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Options for allocating powers in Somalia's federal system



Somali Public Agenda

Overview

Somalia formally adopted a federal system in 2004 with the establishment of the Transitional Federal Government. This model became more established in 2012 with the ratification of the Provisional Federal Constitution (PFC), which clarified many critical areas of Somalia's governance dispensation. In principle, the introduction of federalism was intended to dis-incentivize conflict, as it was felt re-distributing power and resources away from Mogadishu would mean parties to the conflict would be less inclined to compete for control over the capital. The notion of federalism has arguably enabled more cooperative relations among Somalis, laying the basis for interactions between central government in Mogadishu and existing autonomous units, such as Puntland. Since 2012, following ratification of the PFC, it has also enabled the formation of other Federal Member States (FMS), providing a framework for how they relate to central government.¹

Despite this, many aspects of Somalia's federal model remain undefined, particularly the allocation of powers between different levels of government. This goes to the heart of the federal model, as it defines the extent to which power is actually re-distributed from the centre. There remains almost no agreement amongst Somalis on this issue, however, with the PFC providing only the following, contradictory, guidelines on power allocation:

- **Article 54** provides four exclusive powers to the Federal Government of Somalia (FGS): 1) foreign affairs; 2) national defence; 3) citizenship and immigration; and 4) monetary policy. Importantly, the final phrases of this article defer further clarification on allocating power and resources to future negotiations between the FGS and FMS, ultimately leaving the power-allocation arrangement almost entirely undefined.
- **Article 53 (1)** confuses what is laid out in Article 54 by stipulating FMS must be consulted on: 1) foreign aid; 2) trade; 3) treaties; and 4) other matters relating to international agreements. What exactly is expected in terms of consultation has never been clarified or agreed.
- **Article 52** lists ten powers to be shared by the FGS and FMS, which may be understood as 'concurrent powers'. Such powers often feature in federal arrangements, when it is agreed that cooperation is required between different levels of government in certain areas, such as agriculture, health and education.²

In short, the PFC failed to define much of how power was to be distributed between different levels of government. A constitutional review process was set up in 2012 to address these weaknesses and provide greater clarity and consensus on Somalia's federal model. While important technical progress has been made in putting relevant options on the table, however, the political dialogue necessary to reach a consensus on arrangements has been lacking. Moreover, it is clear that the distribution of powers is not merely a technical problem, but a contentious political issue, as Somalis have very differing views of what federalism means for the country, ranging from much more centralized to much more diffuse models.

The absence of agreement on the distribution of powers has contributed to conflict and tension between different levels of government, especially the

1. These FMS remain de facto as they were never endorsed by parliament, as required in the PFC.

2. A full list includes: 1) water sources; 2) agriculture; 3) animal husbandry; 4) pasture and forestry; 5) the prevention of erosion and protection of the environment; 6) health; 7) education; 8) relations and dialogue among traditional leaders, and the protection and development of traditional law; 9) relations among religious scholars; and 10) youth.

FGS and FMS. In October 2017, for example, disputes over Somalia's foreign relations – on which the PFC is ambiguous – fed into emerging conflict when five FMS established the Council of Inter-State Cooperation, before going on to suspend relations with the FGS the following year. Other areas of tension related to power allocation centre around the distribution of international aid and the role of the FGS and FMS in education. Such tensions have contributed to wider struggles between the FGS and FMS. Reaching clarity on the allocation of powers in Somalia's federal model is, therefore, a critical priority when it comes to advancing the country's post-conflict trajectory.

To achieve this, meaningful and inclusive political dialogue on the allocation of powers is essential. As such, this paper outlines a framework for analysing the issue, as well as the available options for starting a dialogue on relevant political processes. This product is part of a series of options papers dealing with related critical weaknesses and ambiguities within Somalia's political settlement. Of particular relevance here are the Platform papers on fiscal federalism and the security architecture. These products have been developed in consultation with a range of technical experts and political influencers as part of the Platform's 'F20' initiative, which collaboratively explores solutions to contentious issues in Somalia's political settlement. The paper is intended as a tool for Somali policymakers and the wider public in the upcoming political cycle, allowing them to re-engage in productive dialogue on the issue.

