Somalia:
In Search of a Workable 2020 Electoral Model

VOTE

SOMALIA
General Election

The Heritage Institute For Policy Studies
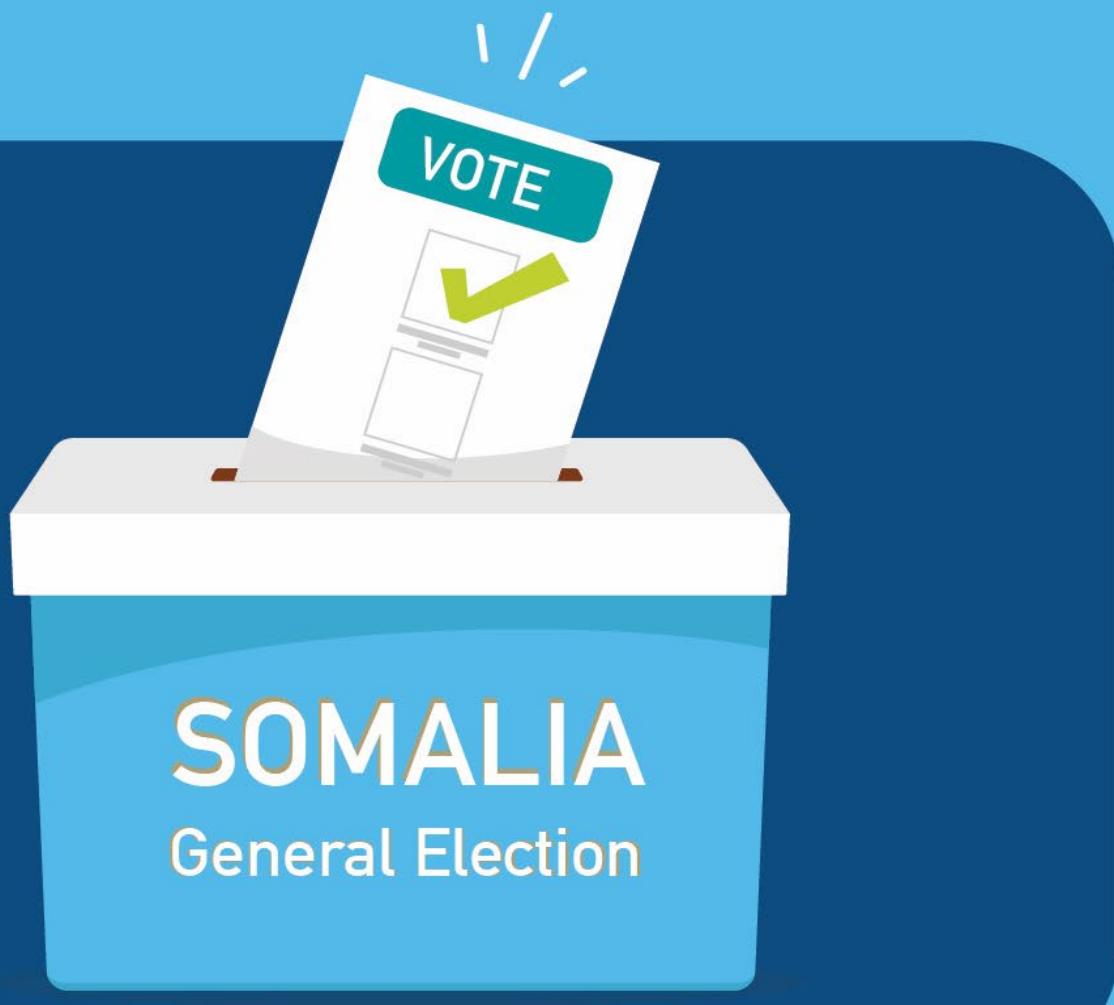
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About the Author:

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Executive Summary

For the fifth time since 2000, Somalia is searching for an electoral model that advances the country's democratic process. This is both a cause for celebration and a cringe-worthy setback. Discourse around electoral models indicates that the country is unfailingly pursuing a democratic path in a region where autocracy dominates body politics. At the same time, Somalia has consistently failed to shed a clan-based political dispensation and leap into universal suffrage once and for all. That is especially true for a country with democratic traditions going back to independence in 1960. In fact, the country's first president, Aden Abdulle Osman, was also the first African president to lose — and concede defeat – in an African presidential election. President Osman rejected calls by his political base to remain in power for the sole purpose of deepening a nascent democracy.

For that reason, it should be possible to organize a universal suffrage election instead of shopping for unconventional electoral models every four years. Less than two years before the next election, scheduled for late 2020 (for both houses of parliament) and before 8 February 2021 (for the president), Somalia again is at juncture where it is paradoxically forced to grapple with whether to maintain the status quo in terms of clan power sharing or inch closer to a citizen-centric, one person, one vote system. Because of the complex clan system in Somalia, particularly when translating votes into parliamentary seats, inventing a model that satisfies everyone could be an impossible task.[1] But that should not stop the necessary discourse on a fair and relatively democratic electoral model for the 2020 elections – even if one person, one vote is not forthcoming.

It is in that spirit that the Heritage Institute for Policy Studies (HIPS) presents this report to contribute to discussions at both the public and policy levels about a suitable electoral model for the country. Based on the data collected, and a contextual analysis of the political and security dynamics, we can say that there is a near consensus on the following three points:

- First, the overwhelming majority of Somalia's political class[2] and the international community[3] are not in favor of a term extension for the current administration, as that would jeopardize the legitimacy of the post-transitional federal government and open the door for future indefinite extensions.
- There is a real possibility that an extension would dampen the country's weak but steady march towards a new democratic culture and cause new political instability;

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[1] Articles 64 and 72 of the draft constitution mandate that the legislative assemblies "must represent all communities of the Federal Republic of Somalia in a balanced manner". This has resulted in the current power sharing 4.5 clan formula.
[2] Most of the political activists were concerned that the government intended to extend its mandate. Political parties met in Mogadishu and issued a statement against an extension beyond 2020. See the statement here: https://goobjoog.com/aragtida-xisbiyada-ee-ku-aaddan-doorashooyinka-dalka-akhriso/

[3] See Security Council Resolution 2472 of 31 May 2019. Available at: http://undocs.org/s/res/2472(2019)

- Second, it's highly improbable—if not impossible – that a credible, free and fair one person, one vote election can be organized throughout the country within the remaining 18 months of the Farmaajo administration; and
- Third, if there is political will, key stakeholders (the federal government, the federal member states and registered political parties/associations)[4] have the time to engage in productive discussions and agree on workable electoral models for the next election. As time is short, stakeholders should get on with such discussions in earnest.

