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BREAKING THE IMPASSE Effective Electoral Model for Somalia Elections 2020-21

KEY POLICY MESSAGES:

1. Somalia has a huge potential to become a stable democracy. Its vibrant private sector, growing free media and increasingly keen public participation in politics and decision-making processes and other attributes of blooming civil society add layers of democratic governance to the existing tradition of indirect elections and peaceful transfer of power in Somalia.
2. Democratisation and universal suffrage have been constantly pushed back many times in the last 15 years. These unwarranted postponements have deterred attempts to institutionalise multi-party democracy, improve accountability and transparency and undertake comprehensive political reforms including exploring and testing effective election systems.
3. Conducting one-person one-vote elections in 2020-21 in Somalia is worthwhile goal not only to introduce democratic governance, universal suffrage and multiparty political systems but also to promote and consolidate peace and state building and fight against corruption and vote buying.
4. The upcoming 2020-21 national elections represent invaluable opportunity for Somali people, political leaders and Somalia's international partners to ensure greater legitimacy and stability to the political processes and transition the country from the clan-based undemocratic, corruption-infested indirect selection of representatives to democracy.
5. Although political agreement on effective electoral model is required to move the process forward, there is sufficient time to conclude legal, institutional, technical and operational planning of the elections.
6. The two electoral models presented in this brief represent uncomplicated, clear, decisive and representative electoral and voting systems, which can produce strong, effective and legitimate government. In these models, voters can clearly express their opinions and choices by electing their constituency representatives.



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INTRODUCTION

Somalia is slowly emerging from decades of state failure, fragility and protracted fight against the insurgency Islamist Alshabaab. A fixed term parliament, a flourishing tradition of indirect elections and peaceful transfer of power in every four yearshave prevailed in the country for the last 15 years. Despite the successive peaceful change of governments, progress towards institutionalising this emerging democracy and establishing viable electoral system has been very slowmainly due to lack of political commitment and agreement between the factious political leaders of the Federal Government of Somalia (FGS) and the Federal Member States (FMS) compounded by security, institutional and technical constraints.

For the last 18 years, Somalia has used a clan based representation and power sharing system using a 4.5 formula. In 2016, the National Leadership Forum (NLF) which was comprised of the President of the FGS, the Prime Minister, the Speaker of the House of the People and the Presidents of the FMS pledged to transition the nation to multi-party democracy and organise one-person one-vote elections in 2020-21. The NFL also supported the agreement reached between the Federal government and Puntland State that “the use of 4.5 clan model as a criteria to select members of the Federal Parliament shall cease with the elections of 2016”.^{1,2}

At the present, there is no political agreement between the FGS and FMS on the electoral model for 2020-21 elections and with just 16 months remaining for the current government, the window of opportunity to agree on and implement an effective electoral model is closing.

An agreed electoral model is crucial for continuing and consolidating peace, state building and democratic governance in Somalia and ensuring the emergence of representative, legitimate, stable and accountable government at the end of the election process (legitimate election outcome).

The disagreements over power-sharing and resource-sharing instantiate the product and manifestation of the divisions and distrust among Somali people and the political polarisation of political elite of the FGS and FMS. However, the deadlock over the electoral model and the lack of political compromise among Somali political elite raises pertinent questions.

On what principles do the political leaders disagree? Are there genuine meaningful ideological differences between the political leaders of FGS and FMS over the electoral model or is this disagreement all down to the “stubbornness, the zero-sum game and who blinks first attitudes” of Somalia’s political elite? Whatever narratives are constructed to answer the above questions, it is incumbent upon all the national and regional political leaders to seek an agreement over the electoral model for 2020-21 electionsin the remaining months of 2019.

Lack of compromise

Are there genuine meaningful ideological differences between the political leaders of FGS and FMS over the electoral model or is this disagreement all down to the “stubbornness, the zero-sum game and who blinks first attitudes” of Somalia’s political elite?

