalizing the spirit of dialogue and collaboration that led to agreements in September. Regular monthly meetings between the leadership of the FGS, FMS, presidential contenders and civil society leaders may be one way to establish a mechanism to resolve differences.
 - Compromises on political issues are needed. It would be valuable to revisit membership of election management bodies to ensure they comply with previously agreed criteria. Including opposition and civil society in selecting committee members may also improve trust in the process. Specific dialogue is likely needed on Somaliland seats. A compromise on seat allocation in Gedo is also needed that balances the interests of the federal government and Jubaland.
 - The inclusivity and integrity of the process could be strengthened by a number of measures. Inclusion of women and youth can be increased by reducing candidates' fees and allocating specific seats to women, especially if there is determined advocacy by Somali civil society with elders and political leaders on this issue. Transparency and accountability can be enhanced if civil society play a role in oversight and monitoring
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Introduction

On 17 September, the leaders of the Federal Government of Somalia (FGS) and all five Federal Member States (FMS) agreed on an indirect electoral model for the country's upcoming polls. Building on a series of discussions in Dhusamareb in July and August, the model has since been approved by parliament and set out in more detail in subsequent agreements on 2 October.

While the agreement demonstrated that Somali leaders have reached a point of much needed consensus on electoral design, there are a number of weaknesses and ambiguities that, if left unaddressed, threaten the inclusivity and integrity of the process. There are also several contentious political issues that, if unresolved, may also increase the risk of conflict emerging in the coming months.

This briefing provides an overview of the current election model, including contentious political issues, and risks to the integrity and inclusivity of the process, as well as options for addressing both. It is intended to support Somalis come together in dialogue around the process, with the aim of increasing its inclusivity and credibility. The issues laid out here will be best managed if they are discussed regularly through high-level dialogue, including the leadership of the federal government and member states, opposition figures and civil society.

Somalia's new election model

The new electoral model is an indirect system, which means that electoral colleges will be used to select representatives for the House of the People, while seats in the Upper House will be voted on by state assemblies. The election will be managed by federal and state level committees and, under the proposed timetable would be completed by early February 2021.

Elections for the House of the People

An electoral college of 101 delegates—an increase from 51 in 2016—will be used to vote for each of the 275 seats in the House of the People. This represents a doubling of participants compared with the process in 2016 - 17. Twenty-seven thousand, seven-hundred and seventy-five people will now participate directly in the selection of the national leadership. Delegates will be from the clan (or sub-clan) that the seat is allocated to in parliament with at least 30 per cent being women. How delegates will be selected is yet to be confirmed. The Dhusamareb III agreement specified that a combination of traditional elders, civil society representatives and regional state leaders would choose delegates, but this was not clarified in subsequent agreements.

Seat allocation

Each seat in the House of the People will be assigned to one election location—voting will take place in two locations in each FMS, as well as in Mogadishu. This is a marked improvement from the 2016 process, when voting only took place in state capitals and Mogadishu. Each seat will also be assigned to a specific sub-clan according to the 4.5 system. The clan distribution of the House of the People will be expected to stay the same as 2016 at the higher levels of the clan family tree, but will likely change at lower levels through negotiations between elders.

Candidacy for parliamentary seats

Candidates will need to conform to certain criteria, including being over 25 years of age, have high-school education, and not be part of any terrorist groups. Candidates for House of the People seats will pay USD 10,000 to register. Candidates will not be affiliated to political parties, which have not been assigned a formal role in the process.

Figure 1: Seat allocation and voting locations in the House of the People

State/constituency	Election location	Number of seats	Total for state/constituency
Galmudug	Dhusamareb	26	37
	Galkacyo	11	
Hir-Shabelle	Jowhar	25	38
	Beledweyne	27	
Jubaland	Kismayo	27	43
	Garbaharey	16	
Puntland	Garowe	21	37
	Bosaso	16	
South-West State	Baidoa	43	69
	Barawe	26	
Somaliland	Mogadishu	46	46
Benadiri	Mogadishu	5	5

Elections for the Upper House

FMS state assemblies will vote on seats in the Upper House, whose nominees will be proposed by FMS leaders. Candidates must pay USD 20,000 to contest seats. Although not explicitly stated, it is assumed that the distribution of seats between FMSs in the chamber will remain the same. Somaliland’s representatives will be elected by a group of clan delegates, although it is not yet clear how this will work, or who will nominate candidates.