During our research, we categorized the possible 2020 election scenarios into four main electoral models. These models have a lot in common, such as the need to introduce political parties and the necessity of maintaining some of the features if not all components of the 4.5 clan power distribution system, even though the two appear mutually exclusive. Almost everyone interviewed for this report highlighted the rigidity and limitations of the 4.5 system and its parochialism. However, most were quick to point out that, in the absence of a universal suffrage election, the 4.5 system offers by far the most predictable path toward inclusivity in Somalia's fragile and post conflict society. In fact, despite being unpopular, the 4.5 system is also seen as a major stability factor, as it creates a perception of power equilibrium among the Somali clan families in the absence of an agreed alternative mechanism.

Despite our best efforts to categorize the available options into four unique models for Somalia, the reality is that elections at the global level follow well-established systems such as proportional representation (PR), first past the post (FPTP) or a mixed method approach. In three of the four options we present in this report, the system we propose mirrors proportional representation while the fourth resembles FPTP. The unique challenge for Somalia is to modernize its political system to fall in line with global principles that don't recognize genealogy as an identifying factor.

We have assessed each option against the following minimum standards we have identified for credible, free and fair elections:

- Any adopted option must follow the do no harm principle;
- Any adopted model should gradually move the country towards universal suffrage;
- Inclusivity should be observed, particularly for women and marginalized groups;
- The next electoral model should introduce political parties;
- The adopted model should be feasible and implementable;
- The model should increase voter participation; and
- The model should be arrived at through an inclusive political agreement among stakeholders.

The key stakeholders include the federal government (including both houses of parliament), the federal member states, registered political parties/associations. Guiding principles of any adopted electoral model should satisfy funding requirements of democratization partners.

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[4] Many registered political parties are referred to as associations, as they don't meet the requirements to be called political parties. Many are one-man dominated vehicles rather than traditional parties.

Regardless of which model is selected, the aspiration of many Somalis to move to a political party system is in profound conflict with the current 4.5 model. Introducing a proper party system while maintaining the 4.5 clan power sharing formula would create challenges for political parties and candidates who would want to maximize their election chances. Nonetheless, the need for a credible election while maintaining stability necessitates creativity and compromise, even if the outcome is a less than ideal electoral model.

Finally, for any of the proposed models to be implemented, the stakeholders must come together immediately to substantively discuss and settle on one option. Failure to do so will almost certainly open the door to loss of legitimacy of the government, heighten tension among stakeholders and possibly spark a conflict over power and resources.

Notes On Methodology

HIPS employed a combination of qualitative research methods (interviews) and documents (secondary and primary) in conducting this study. In addition to speaking to politicians in Mogadishu, HIPS researchers conducted interviews in Garowe with delegations from all the member states and federal government officials who were participating in the inauguration of President Said Abdullahi Dani.[5] Our researchers also visited regional capitals and met regional presidents and key actors. Researchers also consulted archival documents, old newspapers and reports on the Somali experience with national-level elections

since the trusteeship period in the 1950s. The study also reviewed Somaliland elections and political agreements that spelled out past election processes.

Understanding Electoral Systems

Electoral systems are a subset of broader electoral laws that govern the whole election process –from calling the election and defining who can vote to how parties campaign.[6] According to David Farrell, a leading expert on the issue, electoral systems "determine the means by which votes are translated into seats in the process of electing politicians into office".[7] For newer democracies, choosing an electoral system is one of the most important political decisions.[8] Donald L Horowitz argues that the choice of an electoral system is a subjective policy decision. He writes, "the fact that each electoral system contains a different array of biases from every other electoral system means that those who decide among such systems can choose, in effect, to prefer one set of biases over another. And to prefer one over another is to make a policy choice."[9]

Horowitz has identified six goals for electoral system designers, four of which are relevant to this study:

- He argues that the principle of proportionality is necessary when translating votes to seats. The assumption here is that the higher the proportionality, the fairer the electoral system.

[5] Garowe Online, Attention turns to Garowe as Puntland to inaugurate new president. Available at: https://www.garoweonline.com/en/news/puntland/somalia-attention-turns-to-garowe-as-puntland-to-inaugurate-new-president
[6] Ibid.

[7] See David M Farrell. (1997). Comparing electoral systems. London: MacMillan Press, (p. 5).
[8] See Reynolds et. al, *Electoral system design*, p. 6.
[9] Donald L Horowiz. (2006). A primer for decision-makers, In Larry Diamond & Marc Plattner, Electoral Systems and Democracy, Biltmore: Johns Hopkins University, p. 4.

Although Horowitz points out the limitations of this argument, he still considers this to be crucial;

- The accountability of the politicians to the voters is also important. Some electoral systems (such as closed list) can compromise the accountability of individual politicians, as voters do not elect them directly but instead elect the party. This denies voters the right to hold their representatives accountable;

- Horowitz contends that establishing a "durable government" or "stable executive" during its term is also important for electoral system designers. Some electoral systems produce unstable governments and constant coalitions. For example, Italy has had over 60 governments during the last 70 years; and

- The goal of reconciliation and collaboration among the leaders of the different segments of society is crucial, particularly for deeply divided countries. This is particularly relevant in the context of Somalia. Horowitz argues that the more the system rewards moderates, the more it contributes to reconciliation within the competing groups.[10]

According to Grofman and Lijphart, those deciding on an electoral system for a given country must answer five key questions. First, what electoral formula is suitable (plurality, majoritarian, proportional or mixed)? Second, will the voters elect parties or individual candidates? Third, how many seats are in a district? Fourth, what is the size of the legislature? Finally, is there a threshold that the parties must meet?[11] All these questions are relevant in the Somali context.

Plurality systems often have single-member districts where the candidate with the largest number of votes wins through FPTP. For instance, in a district where five candidates are competing for a seat: the first candidate wins 30 percent of the votes; the second candidate receives 25 percent; the third candidate gets 20 percent; the fourth candidate wins 15 percent; and the fifth candidate is left with 10 percent. In the FPTP system, the first candidate wins the seat despite the fact that 70 percent of the votes went elsewhere. This system is often characterized as a winner takes all model. One advantage of this system is that it is very easy to understand and implement. In 2005, the UK's Labour Party won a majority in the House of Commons (355 out of 646 seats) with only 35.2 percent of the popular vote.[12] Other democracies that use plurality systems include the United States and Canada.

