



Summary

On May 27, members of the National Consultative Council (NCC) signed an election agreement in Mogadishu. The agreement, which consists of eight points and a roadmap for the post-election government, addresses the core outstanding issues of the indirect elections. The Prime Minister took the lead of the electoral process after the House of the People rescinded early last month a two-year extension it announced on 12 April and the President handed over the election management and security to him. The agreement includes a way forward for the election implementation teams, the election of Somaliland seats, the management of elections in Gedo, election security, women's quota, and an election timeline. This brief examines the agreed framework and its limitations. It also analyses the implementation challenges of the agreed indirect election such as budget, security, the composition of electoral delegates, and logistical challenges. It also puts forward a number of recommendations that, if implemented, could enhance the transparency and outcome of Somalia's approaching indirect elections.

About Somali Public Agenda

Somali Public Agenda is a non-profit public policy and administration research organization 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.

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From Agreement to Implementation: The Operationalization of Somalia's Indirect Election Agreement

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Background

In their third Dhusamareb meeting in August 2020, the Federal Government of Somalia and the Federal Member States (except Puntland and Jubaland) leaders agreed to explore an indirect electoral process for the 2020-21 election of the federal bicameral parliament and president. The agreement was later refined and a new model was agreed in Mogadishu by all National Consultative Council (NCC) members on 17 September 2020. This was overwhelmingly endorsed in a joint parliamentary session in late September.

Initially, there were three main outstanding issues including the controversy over the civil servants and alleged members of the security forces who were appointed as members of the election management bodies, the management of the elections in the Gedo region of Jubaland, and the appointment of the electoral body that would manage the election of Somaliland representatives. Political differences over these issues meant it was not possible to finalize the agreement and begin election implementation.

The last opportunity to address these matters was the fourth Dhusamareb meeting, which took place in early February 2021. President Farmaajo left that meeting on 6th February and addressed the House of the People of the Somali Federal Parliament about the 17 September agreement. He alleged that FMS presidents (especially the Puntland President) had single-handedly written that agreement. Two days after the failure of the fourth Dhusamareb meeting, the four-year term of President Farmaajo – who was elected on 7th February 2017 – expired without a final agreement on the next election. This was an unprecedented situation, and uncertainty about what could happen in such situations was high.

The events that took place between 7th February and 27th May (three months and twenty days) were quite extraordinary. On 16 February, a technical committee meeting in Baidoa agreed on a way out for the outstanding electoral issues. There was heavy gunfire on the night of 19 February near the hotel housing the two former presidents and other politicians. There was also subsequent firing upon demonstrators who were being led by politicians (including the former prime minister) near the airport. Efforts towards dialogue in March fell apart when the House of the People (one of the two chambers of the federal parliament) introduced and unilaterally (with the absence of the Upper House) endorsed a resolution that proposed at least a two-year extension on 12th April 2021. The President signed the resolution instantly. On Sunday, 25 April, sections of the security forces entered Mogadishu to oppose the extension, and clashes between government forces who opposed the extension and other government forces loyal to the incumbent erupted in the capital. Thousands of people were displaced from some parts of Mogadishu.

On May 1, after a request from President Farmaajo and mounting local and international pressure, the House of the People met again and repealed its previous (extension) decision. This was a turning point for Somalia's political

dispensation and immediately cooled down the political temperatures. In his speech at the House of the People that same day, the president publicly stated that the Prime Minister would take over the election and security discussions. This has created hope that an election based on the 17 September agreement can be held in Somalia as soon as possible.

Prior to the decision to rescind the extension, there was a concern in some circles that the commanders of security forces who opposed the extension and took over the control of some parts of Mogadishu would be key stakeholders in the election discussions. However, efforts of the Prime Minister, the 10-member de-escalation committee, and members of the Council of Presidential Candidates (CPC), addressed such concerns, and the forces who entered Mogadishu to oppose the extension returned to their bases a few days after the repeal of the extension.

The Prime Minister then announced a National Consultative Council (NCC) meeting on 20th May in Mogadishu. The NCC meeting started on 22nd May and without an official opening of the meeting, principals started discussing the outstanding issues on the sidelines and through informal ice-breaking sessions that were a prelude to the signing of the final agreement. On Thursday, 27 May 2021 (eight months and ten days after when the 17 September 2020 agreement was signed), a new election agreement, which is almost a harmonized version of the September 17 agreement and the February 16 Baidoa technical committee agreements, was signed in Mogadishu by all NCC members except President Farmaajo. A closing ceremony attended by key actors was held in Mogadishu's Afisyon hall. The agreement consists of eight points and a roadmap for the post-election government. This brief analyzes the agreed points that would address the key outstanding issues.