Election Management

The election will be managed by a two-tiered system with structures in place at federal and state levels. The 25-member Federal Election Implementation Committee (FEIC) will oversee and coordinate the overall electoral process. It will prepare and manage the election budget, manage the schedule and announce the results. Thirteen of the FEIC’s members will be appointed by the federal government and 12 by the member states (two for each FMS).

State Election Implementation Committees (SEIC) will be responsible for direct implementation of the process, including verifying delegate lists and managing the voting for HoP seats. Each committee will have 11 members, three of whom will be appointed by the FGS and the remaining eight by the state itself. A special electoral commission, appointed by the federal government in collaboration with Somaliland politicians and elders, will manage the election of MPs representing Somaliland. All committees should adhere to the 30 per cent women’s quota and individuals selected will have to fulfill strict criteria, including not holding other political positions.

Dispute resolution

A 21-member Dispute Resolution Committee will manage complaints related to delegate selection, the voting process, and the conduct of election management committees, amongst other areas. The FGS will appoint nine members, while member states will appoint 12 (two for each state). The committee will have offices in each electoral location and a headquarters in Mogadishu. To file a complaint, a registration fee of USD 3,000 will be required and the committee will make a ruling within seven days. The committee will be overseen by the National Consultative Council (NCC).

Timetable

The electoral process is officially scheduled to be completed on 8 February 2021 when the current presidential term expires. Key milestones in the agreed timetable include: the establishment and training of committees by the end of October (although this deadline has been missed); election of the Upper House and House of the People before 27 December (the end of the parliamentary term); and finally, the election of the parliamentary leadership and the president in January and early-February.

Contentious political issues

Despite falling short of achieving a one-person-one vote, the agreement on an indirect electoral process, which will increase the number of participants in selecting national leadership and expand the geographical breadth of the process, is a small, but important, step forward for Somalia's electoral and democratization agenda. This being said, there are a number of areas where urgent high-level political dialogue is needed to ensure that the process is credible and the risk of conflict is reduced.

Finalizing seat allocation

While election locations have been formally agreed, there remain political disputes and practical difficulties that may undermine implementation of these agreements. This is most clear in Jubaland, where the state administration has argued that elections cannot take place in Garbaharey, the capital of Gedo, because the region is controlled by forces aligned to the federal government. Instead, Jubaland officials have called for the seats to be moved to El Waq (the only district in Gedo still controlled by Jubaland forces) or Kismayo. This comes amidst an ongoing security stand-off between Jubaland and federal government on control of the region and is likely to be a major flashpoint in the election process. There are also concerns that Barawe, the capital city of South West State, is not secure due to a strong al-Shabaab presence in the area.

Inclusive dialogue within states is essential to ensure agreement on election locations. This is especially the case for seat allocation in Gedo, which will require dialogue between the federal government, Jubaland and representatives from the region. One possible compromise could be to move the non-Marehan seats in Gedo to El Waq district, whilst the rest remain in Garbaharey. This will mean that the seats are divided between FGS and Jubaland spheres of influence.

Ensuring effective election management structures

The selection and conduct of election management committees has already become the subject of intense controversy. Serious concerns have been raised that both FGS and FMS executives have sought to stack the committees in their favour, and that many members of the committee are not adequately qualified for the role. Differing political loyalties of committee members, which will each be made up of a mixture of FGS and FMS representatives, may also hinder their work.