Under the proportional representation system, parliamentary seats are divided based on the percentage that each party wins. Multi-member districts are preferable for such a system. In District X with 10 seats available: Party A won 40 percent; Party B 30 percent; Party C 20 percent; and Party D 10 percent. In this case, Party A will be allocated four seats; Party B three seats; Party C two seats and Party D one seat.

Most democracies use proportional representation with multi-member districts. Turkey, Italy and Denmark are examples.

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[10] Donald L Horowiz. (2006). A primer for decision-makers, p. 6.

[11] Bernard Grofman & Arendt Lijphart, 2003, Electoral law and their political consequences, vol. 1, Algora Publishing.

[12] See Arend Lijphart (2004). Constitutional design for divided societies. *Journal of democracy*, *15*(2), 96-109.

Democracies that use the PR system often define the number of votes a party must receive to be represented in the legislature. Different countries use different formulas. For example, Turkey requires a 10 percent threshold while many European countries require five percent or less. The threshold for the recently tabled (but not enacted) Somalia electoral law is seven percent of the total valid votes. This means parties that fail to secure seven percent of the popular vote will not have representation in the legislature. Generally, the higher the threshold, the fewer the parties in parliament. Thresholds are often a way of blocking fringe or extremist groups from entering national legislatures. For post conflict societies such as Somalia, a seven percent threshold may be seen as too high, as it will deny representation for smaller parties or constituents they represent.

Moreover, as part of the electoral formula, electoral designers must determine the mechanisms that translate votes into seats. According to David Farrell, the various mechanisms that are available for those using list PR are grouped into two main families: largest remainder and highest average. The Hare, Droop and Imperiali methods fall under the largest remainder system while the Sainte Lague, Modified Sainte Lague and D'Hondt methods are characterized as highest average systems.[13] Somalia's proposed electoral law adopted the Sainte Lague method, though it is a complex and rarely used system. It would have been wiser to use a largest remainder system such as the Hare method.

Electoral designers must also pay attention to the size of the legislative body. Rein Taagepera has come up with a formula that he characterized as a "cube rule" under which the number of seats in the legislature reflect the population. According to Lijphart, applying this rule in Iraq (with 25 million people), for example, would result in a 140-member legislature.[14]

Somalis have agreed on a 275-member lower house and a 54-member upper house. Article 72 of Somalia's provisional constitution allots three seats for each of the 18 post-civil war regions, but there are contradictions within the article that make implementation impossible without some modification.[15] In the 2016 elections, seats were divided along the federal member states but the 4.5 clan power sharing formula was also strictly adhered to. However, the draft electoral law proposes the division of the upper house seats should be consistent with Article 72.

Lijphart encourages those designing electoral systems to pay attention to three main factors: the context and nature of the society (deeply divided or homogenous); the experience of the political elite with democracy; and the degree of fairness built into the representation system.

The Somali Experience: Election and Selection of Politicians

Since the trusteeship era of 1950-1960, Somalia has had a number of parliaments and governments chosen through a selection or

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[13] See David Farrell, Comparing Electoral Systems, p. 62.

[14] Arend Lijphart. (2004). Constitutional design for divided societies, p. 106.

[15] http://www.parliament.gov.so/images/Downloads/Dastuurka_ku_meelgaarka_SOM_03092012-1_2.pdf; Article 72 has three conflicting parts. It

requires three seats for each of the 18 pre-1991 regions; an equal number of seats for all states (five, six or seven if Somaliland and Banadir are included) that are inclusive of all sections of society; and for the number of upper house seats not to exceed 54.

election processes.[16] The territorial council established in 1951 was the first assembly[17] and represented the Somali region under the trusteeship. The number of representatives increased according to need, eventually reaching 35, and were chosen arbitrarily and informally by the Italian governor.[18] Despite the fact that there were many political parties, most of the representatives on the territorial council were traditional elders. According to Touval, seven members were allocated to the political parties, with Somali Youth League (SYL) activists dominating the council. The council did not have legislative powers and only advised the governor.[19]

The Italian administrator, in consultation with the territorial council and the UN advisory council, created six administrative regions and 30 political districts. During the 10-year trusteeship period in Italian Somaliland – two general elections and two municipal elections took place.[20] The administration also enacted laws that ensured the representation of rural Somalis and non-ethnic Somali communities.[21] In the 1956 general election, those living in urban centers voted in a secret ballot. In the rural areas where most people lived, clan members came to a gathering (Shir) and allowed the chief or another representative to vote on their behalf. Women and people under 21 were not allowed to vote or compete in the election.

According to the Report of the United Nations Advisory Council for the Trust Territory for Somaliland Under the Italian Administration, corruption, vote buying and exaggeration about the size of the population compromised the integrity of the election.[22] The estimated population of the territory was 1.27 million yet the reported number of voters in the rural areas was 772,183. Despite the apparent irregularities, the administrator determined that each of the seats represented 14,302 votes per seat.[23] Consequently, the 1956 election resulted in 70 representatives, comprising 60 ethnic Somalis, four Italians, four Arabs, one Indian and one Pakistani.[24] The Somali Youth League secured 43 seats while Hisbia Digil and Mirifle won 13 seats. Smaller parties shared the remaining seats.

There were many problems during the 1956 election. Although the Italian administration increased the number of seats to 90, the overall number of the administrative regions and political districts in the territory did not change until 1960 (six regions and 30 political districts). With the exception of four, all of the districts in the territory had two or more seats after 1958. The electoral system remained a closed list, proportional representation system.

The second general election for the legislature took place in 1959. There were improved electoral laws and universal suffrage for women and men over the age of 18 who voted for their legislators by secret ballot.

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[16] Maarten Halff has compiled all of the electoral laws in an edited volume that is available electronically.
[17] Saadia Touval, *Somali Nationalism: international politics and the drive for unity in the Horn of Africa.* iUniverse, 19.
[18] Mohamed Issa Trunji. *Somalia: The Untold History 1941-1969*. Looh Press, 2015.

[19] Castagno, Alphonso A. "Somalia." *International Conciliation, Vol.* 32 (1959): 339.

[20] Maarten Halff, 2016; Castagno, 1959.
[21] See Ordinance no. 5 of 30 March, 1955; Ordinance no. 6 of 31 March 1955: Election of the Territorial Council [Legislative Assembly]; and Decree no. 215 of 26 November 1955.
[22] Saadia Touval, 1963; Alphonso Castagno, 1959.
[23] See T/1245 - The report of the United Nations Advisory Council for the Trust Territory for Somaliland under the Italian administration, p. 12.
[24] Alphonso Castagno, 1959; Mohamed Trunji, 2016.