Somalia's Achilles heels -The clan based 4.5 system

Among other contentious issues of resource-sharing and the completion of the provisional constitution, disagreements over power sharing among Somali clans have been one of the most formidable impediments to Somalia's peace and state building in the last two decades. At the centre of this power-sharing disagreement lies an effusive distrust among Somali people and a lot of contestation over political representation and the allocation of highest positions of the national government among Somali clans.

The unenviable search for workable solution to the clan representation conundrum has led to the development of the 4.5 clan representation quota in the Federal parliament, a system that allocates equal share of seats to the four major clan families and a half to a conglomeration of minority clans. In the context of Somali people's use of tribal lineage and identity, the solutions to mitigate conflict over parliamentary seats were always modulated to address representation inclusivity rather than representation equity and justice.

Some Somali political analysts suggest that, although the current 4.5 system cannot address the issues of political justice including equitable representation, it has produced somewhat inclusive governments (distribution of parliamentary seats for clans per se) and allowed the continuation of peace and state building for the last 15 years.

Using Jarstad and Sisk's description of the negative effects of power sharing in post conflict settings, Somalia's clan-based 4.5 power-sharing

system could be characterised as an obstruction to Somalia's transition to stable democracy and the causative factor in the present political crisis in country.³ This clan based selection system excludes the moderate elites since the clan elders are more likely to select tribal hardliners who promise the protection of clan interests. The process lacks the popular support of the Somali people due to the arbitrary and unfair nature of the seat sharing among powerful clans and clan elders' selection process. This system is very prone to conflict and has attracted the intervention of the international community in a number of times thereby preventing local ownership of the political process and solutions. And finally it has scaled up divisions among Somali clans by aggrandizing "group representation" which reinforces clan identity and kinship with divisive and regressive implications in social and political decision-making processes, government functions and public services.

There is a resoundingly plausible argument to make that this system gives the impression that political leaders and representatives are in office to protect the narrow interests of their clans and not the interests of the entire populace or the nation.

The 4.5 clan representation quota and its selection process, weak institutional capacity of rule of law institutions and rampant corruption have undermined the socio-political reconciliation processes to restore trust among Somali people and stymied the pace of state building in Somalia.

In a study on 2016 national elections, SIDRA found, "a significant dissatisfaction with the clan-based representation where only the traditional elders are involved in selecting members of parliament".⁴

The Negative effects of clan-based representation

The exclusion of the moderate elites, lack of popular support, lack of local ownership, external interventions and scaling up divisions by aggrandizing groups representation.

Replacing 4.5 system

A consensus is emerging in Somalia's political corridors that getting rid of the 4.5 clan seat sharing arrangement without an alternative settlement acceptable to all sides could instigate conflict and cause dangerous disruption to the stability of the present political landscape.

The question is why this system cannot be changed or ended? The answer points to the same problem of disagreement among Somali people and the lack of alternative system.

At the moment, a consensus is emerging in Somalia's political corridors that getting rid of the 4.5 clan seat sharing arrangement without an alternative settlement acceptable to all sides could instigate conflict and cause dangerous disruption to the stability of the present political landscape. Majority of Somali people agree on the need to

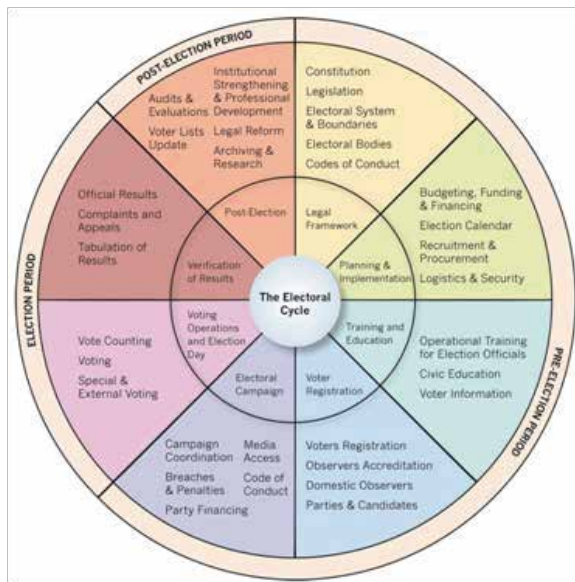
Somalia's Transition to Democracy in 2020-21