For election management to be effective, it must be grounded in principles of impartiality and inclusivity and care should be taken to demonstrate that this is the case. One way to do this is by making sure that the committees comply with the membership criteria established in the election agreement on 2 October, including the 30 per cent women's quota and the rule that members should not be civil servants or hold any other political position. Giving civil society and all the presidential contenders a role in selecting membership of the committees might also help. The committees should also conduct regular outreach to communicate decisions and processes, which would include listening to and responding to all valid concerns.

Managing elections for Somaliland

The nomination of electoral management bodies that will oversee the election of representatives for the parliamentary seats representing Somaliland is an area of ongoing dispute. Somalilanders in the federal government are currently in disagreement with those outside of government, led by the Speaker of the Upper

House, over the election management bodies for these seats. Unless resolved, this disagreement threatens the legitimacy of the 57 seats allocated to Somaliland in parliament. A related problem is that the procedure for nominating and voting for Upper House representatives from Somaliland is not specified in the election agreements, making it uncertain how this will take place and consequently vulnerable to manipulation.

Dialogue between Somaliland stakeholders in Mogadishu, inside and outside government, is needed to find a solution to the problem. One possible way forward would be for opposition candidates or the leadership of the Upper House to select a certain quota of EMB members. The election for Somaliland seats could also be held in Halane, which is considered a relatively neutral location. For the elections to the Upper House, clan elders or an inclusive committee of Somalilanders constituted by elders could nominate candidates for each seat.

Promoting a robust dispute resolution system

The likelihood of a contested result, or results, during the election is high, which means that having a trusted way of resolving these is crucial. However, in 2016 the dispute resolution system came in for heavy criticism due to its failure to process many complaints and its vulnerability to political interference.

The dispute resolution committee may suffer from the same weaknesses this time around too. If the committee cannot implement a decision, the current electoral agreement vests ultimate authority in the National Consultative Council (NCC) to resolve outstanding differences (the National Leadership Forum (NLF) played this role in 2016). However, the NCC is much more divided than the NLF was, which means that it will likely be poorly equipped to resolve significant disputes—particularly when there may be major differences between members of the NCC itself.

Tackling this problem, which is ultimately a symptom of institutional weakness in Somalia, is not straightforward. However, building the capacity of the Dispute Resolution Committee (DRC) before the election, especially establishing transparent and efficient procedures for processing complaints, would be a start. To give its rulings weight, Somalia’s international partners, as well as Somali politicians themselves, should commit in advance to accepting its rulings in the event of a dispute.

Most importantly, Somalia’s leaders, including the leaders of the federal government and member states, as well as contenders for the presidency, should remain in close dialogue throughout the process. This could be achieved through regular monthly meetings of the NCC (including presidential contenders and civil society). These measures can help build the foundations of trust and cooperation on which disputes can be effectively and peacefully managed.

Ensuring a realistic timetable

The current electoral timetable states that the process must be completed by early February. This is overly ambitious and without a technical extension will likely be broken. There are numerous complicated and as yet un-defined tasks that are yet to be executed. The timeline for appointing the federal and state level election implementation committees and the dispute resolution committee was already significantly delayed, which means the agreed timelines are no longer viable. As well as technical challenges, political disputes and security threats may arise around the implementation process, which could also cause delays.

Revisiting election timelines based on the delays so far, and detailed planning of the many procedures involved, would reduce uncertainty and political tensions, and enable a more technically robust process. Any delays that might occur, and the reasons for them, should be clearly communicated and agreed with all stakeholders. Finally, if the election process is not completed before the expiry of the parliamentary or presidential mandates, there will need to be clear agreement on the status of both.

Protecting inclusivity and integrity

Attention should be given to several important areas to help protect the inclusivity and integrity of the electoral process. As well as reducing conflict risk and enhancing the credibility of the process, addressing these issues

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can ensure that a broader range of Somali citizens participate in the elections and are chosen as representatives in parliament.