Chiefs were no longer allowed to vote on behalf of their clan members. The new electoral law mandated closed list, proportional representation.[25] The opposition parties boycotted the election, meaning only three parties won seats including the SYL, which took 83 seats. Interestingly, only 29 seats were contested with just one person running in the remaining 61.[26]

British Somaliland also underwent political developments in the late 1950s. According to Touval, as a result of the pressure from the handover of the Haud region to Ethiopia, the UK government appointed seven Somalis to the legislature in 1957 in an advisory role. Ordinance Nine of 1958, a comprehensive electoral law, was approved to govern elections in 33 single constituencies based on the FPTP system.[27] Only men could participate. Since most Somalis were nomads, the law provided special mechanisms to ensure that citizens in rural areas could vote. Millman writes, "two types of constituencies were established as envisioned: rural and urban. Two voting methods were identified. In rural areas, voting would take place by acclamation at an election Shir (gathering). In urban areas, voting would be via secret ballots.[28] In February 1960, three parties won seats in the election: the Somali National League (20); the United Somali Party (12); and the National United Front (one).[29]

On 1 July 1960, the Independent and the United Somali Republic was born out of the merger of British Somaliland and Italian Somaliland. At the time, Italian Somaliland, had 90 deputies elected under closed list, proportional representation from 30 districts. British Somaliland had 33 members of parliament, elected under 33 single-seat constituencies using FPTP. The new Somali Republic adopted the former Italian Somaliland electoral law – closed-list, proportional representation.

A new electoral law (Law No 4) governed the general elections of 1964. While maintaining the 30 existing, mostly multi-member, districts and 90 deputies in southern Somalia, the law established 12, mostly multi-member, districts in Somaliland (in the regions of Hargeisa and Burao). The SYL retained the majority of seats, winning 69 out of 123. The Somali National Congress (SNC) finished in second place with 22 seats.[30] President Adan Osman nominated Abdirizak Hussein as the prime minister. The new prime minister initially had some difficulty in securing the required confidence vote, but the parliament eventually accepted him after he made changes to the cabinet.

[25] See the *Report of the United Nations Advisory Council for the Trust Territory of Somaliland under Italian Administration, Annex III, UN document T/1444 of 14 April 1959.*
[26] Mohamed Haji Mukhtar. The Emergence and Role of Political Parties in the Inter-River Region of Somalia from 1947-1960." *Ufahamu: A Journal of African Studies* 17, no. 2, 1989.
[27] British Somaliland: The Legislative Council (Elections) Ordinance, 1958 (Ordinance No.9 of 1958).
[28] Brock Millman. *British Somaliland: An Administrative History, 1920-1960.* Routledge, 2013, p. 271.
[29] Touval, Somali Nationalism, 1963, p. 106.
[30] Trunji, The Untold History, p. 471.

Table 1: Regions and seats (1959)

Region	Number of districts	Number of seats
Benadir	8	18
Hiiraan	2	12
Mudug	4	13
Majertenia	6	13
Upper Jubba	6	22
Lower Jubba	4	12
Burao	7	16
Hargeisa	5	17
TOTAL	42	123

For the 1968 elections, the legislative assembly enacted one electoral law (Law No 13 of 6 June 1968: Political Elections and Local Council Elections) to govern both the council and general elections. The new law was similar to the legislation that governed previous elections. However, according to Halff, the ruling party, led by President Abdirashid Ali Sharmarke, who won the presidency in 1967, and his prime minister, Mohamed Ibrahim Egal, forced an amendment that introduced a threshold aimed at reducing or eliminating smaller political parties.[31] Any party that received less than the threshold was dropped from the competition and the seats given to the other parties. Although it was controversial, the SYL passed the amendment. Ironically, the number of parties that competed in the 1969 election increased to 64.[32] Once again, the SYL secured 73 seats while the SNC received only 11.

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[31] Halff, The Electoral Legislation of Somalia, p. 189.

[32] Trunji, The Untold History.

Table 2: Districts and seats

Lower Jubba	Upper Jubba	Benadir	Hiiraan	Mudug	Majertenia	Burao	Hargeisa
Kismaayo 3 seats	Baydhaba 6 seats	Mogadishu 2 seats	Belet-Weyn 5 seats	Galkacyo 4 seats	Boosaaso 2 seats	Burao 5 seats	Hargeisa 6 seats
Afmadow 4 seats	Bur-Hakaba 6 seats	Marka 3 seats	Bulo-Burde 7 seats	El-Bur 4 seats	Qandala 1 seat	Odweyne 1 seat	Gabiley 1 seat
Margherita (Jamame) 3 seats	Xuddur 4 seats	Villabruzzi(Jowhar) 3 seats		Dhusa-Marreeb 3 seats	Alula 1 seat	Erigabo 2 seats	Borama 3 seats
Jilib 2 seats	Diinsoor 2 seats	Itala (Cadala) 3 seats		Hobyo 2 seats	Isku-Shuban 2 seats	Las-Qoray 2 seats	Zeila 2 seats
	Bardhera 2 seats	Barawe 3 seats			Gardo 3 seats	Gar-Adag 1 seat	Berbera 5 seats
	Lugh Ferrandi (Luuq) 2 seats	Afgoye 2 seats			Eyl 4 seats	Las Anod 3 seats	
		Wallaweyn 1 seat				Buuhoodle 2 seats	
		Balad 1 seat					
4 Districts 12 Seats	6 Districts 22 Seats	8 Districts 18 Seats	2 Districts 12 Seats	4 Districts 13 Seats	6 Districts 13 Seats	7 Districts 16 Seats	5 Districts 17 Seats

Somalia's democratic era ended on 21 October 1969, six months after the election. A military government then ruled the country for 21 years, until 26 January 1991. During this time, the military leaders suspended the constitution, established a rubber stamp parliament, banned political parties and imprisoned politicians. The military government, led by Mohamed Siyad Barre, arbitrarily increased the number of regions from eight to 18 and the number of districts from 42 to 92.[33] The military leader appointed the governors, mayors and other officials throughout the country.

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[33] Afyare Elmi, Understanding the Somalia conflagration: Identity, Political Islam and Peacebuilding. London: Pluto Press. (2010).

The repression of the military dictatorship and over-centralization of power in Mogadishu led opposition groups to take up arms against the regime in the late 1970s and 1980s. Faction leaders eventually overthrew the military government in 1991 and a long and brutal civil war ensued.

