



What Lessons can be Learned from Somalia's 2016 Indirect Elections?

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Summary

Somalia is heading into another indirect election in 2020-21. It is a familiar process and one that was undertaken almost four years ago. Many lessons can be learned from the 2016 indirect electoral implementation process. In 2016, candidates for the House of the People of Somali Federal Parliament covered some important logistics, travel and accommodation costs for the electoral delegates (which in part is believed to have helped them get elected); there was no scheduled time for meetings between candidates and the voting delegates; and the date and time for voting of each seat of the House of the People was unilaterally decided by the state election implementation teams. In 2016, the proportion of women in parliament was increased from 14% to 24%, which was a significant increase. This was one of the positives of the 2016 indirect elections and similar efforts could be made this time around to raise this to the 30% female quota target. This brief analyses the implementation process of the 2016 indirect elections and concludes with policy considerations. These include: prohibiting candidates to handpick electoral delegates; providing the necessary logistical and accommodation support to the delegates on time; arranging a formal campaign schedule for voters and candidates; publishing the election schedule for each seat of the House of the People in advance; allowing the media and election observers to be present during the voting, and monitoring and reporting irregularities and fraudulent practices throughout the election process.

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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Background

The second indirect election is scheduled to happen in Somalia again in late 2020. As agreed by the Federal Government of Somalia (FGS) and the Federal Member States (FMS) leaders in Mogadishu on September 17, 2020, an indirect election will take place in two districts in each FMS where 101 clan-based electoral delegates will vote for each seat of the House of the People of the Somali Federal Parliament. The 54 members of the Upper House will also be elected by the FMS legislators, similar to the 2016 process.

In 2016, an electoral college of over 14 thousand citizens drawn from clans elected the 275 members of the House of the People of Somalia's 10th parliament. Their mandate will end on 27th December 2020. 2016 represented an improvement compared to the 2012 selections. In 2012, 135 traditional elders selected 275 members of the parliament (there was no Upper House at that time) after 825 constituency assemblies had adopted a new provisional federal constitution in August of that year.

Similar to hopes for 2020-21, the provisional constitution had envisaged one person one vote elections in 2016. The Vision 2016 roadmap, which was drafted in September 2013 by the Federal Government of Somalia, put forward a plan that guided the government functions until the end of its mandate in August 2016 (Vision2016, 2013). The Vision 2016 document highlighted three core goals to be achieved: federalization, constitutional review and ratification, and one person one vote elections in 2016. However, the impossibility to realize the aspiration to hold one person one vote elections was publicly announced by the Federal Government of Somalia in late July 2015.

National and regional leaders, alongside the international community, formed a National Consultative Forum (NCF) for the discussion of the 2016 political transition. The forum proposed four alternative options for 2016 parliamentary elections: a nationwide electoral college, a federal member state-level electoral college, a district-level electoral college and a clan-based electoral college (The Somali National Consultative Forum, 2015). Furthermore, the National Leaders Forum (NLF) – consisting of the federal president, prime minister and speaker and four regional presidents – was formed in late 2015 to streamline the electoral process. The forum agreed a clan-based electoral model for the 2016 political dispensation of April that year.

The members of the National Leaders Forum held several conferences in Mogadishu and other cities in Somalia. After several heated discussions, the Forum members agreed on a selection model for an Upper House, whose formation is stipulated in the provisional constitution of Somalia (for the first time in Somalia), and the House of the People. The model proposed holding the elections of the members of the two chambers of parliament in the capitals of the Federal Member States.

51 delegates of sub-clan members – of which 30% were women and 20% young people – were agreed to elect each Member of Parliament. The 135 clan elders that selected Somalia's 2012 legislators were given the mandate to submit the list of voters to the regional electoral team, which also sent a copy of the list to the federal electoral body. Furthermore, the members of NLF agreed the 30% quota for women at the parliament (Somali National News Agency, 2016). Every citizen who held at least a secondary school certificate, was aged above 25 years and pays the registration fee of \$5,000 (50% discount for women candidates) was eligible to compete for a seat in Parliament. Furthermore, the international community, which gave political, financial, security and logistical support to the process, played an essential role in both the design and implementation of the indirect (s)elections.