Funding

The funding of the election process remains unclear and needs resolving. If the process is to have a similar expenditure profile to 2016 then, due to the increase in numbers of delegates and geographical locations, one estimate is that it would cost USD 40 million to implement, compared with USD 20 million in 2016. The cost of the election could be reduced if certain expenditure is not covered, such as delegate transport, accommodation and subsistence.

The government committed USD 7 million originally to a one-person-one-vote election in the national budget, which could be used for the upcoming process. Due to the increase in fees compared with 2016, money raised from candidates will provide significant funds for the election. Based upon conservative estimates that at least three candidates will contest each of the 275 seats in the House of the People, and two candidates for each of the Upper House, candidate fees will likely cover at least USD 10 million of election funding—a significant portion—particularly if delegate costs are not covered or are reduced.

The key variable that will determine the amount of election funding available is the extent of international support. This should be clarified before election design is finalized. This is especially important as the level of funding is likely to shape vote-buying dynamics (see below).

Vote buying

The most common complaint raised by Somalis about the 2016 process is the extent to which electoral outcomes were influenced directly by corruption and vote-buying. The same is likely to be the case for the upcoming election. Money is used to influence the electoral process in three ways:

1. Candidates, prospective delegates, or other politicians influence delegate selection by bribing those drawing up delegate lists.
2. Candidates buy votes from delegates (or in the case of presidential candidates, from MPs).
3. Candidates influence election management bodies through bribery.

One major factor that increased vote-buying in 2016 was the lack of funds available to cover transport and accommodation for delegates, which was meant to be paid for by the government using candidate fees. This left the door open for candidates to influence delegate voting behavior by using their own money to cover subsistence and transportation. The same dynamic will likely emerge in the 2020-21 polls if these funds are again not covered.

On top of this, most electoral delegates will expect and likely receive money to vote for candidates. A member of the Somali Federal Parliament estimated that each candidate will require at least USD 200,000 to successfully contest. Many will seek funding from prospective presidential candidates in return for their vote. Claims that an increase in the number of delegates will reduce the extent of vote-buying are likely misguided—increasing the number of voters will merely increase the number of people candidates are required to pay off and therefore the overall volume of vote-buying.

Although vote-buying will be a feature of this election, there may be ways to try to reduce the extent of this practice. First, incorporating civil society oversight into delegate selection could reduce the efficacy of bribery in shaping the delegate list. It may also be helpful for different actors (national leadership, women's leaders and civil society) to engage with elders to encourage them to see how clan interests might be better served by the selection of competent MPs who can represent their interests, rather than simply the highest bidder.

Second, covering delegate accommodation and subsistence fees could reduce the scale of vote-buying, as candidates would no longer be required to cover these costs as an essential part of the voting process.

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International funding will be required to cover these costs and a third-party could be brought in—as IOM was in 2016—to promote transparency.

Third, candidates and election implementation stakeholders could commit to transparency and accountability in the process. A specific indirect elections anti-corruption commission could be established to hold candidates to account to these commitments and investigate, identify and provide evidence for instances of vote buying. This commission could also conduct a proper audit of the election after it has taken place with the intention of promoting further transparency, to act as a further deterrent to vote-buying and corruption.

Reducing financial barriers to standing

Costs of participating in the election are prohibitively high. The doubling of the non-refundable election registration fees for both houses locks out many potential candidates, especially youth and women who are less likely to be able to afford the registration fees. The high costs associated with standing for election also encourages vote buying in the presidential elections as MPs try to recoup their costs by seeking money from presidential candidates.

Reducing candidate fees will likely ensure a more inclusive parliament. A first step will be to lower the fees for women and youth candidates (done in 2016 for women candidates), which reduces the barrier to entry for these critical groups. More broadly, lower fees will allow a wider cross-section of society to compete in the process. If funding is made available from international partners, this could also allow for candidate fees to be lowered. Somali civil society could also be supported to train and assist candidates to mobilize resources and crowdfund candidate fees.