The election management committees

According to the signed document, the NCC members decided that the names of disputed members of the federal and state-level election implementation bodies would be submitted to the Office of the Prime Minister within three days of the agreement being signed (Thursday, 27 May). After receiving these names and screening of the attached evidence, the Prime Minister would submit the list to the respective FMS leaders to submit credible members who would replace these members within two days (30-31 May). The committee members would then elect its chairs when the disputed members are replaced.

The three-point agreement on the election management bodies is somewhat ambiguous and is not realistic in terms of timelines. First, although it was not clear in the document who would submit the names of those disputed members, the Council of Presidential Candidates (CPC) submitted a list of 67 members (although other political actors also submitted names to the CPC) to the Office of the Prime Minister on 31st May. A day before, the Prime Minister appointed a ministerial-level committee to verify complaints against members of the electoral bodies whose neutrality and integrity was in question. The neutrality of the ministerial-level committee itself is questionable as almost all of them are candidates for parliamentary seats. At the time of writing this paper, the ministerial-level committee has disqualified 34 members of the 67 names submitted to them and asked for their replacement. Important to note is that Puntland and Jubaland as well as the speaker of the Upper House have already submitted a new list of names before the announcement of the vetting committee results.

Second, although the members of the election implementation teams was one of the main contentious issues, the agreed timeline for both the submission and

screening by the Office of the Prime Minister and the forwarding of the list to the relevant FMS leaders, was only 5 days in total. This was not realistic and has already expired. This signals that the timelines and dates mentioned in the agreed framework are indicative and meeting them may not be a priority going forward.

Third, the agreement implies that all chairpersons of the federal and state-level election implementation commissions will be re-elected when the members are complete, which means that completion is a prerequisite for the election of the chairpersons. This again may take longer as there is no specified time for when the chairpersons will be elected. These are details and technicalities that have not been clearly outlined in the agreement, which may delay the agreed election timeline.

Election of Somaliland seats

The May 27 agreement gave the Prime Minister of the Federal Government of Somalia the responsibility to oversee the smooth running of the elections for the Somaliland seats in consultation with the Speaker of the Upper House and the Deputy Prime Minister, who are both from the Somaliland constituency. The Speaker (Abdi Hashi) will nominate 4 members to the Somaliland Electoral Implementation Team (SEIT), 1 member to the Federal Electoral Team (FEIT), and 1 member to the Disputes Resolution Committee. The Speaker already submitted the list (all male) of these members to the Office of the Prime Minister on 2 June 2021. Before this agreement, there was a huge contestation on who among the Somaliland political elites would appoint members to the different committees and how many.

As has been the case in some of the clauses in this agreement, details on some of the technicalities, which are crucial, have not been made clear. This includes where the elections for the Somaliland seats will be held (some of the Somaliland politicians are pushing for a level playing field that prevents any sort of manipulation, and are thus suggesting Afisyon (Afisyon) camp. Moreover, the voting procedure of the Upper House representatives from Somaliland remains unclear. Even the 17 September 2020 agreement did not provide an explanation on this (Somali Public Agenda & Somali Dialogue Platform, 2020).

The management of elections in Gedo

One of the stumbling blocks of the indirect electoral process is how the election would happen in Garbaharey district – the capital city of the Gedo region. The election constituencies were increased to two in each FMS compared to one in the 2016 indirect elections. Gedo region has been a periphery region in Jubaland and there are outstanding grievances and concerns of the residents in this region. These have not been fully addressed by either Jubaland or the Federal Government of Somalia. Management of the election in Gedo was the primary reason why the February 2021 talks in Dhusamareb failed.

The NCC who met in Mogadishu between 22 and 26 May agreed that the Prime Minister will take the lead on security and reconciliation in the Gedo region. The NCC also decided to establish a reconciliation committee consisting of all Federal Member States except Jubaland, as was suggested by the technical committee in Baidoa on 16 February this year. The core mandate of this committee and the expected output of their work would be:

- To create a secure and politically stable situation that will enable the election of the members of the House of the People (the 16 seats) to take place in Garbaharey district. This has to be done within 30 days. Furthermore, the committee will submit a proper reconciliation roadmap to the Prime Minister, which will be implemented within two months after the election.

- To propose two persons each for the positions of District Commissioner and Deputy District Commissioner for Garbaharey district after consultation with the different sectors of the local community.
- Jubaland president to select one of the two persons proposed for each post.
- The committee to be named (by the Federal Member States) within three days after the agreement is signed.

This breakthrough, which was initially proposed in Baidoa, has merits. First, it enhances the trust of the people in Gedo – particularly dissidents – as it removes Jubaland administration from initial involvement in the reconciliation process. Second, it provides an opportunity for the community to raise their voices and be consulted. Third, it also accommodates the legal jurisdiction of Jubaland administration in Gedo region and provides the Jubaland president the authority to appoint the Garbaharey district commissioner and his deputy. However, there are a few drawbacks. Who will be a member of the FMS committee is not clear. A deadline for reconciliation work may not also be good for sustainable healing and addressing the grievances. Furthermore, the proposed timeline for the nomination of the reconciliation committee has also expired as the timeline was not realistic.