Warlords failed to establish peace and a unity government. The Somali National Movement, which controlled most of the northern regions, announced it had seceded from the south in May 1991, creating Somaliland. Other factions in the south continued fightin

The Third Republic

At the birth of the Third Republic during the Arta Reconciliation Conference in Djibouti in 2000, Somali delegates agreed to share 225 seats in a Transitional National Assembly through a clan formula that provided equal shares to the four big clans (Daarood, Dir, Hawiye and Digil and Mirifle) and a half share for a consortium of smaller clans. The conference also gave 20 extra seats to the host, President Ismail Omar Geelle, to divide among respected individuals at the conference. The introduction of the 4.5 system into Somalia's political arrangement was pragmatic but one that would haunt the political system for two decades. In many ways, the 4.5 system was a recognition of the stalemate at the end of the 10-year civil war. In the absence of a clear winner who could claim overwhelming power, an artificial equilibrium had to be created. The 4.5 system was considered to be a way out, as it gave every major clan equal power. However, most Somalis condemned the highly prescriptive, primordial and corrosively obstructionist clan system. The 4.5 clan power sharing formula stunted meritocracy, competency and accountability.
For that very reason, many considered the 4.5 formula unfair, while others endorsed it as a

temporary solution.[34] However, Somalis are unable to unshackle themselves from this formula, because without it, and in the absence of a better alternative, political power will almost certainly be skewed in favor of certain clans and against others.

Looking from an electoral system perspective, during the Arta peace conference that created the first transitional government, Somali delegates adopted a political representation system that was based on clans, regardless of their size or geographic location. Traditional leaders directly appointed members of parliament, ostensibly after consultations with the sub-clan leaders. In 2000 and 2004, delegates of the two peace conferences agreed to a 12 percent quota for women. In 2000, the Transitional National Assembly elected Abdiqasim Salad Hassan as president.

The subsequent reconciliation conferences in Kenya (2004) and Djibouti (2009) maintained the 4.5 formula but changed the number of seats.

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[34] Afyare A. Elmi, Decentralized Unitary System: A Possible Middle-Ground Model for Somalia, Doha Institute, 2015. Available at: https://www.dohainstitute.org/en/ResearchAndStudies/Pages/Decentralized_Unitary_System_A_Possible_Middle_Ground_Model_for_Somalia.aspx. See also: Mohamed H. Mukhtar, "Somali Reconciliation Conferences: The Unbeaten Track," in Abdullahi A. Osman and Issaka S. Souare [eds.] *Somalia at the Crossroads: Challenges and Perspectives in Reconstituting a Failed State* (London: Adonis and Abbey Publishers, 2007); Mohamed A Eno, and Omar A Eno. "Intellectualism amid Ethnocentrism: Mukhtar and the 4.5 Factor." *Bildhaan: An International Journal of Somali Studies* 9, no. 1 (2011).

The 23 faction leaders that dominated the Somali Reconciliation Conference in Kenya increased the legislature to 275 along the 4.5 clan formula
– 61 seats to each of the so-called major clans and 31 seats to a coalition of clans. The quota for women remained at 12 percent.[35] Abdullahi Yusuf Ahmed was elected as president.

However, the political crises continued, and in 2009 Djibouti hosted another reconciliation conference between the Transitional Federal Government and the Islamists who had expelled the warlords from Mogadishu, the Alliance for the Re-Liberation of Somalia (ARS). As part of the agreement, the Islamist-led armed group agreed to join the government. In return, ARS was allowed to double the number of MPs to 550 while respecting the 4.5 system, allowing it to select parliamentarians from among its supporters. The enlarged parliament elected the ARS head, Sharif Sheikh Ahmed, as president.

The United Nations Political Office for Somalia (UNPOS) assisted the Somali government in preparing a new constitution in order to end the transition period.[36] In 2012, the Somali stakeholders agreed on a draft constitution that reduced the number of parliamentarians to 275. The provisional constitution also established another chamber that would represent the emerging federal member states.[37] As with the previous dispensations, clan elders appointed the MPs directly. The quota for women increased to 30

percent, although only 14 percent of the appointed MPs were women. The 275 MPs elected Hassan Sheikh Mohamud as the eighth president of Somalia in September 2012. Significantly, it was the first election held in Mogadishu since 1967. Mohamud's administration was the first non-transitional government since the civil war in 1991.

Even though one of the principal mandates of Mohamud's government was to prepare the country for a universal suffrage election by 2016, this didn't happen because of a lackluster approach to the issue in the first two years and worsening security conditions. Moreover, the government was reluctant to return to previous models where traditional elders selected parliamentarians. After intense negotiations with other stakeholders (particularly federal member states and leaders of the federal parliament), the government came up with an "enhanced legitimacy model".[38] Based on this model, in 2016 traditional leaders appointed 51 members from different sectors of each sub-clan that had a seat in parliament. The 51-member electoral college then elected the MPs. In all, nearly 15,000 people voted for 275 MPs, but the process was mired in industrial scale corruption, mismanagement and was far from free and fair.

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[35] See Article 29 of the Transitional Federal Charter. Available at:
http://www.ilo.org/dyn/travail/docs/2177/Transitional%20Federal%20charter-feb%202004-English.pdf
[36] Afyare Abdi Elmi, Revisiting the UN-Controlled Constitution-Making Process for Somalia, September 2, 2012. Available at:
https://www.e-ir.info/2012/09/02/revisiting-the-un-controlled-constitution-making-process-for-somalia/

[37] See article 55 of the Draft Constitution. Available at:
https://gsh.parliament.gov.so/images/Downloads/Dastuurka_ku_meelgaarka_SOM_03092012-1_2.pdf
[38] See the communiqué from the National Leadership Forum. Available at:
http://doorashada2016.so/wp-content/uploads/2016/09/NLF-7-August_Somali.pdf

The National Leadership Forum (NLF), led by President Mohamud and including the presidents of the federal members states, agreed to form a second chamber consisting of 54 members that would represent the federal member states, as stipulated in the draft constitution[39] of 2016. The NLF assigned each region a number of seats in an arbitrary manner: Jubbaland (eight), Southwest (eight), Hirshabelle (eight), Galmudug (eight),

Puntland (11) and Somaliland (11). The presidents of the regional governments handpicked two to three senate candidates from their respective states for each of the upper house seats. State legislatures then voted for one of the shortlisted candidates.[40] The two chambers elected Mohamed Abdullahi Farmaajo as the ninth president of Somalia.