Research studies on postconflict elections have focused on understanding and analysing the electoral cycle and dynamics such as timing, sequencing, election readiness and outcome. The electoral cycle below is widely used as a template for election planning and decision-making. The tasks are placed in pre-election, election and post elections components, which are subdivided into the various activities that have to take place in order to conduct successful elections.

secure and stabilise the country, build and strengthen the capacity of rule of law institutions and conduct a national population census so that a superseding more equitable political representation could be developed to replace the current 4.5 quota system. Today, the debate about effective electoral model is shifting away from extirpating or replacing the 4.5 quota system towards expanding political participation and transitioning the system to democracy in free and fair elections.

Studies have shown that holding elections early immediately after the cessation of hostilities or delaying it for a long time in post conflict setting could both be problematic.⁵ A balance has to be struck between the imperative of the transition to democracy and getting the political and social commitment and planning of the transition right. Transitioning to democracy too early when the rule of law institutions, civil society and free media are extremely weak risks the return of conflict, protracted disputes and disagreements, instability and even can lead to violent armed confrontations. Many scholars promote the initiation of democratic transition and organising elections in stepwise approach first to build the necessary democratic institutions, expand political participation and create an enabling environment for unfettered election competition.⁵

If the transition to democracy is delayed too long, it also runs the risks of solidifying or legitimising the status quo, churning ineffective governments, forestalling or resisting change and political reform, losing the momentum of democratic transformation, disengagement, donor fatigue and prolonged social and political strife.



Transition to Democracy

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Transition to Democracy

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Transition to Democracy

Delaying the transition to democracy too long runs the risks of solidifying or legitimising the status quo, **churning ineffective governments**, forestalling or resisting change and political reform

Scholars stress that, “the mere practice of holding elections, even flawed ones, is important because it habituates politicians and voters to democratic routines and paves the way for cleaner elections in the future.”⁶At the same time, they caution against the organisation of elections in response to international pressures without first studying the political and social context of the elections and the issues that the election is aimed to address as well as ensuring election readiness and appropriate planning of the whole electoral process.⁵

A growing literature in conflict resolution supports the reasoning for clan representation and power-sharing in Somalia.³ Somali clans signed the Djibouti peace process agreement in 2000 after seats in the lower House of the People were shared among the Somali clans in the 4.5 quota. The clan representation was agreed as a temporary solution in the political settlement to restore stability and Somali nationhood and to provide a space to evaluate socio-political structures to transcend the clan representation and clan based selection process towards democracy and universal suffrage.

In this transition period to 2020-21 elections, clans are more likely to agree to the democratisation process and free and fair elections as long as their seats in the lower House of the People could be guaranteed and the only way to do so is to maintain the 4.5 quota and allocate constituency seats to candidates from the clans in the given constituency.

Direct one-person one-vote elections have been postponed many times in the last 15 years due to political, security, financial, technical, legal and institutional challenges. Mohamed Suleiman, A Horn of Africa political observer, stressed the need to organise and hold free and fair democratic elections in Somalia in 2020-21. He summarised the political

mood in Somalia that “There was a unanimous understanding among Somali politicians and populace that 2016-17 marked the end of the clan based indirect election system and the beginning of democratisation process that would have to culminate in one person one vote elections in 2020-21. He added that “it will be utter betrayal of Somali people to return to the old indirect clan based selection process in 2020. Direct one-person one vote must take place in 2020-21 not only to introduce democracy and mass political participation but to set the wheels in motion for gradual reconfiguration of Somali politics and tribal identity.”⁷ Democratisation is an open-ended, evolving process that takes years to develop and become established.