Moreover, the formation of the Federal Indirect Electoral Implementation Team (FIEIT) consisting of 22 members and the State Indirect Electoral Implementation Team (SIEIT) of 11 members in each state were agreed, i.e. seven electoral

commissions in total (six regional bodies and one federal electoral body). Moreover, The Federal Indirect Dispute Resolution Mechanism body was formed to solve election disputes, and candidates with complaints were mandated to pay a \$1,000 registration fee for each.

Research Methods

To understand how the 2016 indirect election was implemented in Somalia, several key informants were interviewed from each of the six cities that hosted the (s)election of the members of the House of the People of Somalia's 10th parliament. A total number of 12 individuals were interviewed in Kismayo (2), Baidoa (2), Mogadishu (2), Jowhar (2), Adado (2), and Garowe (2) in January 2017. These included voters, observers, media representatives, researchers, and candidates who competed for seats.

Semi-structured interview questions were prepared. The purpose of the study was to assess the inclusiveness and independence of the electoral bodies, the nature of the implementation process, the quota for women, the role of international community, and the outcome of the indirect elections. Further, general observations and a literature review on the issue was also used to complement the analysis and findings.

The total number of interviews were limited, and only two key informants were selected and interviewed in each of the six (s)election cities. Most of the interviews were conducted over the telephone. For ethical and confidentiality purposes, all interviewees were kept anonymous.

Inclusivity and Independence of the Electoral Bodies

The members of the National Leaders Forum selected the Federal Indirect Electoral Implementation Team (FIEIT) and the six State Indirect Electoral Implementation Teams (SIEIT). Representation in these was based on the '4.5' clan power-sharing formula that applies to Somalia's public office holders and members of independent commissions. There were regional representatives in the federal level commission, and federal government agents in state commissions. The majority of those interviewed agreed that in terms of inclusiveness, the indirect electoral commissions were inclusive and that all clans in the respective states had representation. However, federal and regional leaders handpicked these representatives without much consultations with their administrations.

Almost all of those interviewed responded that the electoral implementation teams were not independent. Both the federal and state leaders influenced the work of the commissions. The members of the National Leaders Forum (NLF) appointed their close allies and colleagues to the commissions. For example, the chair of the federal indirect electoral implementation team was the legal advisor of the federal president, the chair of Jubaland commission was an advisor to Jubaland president, and the chair of the SouthWest commission was a close friend of the SouthWest president. Other regional leaders had appointed close friends to the commission as well. This had a significant impact on the independence of the commissions. The regional presidents had a major influence in the state election committees and how they ran the election affairs. The same scenario seems to be happening in the 2020-21 indirect elections and the incumbent federal and some state leaders appointed close friends to the federal and state election implementation teams to ensure that the election process yields favorable outcomes.

Implementation Process

The implementation process for the indirect lower house parliamentary elections took place in three stages. In the first stage, clan elders selected and submitted electoral delegates to the electoral commissions. Delegates and candidates met and negotiated in the second stage of the process. And in the final stage, the state election commissions facilitated the (s)elections of MPs and then announced the winners.

Stage One: Selection of electoral delegates

As detailed in the National Leaders Forum April 2016 communiqué, the parliamentary elections were based on clans, and 51 delegates of each sub-clan voted for the clan representative in the House of the People of the Somali Federal Parliament (Somali National News Agency, 2016). The formal process was that traditional clan elders (the 135 who had been involved in the 2012 selection), after consultation with sub-clan leaders, each selected 51 delegates, who in turn would elect that clan's MP(s) in the parliament. All 275 seats in the House of the People were reserved for clan candidates based on the 4.5 formula. Candidates were able to influence this stage of the process. According to one interviewee, some of the contenders wrote the list of delegates by themselves. This did not just occur voluntarily. Candidates were allegedly able to bribe the clan elders who were selecting the delegates before their lists were submitted to the regional and federal electoral implementation teams. Other candidates were able to include the names of their security staff and drivers as electoral delegates (Marqaati, 2016).