Framework for analysis

In the following section, three main options for the distribution of powers across different levels of government in Somalia are outlined:

1. **Centralized:** More powers allocated to the FGS.
2. **Diffused:** FMS mostly autonomous from central government.
3. **Decentralized:** Powers balanced between the FGS and FMS, as well as local government.

Government powers are broken down into five key areas in order to provide a framework for analysing the distribution of powers in each case. While by no means exhaustive, these areas highlight the key powers that would need to be allocated as part of finalizing Somalia's federal model:

1. **General powers:** Covers key powers, such as foreign policy and international trade.
2. **Economic powers:** Includes critical areas of fiscal governance and economic policy, such as monetary policy; regulation of internal and external trade; policy and regulation around key industries – agriculture, energy and construction – and management of national resources, such as land, water, oil and gas, and fisheries.
3. **Security and justice:** Includes national defence, policing, and justice and corrections.
4. **Infrastructure:** Includes public transport, road and sea transport, aviation, and telecommunications.
5. **Social services:** Especially health and education policy/services.

For each of the options outlined, the paper outlines the role each level of government would play, using the following categories:

1. Federal Government of Somalia
2. Federal Member States
3. Local governments
4. Concurrent powers

Using this framework, the paper maps out the various options for power allocation in Somalia while considering the advantages and disadvantages of each.

Policy options

Option 1: Centralized

In this option, more powers are allocated to the FGS, with key powers centralized at the government in Mogadishu. There would be fewer powers left for FMS and very little power allocated to local governments. Another version of this option could involve local governments taking on more of the powers allocated at FMS level, further reducing the role of FMS in the governance dispensation.

	Federal	State	Local	Concurrent
General powers	Foreign policy/affairs National elections State and local elections National land policy	State-level land policy	Supporting management of land conflict	No role
Economic powers	Monetary policy National economic plans and policies Raising revenue on most tax bases, Regulation of inter-state and foreign trade Regulation of key industries such as agriculture	Implementation of national economic plans and policies Raising revenue on some tax bases based on FGS policy	Implementation of national economic plans and policies Raising revenue on some tax bases based on FGS policy	No role
Infrastructure	Regulation and management of air, sea and major transport Regulation of ICT sector	Management of more localized road networks	No role	No role
Security and justice	National defence, policing, and corrections Supreme and constitutional court	State police Appeals courts and 1st class court	1st class court Coordination on security matters	No role
Social services	National health and education policy (such as curricula) Management of higher-education services National policies on displacement and shelter	Administration of health facilities and education services other than higher education Delivery of water, sanitation and hygiene services Delivery of shelter services	Monitoring delivery of health, education and other services Supporting coordination of service delivery	No role

Possible advantages:

- Allows more cohesive and unified policy development in response to critical problems, such as economic development and humanitarian response.
- Clarifies critical areas – such as foreign policy and defence, which are usually considered essential to centralize – as the prerogative of the federal government.

Possible disadvantages:

- Contradicts the principle set out in Article 50 of the constitution that the level of government closest to the population should, as much as possible, be responsible for delivery of services. In general, local and FMS governments can be more responsive to the priorities and needs of citizens.
- Discourages collaboration and cooperation between different levels of government as it limits the number of powers that can be categorized as concurrent powers.
- May not be politically viable due to distrust in centralized government among the population and political class following Somalia's history of authoritarianism. May also increase competition for power at a federal government level, thereby adding to conflict.

Option 2: Diffused

In this option, FMS are mostly autonomous from central government. As a consequence, FMS would have more powers to exercise, while the FGS would exercise limited powers. Local governments would also have exclusive powers, while many areas would be assigned as concurrent powers, increasing collaboration between different levels of government.