There are many encouraging indications that nationwide elections can take place in Somalia in 2020-21. The provisional constitution, though incomplete, provides a good starting legal framework for power sharing and cooperation between the levels of government. The federal arrangement has allowed Federal Member States to hold elections, which resulted greater public engagement and participation in politics and decision-making processes at the State level. Although there are large areas in the South Central regions out of government control, the security of the country is improving as Alshabaab is defeated and driven out of most of the major cities and towns. The electoral law has been drafted but requires consultation with the FMS and comprehensive review. Many prospective political associations have been formed to compete in the elections. The National Independent Electoral Commission has completed a number of important tasks including the feasibility study on the voter registration.

Effective Electoral Models for 2020-21

Women quota

The 30% quota for women's seats in the Federal parliament and government positions must be met in the 2020-21 elections.

The criteria of an effective electoral model

A model that a) clearly establishes link between the constituencies and the candidates, b) which can guarantee seats for all the clans currently represented in the lower House of the People

The overarching objective of democratic elections is to establish legitimate and representative government. The upcoming Somali national elections should serve four important purposes;

- 1) to consolidate the peace and state building processes,**
- 2) to introduce and institutionalise the culture of democracy where political leaders are elected by the people,**
- 3) to reduce election corruption and vote buying which became rife in the last indirect elections, and**
- 4) to fight against extremism by expanding social engagement and political participation.**

While these elections are vital, they must not obscure the other pressing peace and state building issues such as the liberation and stabilisation of the areas under Alshabaab control, the completion of the provisional constitution and agreement on resources and revenues sharing.

Box 1. Women's greater political participation

The upcoming elections are very significant for Somali women's political participation. Whichever electoral model is agreed, the 30% quota for women's seats in the Federal parliament and government positions must be met in the 2020-21 elections. Women must be given all the means and motivations to register to vote and must form at least 30% of the delegates, political party candidates, election officials and observers. Women's perspectives must be considered in the debates and negotiations between the sides and women must be represented in the decision-making processes.

The FGS and FMS must take stock the level of election readiness (preparedness) and ensure that all the pre-election components are finalized: the legal and institutional framework, the electoral model, political party registration, constituency mapping and boundary delimitation and the establishment of the judicial oversight (electoral constitutional court). Special consideration must be given to the security, political, social, economic and geographic factors that have direct bearing on the type of electoral model appropriate to 2020-21 elections.

SIDRA researchers have looked into the most contentious issues of the electoral model and found that all the sides are more likely to accept an electoral model which a) clearly establishes link between the constituencies and the candidates, b) which can guarantee seats for all the clans currently represented in the lower House of the People, c) which allows free and fair elections to take place in all the peaceful areas of the country, d) which can produce more competitive political landscape and more independent, accountable, transparent and less corrupt electoral process and e) which can transition the country towards democracy and full democratic elections in 2025.

SIDRA researchers developed the following two electoral models which fulfil the above five points for Somalia national elections in 2020-21.

1. Electoral Model: Dual Voting System- Universal Suffrage Polls

Suffrage:	One Person One Vote Universal Suffrage Polls
Voting System:	Supplementary Voting for constituency seats and Proportional Representation Voting for nationwide seats
Election Location:	Nationwide
Total Number of Parliamentary Seats:	275 seats
Number of Constituency Parliamentary Seats:	Around 210 seats
Number of Nationwide Parliamentary Seats:	Around 65 seats (Minority clans and Somaliland constituent seats)
Voting Process and Features:	<p>Voters will use two ballot papers to cast their votes; One ballot paper for the constituency seats (2 to 4 seats in each constituency) and one ballot paper for the nationwide seats.</p> <p>In the election of the Constituency Seats, Supplementary Voting (SV) will be used. Voters will cast (mark) first choice and second choice votes. A voter must cast a first choice vote, or their vote will not be counted. If a candidate receives more than half of the first choice votes, they are elected. If that does not happen, the top two candidates by first choice will go through to a second vote choice count. All the other candidates will be eliminated. The second choice votes are then counted and added to the first choice votes. Whoever gets the majority of the total of the first and second choice votes is elected.</p> <p>In the election of the Nationwide Seats, Proportional Representation (PR) will be used. Voters will cast one vote (mark one choice). Nationwide votes will be aggregated and candidates (parties) will be allocated their share proportionally.</p> <p>In both voting, the names of the candidates will be made available to the public and registered voters either on the ballot papers or on a separate paper.</p>

This Dual Voting model fulfils the requirements of internationally accepted standards of one-person one-vote universal suffrage. Any election system other than one-person one vote universal suffrage will always raise questions of legitimacy. Political parties will compete freely in the elections and the result is conditioned not to upset the current power balance and clan seat sharing arrangement.