Stage Two: Logistics and campaign financing

The second stage of the implementation process involved the transport of electoral delegates to election centers and the direct communication between the delegates and candidates. Corruption and bribery were very common at this stage of the electoral process. From the beginning, the international community and the election commissions had pledged to cover the flight and accommodation expenses of delegates. However, they failed to cover these logistical arrangements on time. Further, the process of paying \$200 for each delegate to cover expenses during their stay in the election center was too slow and some left because of the bureaucracy of the payment process. Therefore, the candidates filled the void and covered all expenses incurred by the voting delegates with additional bribes. This influenced the outcome of the voting.

Moreover, some candidates allegedly bribed members of the state electoral implementation commissions to change electoral delegates partially or totally, or intimidated other candidates in their favor. According to some of those interviewed, some prospective candidates for the federal presidency also influenced some seats by either financing one candidate to win or to defeat other contenders. Prospective presidential candidates did this because it would be MPs who would go on to elect the President. Further, some presidential candidates gave financial support to women from other sub-clans to win the female-reserved seats, as one woman was required to be elected in every three sub-clan seats to meet the 30% women quota.

However, the most noticeable corruption and vote buying occurred the day and/or night before the election. One of the delegates in Jowhar who was interviewed said: "the highest bidder was always the winner". Another interviewed in Kismayo also raised several kinds of malpractice. He argued that there were no formal procedures and timings for candidates to meet delegates and present their manifesto. As a result, some candidates gathered delegates, paid money and collected their mobile phones to disallow communication with other contenders. Others bribed members of the state electoral team to facilitate their election and/or access to the delegates at the last minute. In some cases, winners handpicked a fake-contender who they financed in order to give the false

impression to the public and media there was genuine competition for the seat.

Corruption was higher in the 2016 parliamentary (s)elections in comparison with the 2012 process. In 2012, some candidates paid only the clan elder that selected him/her, but in 2016, candidates had to pay clan elders, election implementation commissioners in some instances, and the 51 delegates that elected them. As one interviewee put it, “it was a distribution of wealth”. According to the Somali Auditor General, “some votes were bought with \$5,000, some with \$10,000, and some with \$20,000 or \$30,000” given to each delegate (Radio Dalsan, 2016). He added two specific seats cost \$1.3 million (in bribes) each (Voice of America, 2016).

The international community issued several communiqués alleging corruption and intimidation, and questioned the legitimacy of the election outcome. The United Kingdom, United States of America and Sweden later warned their (dual) citizens that corrupt practices in Somalia would be punishable under their laws.

Stage Three: Voting of delegates

The last stage of the implementation process was the election day. The sequence of activities of the indirect elections had no clear plan. Therefore, the election implementation commissions developed their procedures during the election. For example, the sequence of the seats, the election time, and the procedure of bringing the delegates to the election hall, among others, had no written guidelines and the commissions took the discretion to decide instead. Therefore, the commissions prioritized the sequence of seats to be elected as they liked.

According to a report by Marqaati, an anti-corruption focused local non-governmental organization, some seats were voted for without notification to all candidates (Marqaati, 2016). Media stations were generally present at this stage. However, on a few occasions journalists were not present, and there was no unified or formal procedure to announcing the result of the votes.

Furthermore, there was no mechanism to solve disputes before the (s)elections took place. For example, according to an interviewee, security forces beat a woman candidate in Kismayo and the election for the seat was concluded and the results announced while she was still complaining. Moreover, the roles and responsibilities of the dispute resolution committee were not clear. They were dealing with clans, and the time was too short for them to properly investigate corrupted or manipulated cases. The indirect dispute resolution committee announced that they had received and investigated 67 cases. The commission shortlisted 24 serious cases and nullified 11 of them (Goobjoog, 2016). The international community along with some politicians challenged the decision of the dispute resolution commission and some alleged interference from the office of the President. Finally, the members of National Leaders Forum deliberated and agreed that five seats would be re-elected while the six of the 11 seats nullified were given the full membership of the House of the People of Somali Federal Parliament (Villa Somalia, 2016).

The 30% Quota for Women

One of the partial success stories that came out of the (s)election of Somalia's 10th parliament was the implementation of 30% women quota. In 2012, 14% of the 275 parliamentarians were women, – 16% short of the expected 30%. However, in 2016, about 24% of the members of the two chambers of parliament were women. This represented a 10% improvement and a milestone for

those who worked to secure this female quota, particularly the international community and women's associations.