	Federal	State	Local	Concurrent
General powers	Deciding matters of race and migration National political parties	State-level land policy State and local elections	Supporting management of land conflict	Foreign policy/affairs National elections
Economic powers	Monetary policy National economic and policies Raising revenue on limited tax bases	Development of FMS economic plans and budgets Raising revenue on most tax Regulation of key industries, such as agriculture and energy	Implementation of FMS economic plans and policies Raising revenue on some tax bases in line with FMS policies	Regulation of foreign/inter-state trade
Infrastructure	Regulation and management of air and sea transport	Regulation of public transport, state roads and street lighting	No role	Regulation of ICT sector Management of road networks
Security and justice	National defence and policing Supreme and constitutional court	State police, internal security and corrections services Appeals courts	Coordination on security matters 1st class court at district and regional level	No role
Social services	Preserving quality of medicines Higher education at universities, research institutions and other higher-education institutions	Delivery of health facilities and education services FMS policies on displacement and shelter	Delivery of water, sanitation and hygiene services Delivery of housing and shelter services Monitoring delivery of health, education and other services Supporting coordination of service delivery	National health and education policy (such as curricula)

Possible advantages:

- May be more politically viable as it is closest to current arrangements.
- Enhanced role of FMS and local governments may support policies and programmes more responsive to the needs and priorities of citizens.
- Encourages strong intergovernmental relations as many powers are concurrent and so need coordination and collaboration.

Possible disadvantages:

- May create challenges in key areas such as foreign policy and national elections, which are usually the sole responsibility of central government.

- Use of concurrent powers may create ambiguity and confusion on the roles of different levels of government, potentially leading to conflict and hindering policymaking.
- Maximal role of FMS may hinder broader cooperation among Somalia's leadership, and encourage the centrifugal tendency of FMS to seek greater independence from central government.

Option 3: Decentralized

In this option, power allocation is balanced between the FGS and FMS, as well as local governments.

	Federal	State	Local	Concurrent
General powers	Foreign policy/affairs National elections National land policy	Consulted on foreign affairs and national elections State-level land policy	Support to management of land conflict	State and local elections
Economic powers	Monetary policy National economic plans and policies Raising revenue on limited tax bases	Development of FMS economic plans and budgets Raising revenue on most tax Regulation of key industries, such as agriculture and energy	Implementation of FMS economic plans and policies Raising revenue on some tax bases in line with FMS policies	Regulation of foreign/inter-state trade
Infrastructure	Regulation and management of air and sea transport Regulation of ICT sector	Regulation of public transport, state roads and street lighting Managing information at the state level	No role	Management of road networks
Security and justice	National defence, policing and correction services Supreme and constitutional court	State police Appeals courts	Coordination on security matters 1st class court at district and regional level	Districts police First instance courts
Social services	National health and education policy (such as curricula)	Delivery of health facilities and education services FMS policies on displacement and shelter	Delivery of water, sanitation and hygiene services Delivery of housing and shelter services Monitoring delivery of health, education and other services Supporting coordination of service delivery	Implementing social services at local level

Possible advantages:

- Provides scope to promote national unity while addressing concerns around centralization of power.
- Gives central government a clear mandate on important areas requiring unified policy, such as foreign policy and economic development, while sub-national government leads on delivery of social services, making them better attuned to localized priorities.
- Promotes collaboration without creating too many areas of ambiguity and confusion.

Possible disadvantages:

- Requires extensive political negotiation, reconciliation and trust-building, and so may not be politically viable.

Considerations for the way forward

Addressing the question of power allocation is not easy in Somalia. Nevertheless, it remains a critical gap in the political settlement and needs to be addressed, along with other critical areas, such as fiscal federalism, the national security architecture and the status of Mogadishu. This is most likely to be achieved through an integrated, inclusive political process that discusses these issues in careful sequence, eventually informing the constitutional review process.

Credits

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Somali Public Agenda is a non-profit public policy and administration research organisation based in Mogadishu. Its aim is to advance understanding and improvement of public administration and public services in Somalia through evidence-based research and analysis. Somali Public Agenda is a partner on the Somali Dialogue Platform.

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