Table 3: Methods used to select national parliamentarians since 2000

Parliament	Date	Size	Selected By	Formula
Transitional National Assembly	August 2000	225	Traditional elders	4.5 (20 seats were allotted to respected individuals who attended the peace conference, regardless of their clan)
Transitional Federal Parliament	October 2004	275	Faction leaders and traditional elders	4.5 (61 seats for each of the four clans and 31 seats for a coalition of clans)
Transitional Federal Parliament	January 2009	550	Faction leaders, ARS leaders and civil society	4.5 (122 seats for each of the four clans and 62 seats for a coalition of clans)
Federal Parliament	October 2012	275	Traditional elders	4.5 (61 seats for each of the four clans and 31 seats for a coalition of clans)
Federal Parliament	January 2016	275	Traditional leaders appointed a 51-member electoral college that elected each MP	4.5 (61 seats for each of the four clans and 31 seats for a coalition of clans)
Federal Senate	January 2016	54	Presidents of the federal member states shortlisted two or three senate candidates and the regional parliaments voted for one. Somaliland senators were elected by a special electoral college[41]	Combination of region and clan considerations. Selection was largely arbitrary

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[39] See Article 55 of the draft constitution.
[40] See the communiqué from the National Leadership Forum.
[41] Somaliland senators were selected by an electoral college made up of 23 elders who were part of the 2012 selection process and an

additional 23 members selected from civil society groups and respected individuals from Somaliland communities. An executive committee of five members submitted individual names to the electoral college that elected the Somaliland senate representatives.

Somaliland Experience

Post-civil war Somaliland also went through the process of appointing legislative representatives that elected presidents. When it left the union, the Somali National Movement (SNM) controlled most of the region. In 1991, the Burao conference elected Abdulrahman Ahmed Ali Tuur as the president of Somaliland. In 1993, the Borama reconciliation conference replaced Tuur with Mohamed Haji Ibrahim Egal, a former prime minister of Somalia during the 1960s. Egal was an experienced and well respected politician. He introduced a new constitution that established a bicameral legislature and a multi-party system, though the number of parties were limited to only three.[42] The lower house comprised of an 82-member parliament representing the people, and the upper house (Guurti) consisted of an 82-member senate representing the clans.[43] Using selection twice

and election three times, Somaliland has successfully managed the rotation of power at the presidential level five times. Selected representatives elected Abdulrahman Ahmed Ali Tuur and Mohamed Haji Ibrahim Egal. Citizens elected Dahir Riyale Kahin (2003), Ahmed Mohamed Mohamoud Silanyo (2010) and Muse Bihi Abdi (2017).

However, the record for parliamentary elections is not as progressive as for the presidential polls. Dealing with the issue of representation was difficult and sensitive, and Somaliland has successfully managed only one parliamentary election – in 2005 when the legislative assembly enacted an electoral law that established six political regions and assigned seats to each. The stakeholders, which included the political parties and members of the legislative assembly, agreed to use a model that was based on the traditional Somaliland districts but increased the number of seats to 82.[44]

Table 4: Seat allocations of the Somaliland regions

Waqooyi Galbeed	Awdal	Sahil	Togdheer	Sanaag	Sool
20	13	10	15	12	12

Scenarios for the 2020 Dispensation

One can conclude from the historical evidence presented above that there is a rich Somali experience when it comes to the election and selection of politicians. It also shows that there has been a gradual march towards achieving a

one person, one vote election. However, 18 months before the end of the current term of President Farmaajo, questions are being raised about the lack of concrete steps in the direction of universal suffrage.

In fact, the lack of preparation for a proper election became evident two years ago when then the speaker of the federal parliament,

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[42] Bradbury, 2008.

[43] Verjee, A. (2015). The Economics of Elections in Somaliland: The financing of political parties and candidates.

[44] Bradbury, 2008.

Mohamed Osman Jawaari, sent a letter to the chair of the National Independent Electoral Commission (NIEC), Halima Ismail, enquiring about what needed to be done to hold a one person, one vote election. The NEIC responded to the speaker's nine questions by citing security, political agreements among key stakeholders and a review of the provisional constitution as well as seven pieces of legislation that the federal parliament must enact or amend. They include: the Electoral Law, the Political Parties Law, the Anti-Corruption Law and the Citizenship Law. Moreover, the NIEC estimated that it needed a whopping $130 million, or 40 percent of the national budget, and close to 500 employees, the equivalent of 10 percent of all federal civil servants, in order to organize credible, fair and free elections.

Security across the country has deteriorated notably over the past two years, making it difficult to imagine safe elections. The funding requirements also appear to be prohibitive, as the government cannot foot the bill and the required laws to hold a one person, one vote election are not in place. Furthermore, the Constitutional Court that should adjudicate on electoral disputes, the constitutionality of laws and address serious legal disagreements among states organs has not yet been set up.[45]

Moreover, the government finds itself in an unending political quagmire with member states and other political forces. Three regional governments (Puntland, Galmudug and Jubbaland) and key political parties, two of whom are led by former presidents (who most likely will be candidates in this upcoming cycle), have openly criticized the government's overall approach to the 2020 elections.[46]

Against this backdrop, HIPS has identified alternative ways of approaching the elections. Although the options presented are by no means exhaustive, they are attainable models that are meant to help inform the discourse and lead to an implementable, acceptable, affordable and equitable electoral model. HIPS has identified seven standards that each of our options should meet. The more standards each option meets, the closer it is to a credible election.

- Any option taken must respect the do no harm principle. It must not trigger fresh conflicts among communities and must not reverse the overall gains made since 2000;
- Any option adopted must pave the way for a universal suffrage election next time. The past few elections have gradually moved the needle in that direction;
- The inclusion of women and traditionally marginalized groups must be vigorously protected. Political leaders can be proud that our national parliament comprises 30 percent women—which is far better than in many mature democracies. Likewise, smaller clans and groups that lack the sway of larger clans must be represented meaningfully;
- Political parties must be allowed to play a role in whichever model is adopted. This would be by far the most reliable path toward full democratization. It would also lay the foundation for a competitive political system based on ideas and not on genealogy;

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[45] See the Interim Constitution, Article, 109B: https://www.parliament.gov.so/images/Downloads/Dastuurka_ku_meelgaarka_SOM_03092012-1_2.pdf

[46] See the statement here: https://goobjoog.com/aragtida-xisbiyada-ee-ku-aaddan-doorashooyinka-dalka-akhriso

- The number of people participating in the electoral process must increase substantially to reduce corruption and legitimize the result of the poll;
- Any option must be simple in scope and implementable within a short period of time;
- Any option must be acceptable to the main stakeholders (the government, member states and political parties). This was a major advantage of the last two electoral models used in 2012 and 2016.