Many factors helped the improved implementation of the women's quota in the 2016 parliamentary elections. First, women's groups conducted advocacy and awareness campaigns before the beginning of the (s)election process. Second, the international community shared with the National Leaders Forum and election commissions the list of clans and specific seats that only women could compete for. Third, the federal and regional leaders respected and openly supported the women's quota. Finally, the regional and federal electoral commissions made the quota mandatory for clans. The commissions at times tried to make women's seats the first of the three seats to be elected. However, there are some cases where the quota was politicized and became a tool to allegedly disqualify some influential candidates by designating their seats for women. While the combination of these factors were responsible for securing 10% more seats for women in the parliament, some of the women contenders were powerful enough to compete with their male counterparts and win seats. For example, one woman competed and defeated five male candidates in a seat that had not been specifically designated for a woman.

That said, the quota for women faced challenges. The plan was to have one woman elected for every clan that had three seats. However, some clans had less than three seats, and seats of other clans were in different regional administrations and election centers. In some cases, the rule of only women competing for a women's seat was not respected and men did compete with them. This agreement was often perceived as temporary. However, all those who worked for the improvement of female representation had achieved a tangible progress in making Somalia's parliament one that (remarkably) actually equals or exceeds some developed countries in terms of the proportion of women MPs.

Role of the International Community

The United Nations Assistance Mission in Somalia (UNSOM) and other international bodies supported the formation of the National Leadership Forum, which itself engineered the electoral process. In addition to that, the international community sponsored close to 60% of election expenses, covering mainly logistics, refreshments, voting card machines, printers, and security. African Union Mission in Somalia (AMISOM) forces were deployed in many electoral locations during the elections. At times, the international community influenced the process, especially in relation to the women's quota. Representatives from the international community were observing the electoral implementation process in all the six electoral locations. This contributed to the smooth implementation of the process on the election day. However UNSOM did issue several letters questioning the credibility of elections and manipulation of some seats (UNSOM, 2016).

Despite these efforts to support the (s)election process, many of those interviewed criticized the role of international community for a number of reasons. First, AMISOM contingents were not deployed to the election centers on time. Adaado and Jowhar – in Galmudug and Hirshabelle regional states respectively – are two examples. This could be one of the several delays and setbacks of the elections in 2020/21. Second, the international community did not disburse funds on time. Some of the interviewees cited the bureaucratic nature of UN systems which resulted in the delay of salaries for the electoral commissions. Finally, the international bodies failed to prepare airplanes for delegates. This allowed candidates to step in and cover delegate travel and accommodation expenses, thus serving as bribes that undoubtedly influenced voting.

The Election Outcome

The 2016 (s)elections of the House of the People of Somali Federal Parliament had some similarities and differences with the 2012 selections. In 2012, selections were planned and organized by the six roadmap signatories; whereas seven members of National Leadership Forum planned and engineered the 2016 (s)election process. Another similarity was that both selections used the 4.5 power-sharing formula for the distribution of parliamentary seats. However, there were two major differences. Firstly, while in 2012, the selection took place in Mogadishu, in 2016 the selections were held in the regions. That was a positive step towards a direct election in 2020-21, although that has now failed to materialize. Secondly, 51 delegates voted for each parliament seat in 2016, totaling more than 14 thousand people. This is evidence that participation had increased considerably in the 2016 (s)elections in comparison with 2012 where only 135 elders had the mandate to select 275 legislators.

However, this increase of participation and devolution to regions had both its merits and demerits. Slightly more than half (55%) of the legislators were new. This means that many legislators were not able to retain their parliamentary seats, which was a good thing. Second, the number of women in the parliament increased considerably. Third, a high number of young people joined the assembly. One in every seven MPs was below 35 years of age. As the interviews conducted showed, this was the result of the increased number of delegates voting for each seat and the fact that some legislators had no political alignment or relevance in the constituencies they represented.