On election security in Garbaharey district, the NCC agreed to deploy AMISOM police to the town. Moreover, the new district administration and the reconciliation committee would propose plans on how close protection would be provided to the state-level election implementation commission and the electoral delegates who will vote in Garbaharey. This is a reasonable agreement that could best address the Gedo election conundrum. However, implementing the agreement will require leadership and commitment of the Prime Minister and a transparent and conciliatory approach by the to-be-appointed FMS level reconciliation commission.

Election security

Election security was another outstanding challenge that required an agreement given the trust deficit among the political class and the violent incidents that happened in Mogadishu in February and April 2021. The NCC endorsed the establishment of a new 9-member election security task force led by the Prime Minister. All police commanders of the federal government and all FMS, as well as the AMISOM police commander, will be members of this task force. The main jurisdiction of this body would be for the preparation of a special police force that will keep the security of election locations, especially venues for the election of Somaliland seats, the election of the speakers of the two houses of the parliament, and the election of the president. The election security task force would also provide regular updates to members of the National Consultative Council. It would replace the previous National Election Security Taskforce.

The President has on May 1st stated in front of the House of the People that the Prime Minister will lead the election security after presidential candidates and some FMS Presidents questioned the powers of the President and whether he could be trusted to command the security forces when his constitutional mandate ended. Initially, there were suggestions to the President to write and sign a letter ascertaining that he will limit his authority to repairing the trust issues and block the incumbent (himself) to take major policy decisions. This election security arrangement would win back the trust and confidence of key actors in the management of election security. It is an arrangement that the FMS police

commanders are part of. Furthermore, the leadership of the Prime Minister to the task force is an indication that the Prime Minister would be the top government official who will take the decisions related to the election security.

Women's quota

The National Consultative Council agreed to ensure a 30% quota for women and to protect the quota for women in both Houses in accordance with the agreement of 17 September 2020. A number of the NCC members who spoke at the closing ceremony on May 27 also echoed that they will make sure the women's quota is reached in the upcoming parliamentary elections. That said, the agreement doesn't specify how and where this quota would be secured. This makes this assertion appear to be mere lip service and there is a lack of clear strategy to meet the quota.

At the moment, Somali women account for 24 percent of Somalia's 329 bicameral parliament, which falls short of the minimum 30% threshold plan. Although the 2016 indirect elections increased women's representation from 14% in 2012 to 24%, the agreed framework may result in a decrease of the current 24% women quota. What made the 2016 process a success in terms of women representation was the designated women-only seats, which the current 2021 indirect electoral agreement does not clarify.

Election timeline

The agreement stipulates that the election will be completed within 60 days as per the February 16 proposal in Baidoa. The Federal Electoral Implementation Team (FEIT) will issue a general timetable for the implementation of the elections while the State Electoral Implementation Teams (SEITs) will prepare state-level timetables for the specific Federal Member States in accordance with the schedule of the FEIT.

First and foremost, this election timeline is not realistic. Given the 2016 experience, the agreed timeline will not be met. A clear early indication that the election timeline is not achievable can be seen in the way in which initial deadlines have already been missed to replace the disputed members of the election management bodies as well as the appointment of the reconciliation commission for Gedo region. Another indication relates to the logistics, finance, delegates selection, and other technical issues that would require more time. A minimum of 120 days is a more reasonable timeline for the conclusion of the indirect election.

Second, although the agreement states 60 days, it does not mention that the 60 days will start from the day the election agreement is signed (May 27). There are already different interpretations on where the 60 days will start from. Some actors believe that the 60 days will commence when the election bodies start the implementation of the election. Even if the 60 days refers to when the actual election starts, the timeline will most likely not be sufficient for an indirect election to be concluded.

The National Consultative Council role

One of the key structural challenges that the National Consultative Council faced was a lack of an organized timeline for their meetings. The NCC agreed to have regular meetings to make sure the proper implementation of the agreed electoral process, as well as to address the challenges that emanate from the election process.

Although regular meetings are important, the agreement does not specify the timeline for these meetings and it may need some further clarifications. In a joint Somali Public Agenda and Somali Dialogue Platform briefing published in early December 2020, regular monthly meetings were proposed to address the disputes and challenges that may come out as the election implementation starts (Somali Public Agenda & Somali Dialogue Platform, 2020).

Operationalization Challenges

Many challenges emanate from the agreed indirect electoral process, its implementation as well as other political, economic, and security challenges that some of the locations planned for the election face.