Protecting the women's quota

Women currently constitute 24 per cent of the parliament, despite the fact that a 30 per cent quota was agreed in 2016. Nonetheless, this was seen as huge progress, achieved through women-led advocacy on the issue with international support. Mechanisms used to achieve the quota included: the designation of seats for women candidates through negotiations between clans; and the 50 per cent reduction of registration fees for women.

There is a risk that in 2021 the representation of women (especially in the House of the People) will decrease. This time, there are no seats reserved for women—the only viable way to guarantee that the quota is achieved. Clan constituencies and their elders remain motivated to promote male candidates as exogamous marriage practices mean that women are not seen as being able to fully represent the clan. Many of the clans currently represented by women parliamentarians are hoping to be represented by men this time round, whilst male MPs will be reluctant to give up their seats to women if designated seats are rotated. The high level of pressure and advocacy of women's associations and the international community that was seen in 2016 is also largely absent.

In order to protect the women's quota, the political commitment from all election implementation stakeholders will be needed, especially clan leaders and elders. Federal and state-level political leaders and election bodies should liaise with the clans and promote the concept of allocating specific seats to women among the sub-clans. This could also involve SEICs reviewing candidate lists for seats in respective FMSs and rejecting them unless 30 per cent are contested only by women. This will be greatly helped if EMBs also adhere to the women's quota. Somalia's international partners can also play a role in making their support to the process conditional on this threshold being met.

The role of civil society

The role of civil society has not been outlined clearly in the agreements on election design, although the Dhusamareb III agreement implied they would be involved in delegate selection. Imagining such a role is complicated by the contested definition of civil society. Selecting legitimate civil society representatives who can participate in delegate selection would likely be a fraught process. However, enhancing the delegate

selection process by including a broader cross-section of Somali society, especially women and youth, is still a potentially valuable endeavor, which might ensure a more inclusive electoral college. It might also reduce the scope for influencing delegate composition through bribery.

Facilitating discussions between elders, political leaders and election management bodies to consider ways that credible civil society leaders can be part of delegate selection is an important step. At the very least, civil society can play a role in reviewing and vetting delegate lists for compliance with agreed criteria, and flagging irregularities in the process. Another important role for civil society is election observation and monitoring, including verifying voting processes on election day. Again, this is not well clarified in current agreements and needs further discussion between the election management bodies and civil society leaders.

Conclusion

Protecting progress that has already been made in Somalia's post-conflict transition should be the main priority of the upcoming electoral process. Significantly, Somalis have already achieved agreement on the main aspects of the process through intensive dialogue, which represents a major hurdle that has been negotiated. As well as this, the elections can also help to further expand participation and representation in Somalia's political structures, which would be another step forward—albeit small—in Somalia's post-conflict trajectory.

These successes are not yet guaranteed. The process comes at the tail-end of a period of heightened political tensions in Somalia, between the FGS and some federal member states, notably Jubaland and Puntland, as well as between the FGS and opposition politicians. The agreement struck in September is fragile, and, in the absence of trust, the contentious issues outlined above may derail the process. There is a high chance that the elections become protracted and contested, increasing the likelihood that the result is disputed.

A disputed outcome at the presidential level could lead to violent conflict, especially if divisions lead to fragmentation in security forces. An even more dangerous prospect is that parallel processes emerge, or some crucial stakeholders boycott the process. Beyond the risk of conflict, there is also the problem of decreasing inclusivity in the process, especially when it comes to women's representation.

These are worst-case scenarios and are avoidable if the spirit of consensus reached in September amongst the Somali political leadership can be revitalized and deepened. Constant political dialogue between Somali leaders from different sides of the spectrum on the issues outlined here is essential to build trust, relationships and channels of communication that can be the basis for a credible process, and mediation of political differences. This might take place in the form of a monthly meeting of political leaders whilst the election campaign is underway, as well as regular meetings or conference calls between technical advisors from the different groups.

Somalia's international partners can also play a role by encouraging commitment to the agreements made in September and October and supporting dialogue to resolve contentious issues. Somali leaders will take this seriously as any credible process will require international funding and recognition.



Credits

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