Despite those positives, corruption was high. Some of the interviewees believed that the 2016 parliamentary (s)election was the most corrupt in the history of Somalia. The majority of winners received between 80% and 100% of the votes, which is “statistically [an] impossibility in a free and fair election” (Marqaati, 2016). Moreover, the procedures were flawed, the number of power brokers had increased and the seats fairly competed for were few. Furthermore, the federal and state leaders (some of whom were presidential candidates) had a significant influence on the outcome of the (s)elections, and public resources were misappropriated and used for private interests. These

malpractices damaged the credibility and legitimacy of the 2016 (s)elections of the House of the People of the Somali Federal Parliament.

Policy Considerations

To mitigate some of the 2016 mistakes, this paper suggests several policy considerations:

1. The selection of clan delegates should be one that is independent from the contending politicians. The federal and state level election implementation teams should ensure that the candidates are not involved in the selection of delegates. The bodies should guarantee that the 2016 experience is avoided, where some candidates were able to manipulate the process and – in some cases - write down the list of voters themselves.
2. The election commissions (and the international community) should warrant that the logistics, travel and accommodation of the delegates is covered and the necessary resources are prepared and disbursed on time. Failure to do so would give the candidates opportunity to fill that void and ensue a conflict of interest that in turn will serve their interests and unfairly influence the process.
3. There should be a formally scheduled time that candidates can meet with the delegates and make campaign speeches. Representatives from the election commissions should oversee this process. Media access should be facilitated so these speeches can be broadcast to the public. This would reduce chances of bribing the delegates and introduce a greater element of genuine political competition. Equally important is to plan and schedule the voting sequence of each seat of the House of the People in each FMS constituency. The schedule should be publicly available, so that the state election implementation team cannot unilaterally decide the date and time for voting.
4. The media and election observers should be present in each polling center when the voting is taking place. Active and professional teams drawn from the media and the civil society should be deployed to each of the 11 electoral constituencies nation-wide. This would be very important for the transparency of the elections.
5. Female representation should be a collective effort that is advanced by the national and regional leaders, election implementation committees and clan elders. A clear and viable mapping of the women's quota should be undertaken as soon as possible by the election commissions in conjunction with the

clan elders, and implemented as such. The women quota should not, however, be politicized and used to fight against individual politicians as happened in 2016.

References

- Goobjoog (2016) Goobjoog Web page, 14 Dec, [Online], Available: <http://goobjoog.com/english/somalias-dispute-resolution-committee-nullifies-outcome-elections-11-seats-across-somalia/> [13 Jan 2017].
- Marqaati (2016) Marqaati Web page, December, [Online], Available: <https://marqaati.org/en/2016/12/the-indirect-elections-highly-irregular-and-barely-legitimate/> [13 January 2017].
- Radio Dalsan (2016) Radio Dalsan Web page, 22 November, [Online], Available: <http://www.radiodalsan.com/2016/11/22/civil-society-concern-over-the-parliamentary-elections/> [13 January 2017].
- Somali National News Agency (2016) Somali National News Agency Web page, 10 August, [Online], Available: <http://sonna.so/en/communique-of-the-national-leaders-forum/> [17 December 2016].
- The Somali National Consultative Forum (2015) 'The Somali National Consultative Forum on the Electoral Process in 2016', Villa Somalia, November.
- UNSOM (2016) United Nations Assistance Mission in Somalia Web page, 21 December, [Online], Available: <http://unsom.unmissions.org/international-community-urges-national-leadership-forum-uphold-accountability-transparency-and> [14 January 2017].
- Villa Somalia (2016) Villa Somalia Web page, 27 December, [Online], Available: <http://www.villasomalia.gov.so/warmurtiyeed-madasha-hoggaamiyeyaasha-qaran-mhq/> [16 January 2017].
- vision2016 (2013) Villa Somalia, 6 Sep, [Online], Available: http://www.villasomalia.gov.so/wp-content/uploads/2014/11/VISION2016-Final_COMMUNIQUE1.pdf [10 Nov 2015].
- Voice of America (2016) Voice of America Web page, 19 November, [Online], Available: <http://www.voanews.com/a/somalia-elections-lack-credibility-auditor-general-says/3603878.html> [13 January 2017].

Election Series: At Somali Public Agenda, we have begun a series of commentaries and briefs concerning these elections. Each commentary or brief analyses election-related themes. This is the fourth brief of this series. SPA welcomes and very much appreciates comments, feedback and ideas relating to Somalia's anticipated elections.