Election timeline: The election timeline is not realistic. The huge workload and the allocated 60 days are not fully proportional. Predictably, a great chunk of this timeline will be spent on pre-election arrangements (selection and training of committees, soliciting funds, logistical preparations et al), and there will be a considerable time deficit. This implies that the election timeline would be open-ended and could drag on for several months.

Election budget: the total budget that is expected to be spent on the indirect election is estimated at around \$15.5 million. Although some of the election budget (about \$8 million) is expected to be covered through the candidate registration fees (which have been doubled) the remaining costs are expected to be covered by the international community. It is not yet clear how the international community would finance the electoral process. In 2016, the international community pledged to cover the flight and accommodation expenses of delegates. There are indications that the donor community are reluctant to cover the accommodation and logistics of delegates, which is now doubled from 51 per seat in 2016 to 101. Covering such costs (as well as paying on time) would both be challenging to the electoral process. In 2016, when the international community and the election commissions failed to cover the travel and logistics costs, candidates filled the void and covered all expenses incurred by the voting delegates with additional bribes. This influenced the election outcome (Somali Public Agenda, 2020). This scenario seems to be happening again in 2021.

Composition of voting delegates: the 17 September 2020 agreement proposed the inclusion of civil society members as well as the Federal Member States into the selection committee of the electoral delegates. There is no clarity on the criteria, composition, selection, and role of elders and civil society in the selection of delegates. Addressing this - which will have a significant impact on the election outcome - is another challenge. Initially, the intention was to reduce the number of delegates that clan elders would appoint. However, who among the civil society and FMS would have the authority to appoint members of the voting clan delegates remains unclear. The designation of these individuals - who the candidates will also try to influence - will most likely be controversial and time-consuming. Addressing this issue is a challenge that needs to be prioritized.

Logistics: Logistics and deployment of clan delegates will be both costly and time-consuming. Some of the electoral delegates are either staying outside their electoral constituencies or are in Mogadishu hence the need to airlift them owing to security concerns. The logistical requirements of the whole process are significant, as witnessed in the 2016 indirect elections.

Election security: Pre-election security assessments would be needed for all the electoral constituencies. The election security task force would need to assess the towns and venues that the election would take place in. Dedicated security forces for the election that maintain the security of venues, delegates, and candidates will also be required. Moreover, some of the candidates will have their security arrangements. Clarifying the security protocols, selecting, training, and deploying security forces would require time and the provision of financial resources on schedule. This could delay the electoral process in some constituencies.

Reconciliations: Aside from the Gedo region and the reconciliation commission that will be appointed to address the grievances of the local community in the Gedo region, Hirshabelle also needs a similar reconciliation process as Jubaland. There are issues in one of the electoral constituencies – Beledweyne – that could hinder peaceful elections to be held in the Hiiraan region. The elections for 25 House of the People seats out of the 38 seats elected from Hirshabelle will be held in Beledweyne hence a stable site is paramount.

Policy considerations

For a successful implementation of the indirect election based on the September 17 agreement and the May 27 final agreement, and to deliver an election that is an improvement on the 2016 indirect elections, the following recommendations should be considered by the stakeholders:

1. Flexibility on the election timelines is crucial. The NCC and the political stakeholders should take into consideration the fact that 60 days are not enough for the implementation of the indirect elections. 120 days could be a reasonable timeline for the election.
2. The issue of Beledweyne should be urgently addressed to hold elections free from violence. The Office of the Prime Minister, Federal Minister of Interior, and the President of Hirshabelle should join hands and liaise with politicians, elders, and other relevant actors from Hiiraan and address local issues, particularly those that have the potential to obstruct free and peaceful elections in Beledweyne.
3. The Office of Prime Minister, as the custodian of the forthcoming indirect elections, should push for a cross-cutting and feasible plan to secure the women's quota. This should include a straightforward mapping of the seats and an implementation plan of the women's quota. An ideal approach could be all FMSs mapping and sharing the number of seats reserved for women candidates since that is the only way to ensure a minimum quota to be achieved. Moreover, best practices and experiences from the 2016 indirect elections could be considered.
4. International partners should speed up and inject soon their financial and logistical support, which is fundamental to the whole electoral process.
5. Civil society organizations, youth, and women's groups should explore and undertake effective and localized ways of influencing the selection of voting clan delegates. They should undertake advocacy and provide independent oversight particularly on election financing, the types of leaders Somalia deserves, political space, and election security. These efforts would go a long way in improving the credibility of the Indirect Elections.

References

Somali Public Agenda & Somali Dialogue Platform, 2020. Protecting stability and inclusivity in Somalia's indirect election process. Issue 10, p. 5.

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Election Series: This brief is the twelfth paper of our election series. SPA welcomes and very much appreciates comments, feedback, and ideas relating to Somalia's anticipated federal and state-level elections.