The constituency Supplementary Voting (SV) creates a link between the elected representatives and their constituencies. It increases the winning margin, which is very relevant in this transition election, by giving voters opportunity to express their

second choice in case their first choice did not win. It will ensure the fairness of the process as the candidates with the majority of the votes will always win. Similarly, having small constituencies will encourage the political parties to nominate candidates which are likely to enjoy support from the local electorate. On top of their national responsibilities, candidates will more likely serve the constituencies they have been elected from.

The nationwide Proportional Representation (PR) part of this model will deliver free and fair elections and will accommodate the special circumstances of the representatives from minority clans and those from Somaliland constituencies as these seats will be reserved for them and will be balloted in the nationwide seats.

Dual Voting System

The Dual Voting System fulfils the requirements of internationally accepted standards of one-person one-vote universal suffrage.

Delegate Direct Elections

The Delegate Direct Elections will produce more representative and legitimate election outcome than the last election of 2016-17. It will advance the democratisation process

Box 2. Case in Point: Supplementary Vote for Constituencies in Puntland State

The number of representatives from Puntland State in the lower House of the People is estimated to be 37 seats. The proposed electoral model creates around 10 – 15 constituencies in Puntland with around one to two million registered voters taking part in the election. Every registered voter will only be eligible to vote at his designated polling station and will have two ballot papers at the polling stations; one for the constituency seats and one for the nationwide seats.

Independent election officials, political party representatives, free media and local and international observers will be present and will have unfettered access to observe any polling station, election equipment and materials.

Only candidates from recognised (certified) political parties will compete in the elections. The security of the polling venues, ballot boxes, election equipment and officials will be jointly managed by FGS and FMS security agencies and overseen by the electoral security coordination task force.

Electoral Model: Delegates Direct Elections

Suffrage:	One Person One Vote Universal Suffrage Polls
Voting System:	Supplementary Votes
Number of Delegates	101 people per candidate multiplied by the number of candidates in the constituency (please see Box 3).
Delegate Composition	Clan elders from the clan candidates will select delegates. All the delegates for each Federal Member State will be combined to elect candidates
Seat Distribution Model:	Clan Constituency Seats (Federal Member State as a single constituency)
Election Location	Mogadishu City and the Capital cities of Federal Member States
Total Number of Parliamentary Seats:	275 seats
Voting features and process for the Clan Constituency Seats:	Delegate voters will cast first choice and second choice votes. A delegate voter must cast a first choice vote, or their vote will not be counted. If a candidate receives more than half of the first choice votes, they are elected. If that does not happen, the top two candidates by first choice will go through to a second vote choice count. All the other candidates will be eliminated. The second choice votes are then counted and added to the first choice votes. Whoever gets the majority of the total of the first and second choice votes is elected.

**Delegate Direct
Electoral Model**

There will be 27,775 delegates who will cast 7,638,125 votes (27,775 x 275 seats = 7,638,125).

The Delegate Direct Elections will produce more representative and legitimate election outcome than the last election of 2016-17. There will be 27,775 delegates who will cast 7,638,125 votes (27,775 x 275 seats = 7,638,125). The delegates in each Federal Member State will be combined to elect candidates jointly. This model will ensure that the political parties compete freely in the elections and the results do not upset the current power balance and clan seat sharing arrangement. Similar to the Dual Voting system, this model creates a link between the elected representatives and their constituencies.