Keeping these standards in mind, HIPS has identified four electoral options for 2020:

- the Baydhabo Proposal (BP);
- the Kismaayo Proposal (KP);
- the Modified Enhanced Legitimacy Proposal (MELP); and
- the Clan Constituency Proposal (CCP).

The Baydhabo Proposal (BP)

The Baydhabo Proposal calls for a closed list, proportional representation system, as agreed[47] by the federal and regional governments in Baydhabo in June 2018. It calls for a competitive, party-based election to take place in the cities that are under the control of the government or member states, even if that

The same formula applies for elections to the upper house. Citizens in as many cities as

means only 10 percent of eligible voters can participate.

In this scenario, each of the registered political parties would prepare a 275-member list that maintains the 4.5 clan formula and gender quota for the lower house. The Baydhabo Proposal envisages that citizens in every secure city (controlled by the government or the member states) would vote for political parties based on a closed list under which the whole country is considered as a single district. Each seat would be restricted for the clan that occupied it in the past. Each party would receive seats in proportion to the popular votes they garnered.

While it's relatively easy to allocate seats based on percentages of the popular vote, it is exceedingly difficult to translate those seats into the 4.5 formula at the sub-clan level. In fact, this model is very complex. It is not easy to ensure that each sub-clan (Ogaden, Murusade or Hawadle) retains its current MPs if a party list is the new way of organizing elections. At best, the closed list, proportional representation system will secure the current 61-seat quota for the Darod, Digil and Mirifle clans – but the seats could shift around within each clan.[48] In short, the notion of maintaining a perfect 4.5 quota at the sub-clan level within a party politics system while using a closed list, proportional representation electoral system is almost impossible.

possible would elect the senators. Under Article 72 of the draft constitution which

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[47] The federal government and regional leaders later disputed the content of the June 2018 agreement.
[48] This means the 4.5 system will be maintained at the broader clan level. For the lower house, each of the four major clans would get 61 seats and the coalition of smaller clans would get 31 seats. However, there is no guarantee that the sub-clans

would retain the seats they currently have. For example, the Ogaden sub-clan may get more or fewer than the 12 seats it currently has. Similarly, the Hawadle clan may get more or fewer than the eight seats it currently has.

governs the election of senators, parties would compete in the closed list regional districts at the federal member state levels.

Finally, under the Baydhabo Proposal, the Electoral Commission would disqualify any political party that did not secure seven percent of the total valid votes.

The Baydhabo Proposal (BP)	
Electoral system	Proportional representation, closed list
4.5	Maintains strict 4.5 system for the 275-member lower house at the broader clan level
Gender	Maintains 30 percent quota for women
District	One district, nation wide
Strengths	1. Almost universal suffrage 2. Inclusive for women and marginalized groups 3. Introduces parties 4. Increases voter participation 5. Reduces chances of corruption 6. Partly addresses the issues of Banadir, Somaliland and IDPs
Weaknesses	1. Lacks gradualism 2. Not currently feasible as it lacks political agreement with members states and possibly some registered political parties 3. May upset the strict adherence to the 4.5 power sharing formula thereby violating the do no harm principle

The Kismaayo Proposal (KP)

On 8 September 2018, the members states issued a communiqué stating that although they agreed with the government regarding the adoption of closed list, proportional representation, the regions want member state-based political districts (Jubbaland, Southwest, Table 5: Lower house seats[49]

Banadir, Hirshabelle, Galmudug, Puntland and even Somaliland though it is outside government control). The Kismaayo proposal stipulates that electorates in these regions would elect both houses. Table five below shows the number of seats that each federal member state got in 2016 which would remain the same under the Kismaayo Proposal.

Jubbaland	Southwest	Banadir	Hirshabelle	Galmudug	Puntland	Somaliland	Total
39	69	7	37	36	40	47	275

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[49] See Shaxda sida ay gobolladu u kala helayaan kuraasta (chart of how seats were assigned to the regions). Available at: http://doorashada2016.so/wp-content/uploads/2016/09/shaxda-qaybinta-xildhibaannada_SOMALI.pdf

Upper house seats

Jubbaland	Southwest	Banadir	Hirshabelle	Galmudug	Puntland	Somaliland	Total
8	8	0	8	8	11	11	54

The Kismaayo Proposal meets the standards for high levels of participation, clan and gender quotas, incremental progress and an active role for political parties. However, it fails on the feasibility standard, as it requires political agreement between the stakeholders and it does not address the three outstanding issues of Somaliland, Mogadishu and internally displaced people.[50] More importantly, even though this option prescribes seven districts, these are still big constituencies and therefore this weakens the accountability of the representatives to the electorate.

The Kismaayo Proposal (KP)	
Electoral system	Proportional representation, closed list
4.5	Maintains a strict 4.5 system for the 275 lower house seats at the broader clan level
Gender	Maintains 30 percent quota for women
District	Seven electoral districts: Puntland, Jubbaland, Southwest, Galmudug, Hirshabelle, Somaliland and Banadir
Strengths	1. Almost universal suffrage 2. Inclusive for women and marginalized groups 3. Introduces parties 4. Increases voter participation 5. Reduces chances of corruption
Weaknesses	1. Lacks gradualism 2. Not feasible for now as it lacks political agreement with the federal government and registered political parties 3. Does not address the outstanding issues of Somaliland, Mogadishu and IDPs

The Modified Enhanced Legitimacy Proposal (MELP)

Some civil society members have proposed incremental reforms for electing the lower house, by increasing the number of electors for each of the 275 seats from 51 to 501. The proponents of this model have suggested that although the seat should be designated to the members of the sub-clan that traditionally filled it, those electing it should come from beyond the clan – from the member states or the national level. Under this model, a 501-member electoral college would be selected from each sub-clan that has a seat in the lower house. The candidates for each seat would be restricted to the sub-clan that traditionally held it.

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[50] Proponents of the Baydhabo Proposal negotiated by the federal government and regions in June 2018 assert that it addresses or has taken into account Somaliland, IDPs and Mogadishu, but others contend that these questions were not conclusively and satisfactorily answered.

Proponents of this method say that political parties would maintain the clan balance as each seat would go to the same sub-clan that held it previously. However, the aggregated voters would collectively vote for parties and their lists (each party would have 275 candidates) comprising all the clans.

Finally, this model prescribes that the member state assemblies would elect the senate, as they did in 2016. Presidents of member states wouldn't appoint candidates as they did last time, meaning anyone from that region could run for the seat if they meet the residency criteria.

For some, this is the lazy, but practical and easy to implement, option. It meets clan and gender quotas, increases the number of electors per MP, introduces political parties and may be acceptable to the different actors. However, there are three limitations. First, even though it introduces political parties to the system, only 501 individuals will vote, making progress towards one person, one vote highly questionable. Internally displaced people may not be able to participate. Most importantly, the potential for corruption is still high.

The Modified Enhanced Legitimacy Proposal (MELP)	
Electoral system:	Closed list, proportional representation
4.5	Maintains strict a 4.5 system for the 275 lower house seats
Gender	Maintains the 30 percent quota for women
District	Sub-clans (501 from each) but flexible in terms of district
Strengths	1. Inclusive for women and marginalized groups 2. Introduces parties 3. Easy for the NIEC to implement 4. Meets the gradualism criteria
Weaknesses	1. Only marginally increases voter participation 2. Increases chances of corruption 3. Weakens the party system

The Clan Constituency Proposal

Some political activists have suggested that each sub-clan that has a seat in parliament should be considered a separate, non-territorial political constituency regardless of the size or geographic location of the members of the clan. Under this scenario, the NIEC would register members of the sub-clan who are interested in voting anywhere in the country,

and the candidates would contest the election as individuals.

Voters would provide the NIEC with a letter from their traditional elders vouching for their membership of the sub-clan. On election day, registered voters could then cast a ballot from anywhere in the country but could only vote for the sub-clan seat.

Each candidate, while nominally a member of one of the parties, would run on his or her individual record (much like the US House of

Representatives). This would put most of the onus on the candidate, not on the parties.

This is a shift from the closed list, proportional representation formula to the FPTP system, using a single clan constituency and would increase voter participation to previously unseen levels. Moreover, it meets clan quotas.

However, it could diminish the role of women, as most clans would probably vote for men to represent them. It would also reduce the influence of parties in deciding who gets a seat in parliament. Each candidate would either win or lose a seat directly, although parties would contribute to the machinery of the campaign (much like the US system). However, this proposal requires new agreement among political stakeholders.

The Clan Constituency Proposal (CCP)	
Electoral system	First past the post
4.5	Maintains strict a 4.5 system for the 275 lower house seats
Gender	Fails on gender quotas but maintains seats for marginalized groups
District	Non-geographic clan constituency
Strength	1. Increases voter participation 2. Maintains the clan balance 3. Meets the gradualism criteria
Weaknesses	1. Not feasible as it lacks political agreement among stakeholders 2. Corruption will remain a factor 3. Undermines the political parties 4. Does not maintain gender quotas

In short, there are many competing proposals for the way forward in the 2020 dispensation. Different stakeholders disagree on the role of the clans in electing/selecting politicians and whether Somalis should keep using the clan-based 4.5 model.

- The first proposal comes from activists, perhaps idealistic in their rush towards a one person, one vote system and is backed by the leadership of the federal government.
- The second scenario is similar to the first except regarding district magnitude and is backed most of the regions.

- The proponents of the third and fourth scenarios are worried about changing the status quo without putting in place the institutions required to make the election successful. They suggest that since time is short, Somalia should maintain the clan-based 4.5 model in both houses. They say that Somalia has sufficient experience in managing elections this way and that most of the 135 chiefs who certified previous parliamentarians are alive and known. In support of this view, they cite the recent election of the Puntland parliament where traditional elders picked who would represent the clans.

Aligning Clan Balance With The Party System

According to the NIEC, more than 50 political parties have registered and obtained interim registration approval. As 2020 gets closer, more parties will register,[51] and many members of Somalia's political class are enthusiastic about creating or joining the new political parties. On the other hand, many are apprehensive about the implications of dropping the 4.5 clan formula and the gender quota. The Baydhaba and Kismaayo political agreements maintain the 4.5 system. All of the electoral options for 2020 attempt to reconcile 4.5 with a political party system, but the two are mutually exclusive.

Conclusion

The question of representation has been at the heart of the Somali conflict for the last three decades. After the military regime collapsed, it took 10 years for Somalia's political class to reconstitute a national parliament and government through the clan-based 4.5 formula. Somaliland aside, the rest of the country is still stuck with this clan-based system which works, though it is far from perfect.

This report shows that political agreement among key stakeholders is critical to designing any workable electoral model. The most important stakeholders are the federal government (including the two houses of parliament), the federal member states and the registered political parties. The last two elections were able to take place because the stakeholders of the day agreed on a workable

model based on compromise. For the next model, no group or single stakeholder will be able to railroad others into submission, considering Somalia's deeply polarized and contested realities. It is therefore incumbent on the stakeholders to immediately begin the discourse around the electoral models.

Recommendations

- Any option adopted must not do harm. Gerrymandering could trigger fresh conflicts among communities and electoral manipulation must not be allowed as it could reverse the overall gains made since 2000;

- Any option adopted must pave the way for a universal suffrage election next time. The past few elections have gradually moved the needle in that direction;

- The inclusion of women and traditionally marginalized groups must be protected;

- Political parties must be allowed to play a role in whichever model is adopted. This would be by far the most reliable path toward full democratization. In order to maintain political stability in the system, anti-defection laws have to be included in electoral laws. While parties should be allowed to create coalitions, individuals that are elected under a political party ticket should not be allowed to cross the floor. Re-introducing party based politics will help lay the foundation for a competitive political system based on ideas and not on genealogy;

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[51] Interview with a government official.

- The number of voters participating in the electoral process must increase substantially to reduce corruption and legitimize the result of the poll;

- The chosen option must be simple in its scope, affordable and implementable within the short period of time that remains before the 2020 elections;

- Any option adopted must be acceptable to the main stakeholders (the government, member states and political parties). This was a major advantage of the last two electoral models in 2012 and 2016;

- The proposed electoral law adopted the Sainte Lague method for translating votes into seats. This should be revisited as Sainte Lague is new and complicated. Somalia has used easier methods in the past;

- The proposed electoral law is weak on eliminating corruption. Corruption and vote buying should be criminalized, either through electoral legislation or anti-corruption laws; and

- A bipartisan Constitutional Court should be established to arbitrate any election-related disputes.

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