The supplementary vote increases the winning margin, which is very relevant in this transition election, by giving voters opportunity to express their second choice in case their first choice did not win. Although this model will not meet the internationally accepted standards of one-person one-vote universal suffrage, it will advance the democratisation process, expand the base of the electorate and improve the standards of legitimacy and the authority to govern of the upcoming government.

**Regulating Political
Parties**

A robust Political Parties Law must be in place to ensure that political parties are multi-tribal programmatic organisations (not disguised clan instruments)

Box 3. Case in Point: Delegate Direct Elections for Clan Seats from HirShabelle State

The number of representatives from HirShabelle State in the lower House of the People is estimated to be 37 seats. The number of electorate (delegates) for HirShabelle State will be 3,737. Although the delegates will be selected by the clan elders, the delegates from the whole State will be combined to vote and elect each representative irrespective of the clan origin. This will represent an estimated 138,268 votes (electorates).

Only candidates from recognised (certified) political parties will compete in the elections. The security of the polling venues, ballot boxes, election equipment and officials will be jointly managed by FGS and FMS security agencies and overseen by the electoral security coordination task force.

The above two models correspond to the recommendations of the European Union Election Expert Mission to Somalia after the indirect elections of 2016. The final report of the mission recommended that;

“the choice of an electoral system for Somalia should reflect considerations of geography, the diverse political interests of Somalia’s Member States, gender and other national attributes while ensuring that fundamental individual human rights and freedoms are guaranteed”.

*“to establish constituencies, boundary delimitation and allocation of seats per electoral unit should take into consideration the need for special arrangements for areas that may remain out of government control in 2020”.*⁸

These two models present acceptable middle grounds to break the impasse between the Federal Government of Somalia and Federal Member States and could fulfil the hope and aspiration of Somalia of a free and fair election process, and the establishment of a more representative and legitimate government.

Box 4. Political Parties

There are no certified political parties in Somalia. The National Independent Electoral Commission (NIEC) has registered a number of political associations in the last two years. Institutionalising political parties will take time. A robust Political Parties Law must be in place to ensure that political parties are multi-tribal programmatic organisations (not disguised clan instruments and not belonging to

or subordinated to their leaders). Political parties should only be registered after a rigorous qualification assessment.

The assessment process must be coordinated with the law enforcement agencies in order to check the suitability of political parties with individuals who committed crimes in the past and those with extreme tribal or religious ideologies.

CONCLUSION

It has been shown that introducing multi-party democracy in Somalia is very beneficial, and while there are valid concerns about the lack of political agreement over the electoral model and questions about the election timing and readiness, holding onto the old system of clan representation selected by the clan elders will deal a huge blow to the transition to democracy and will make Somali people disillusioned and dejected about the whole political reform process.

The importance of an effective electoral model cannot be exaggerated. The electoral model is needed to bring about a legitimate government that will continue to consolidate peace and state building and facilitate the transition to democracy

without causing conflict, worsening of the political, social and security situation of the country or reopening the old wounds of the political and civil strife. Somali political leaders and policy makers are cognisant of the social, economic, political and security situation of the country and the diverse political interests of different sections of Somalia society.

There is no satisfactory answer to why the political leaders are digging their heels about the current political disagreements and find it hard to compromise and agree on an effective electoral model for 2020-21. SIDRA's proposed electoral models present alternative options to explore, build on and develop practical and acceptable electoral model for 2020-21 national elections.

Breaking the Impasse

These two models present acceptable middle grounds to break the impasse between the Federal Government of Somalia

RECOMMENDATIONS

Consultations

The states must be consulted on the review process and their perspectives included in the draft

1. Somali political leaders of FGS and FMS must resume the installed negotiations over 2020-21 national elections and agree on effective electoral model.
2. The electoral bill which is currently being reviewed by the House of the People has caused a lot of controversy in the FGS and FMS and resulted in the breakdown of cooperation between the two sides. The States must be consulted on the review process and their perspectives included in the final draft. The electoral bill must be concluded in 2019 so that the preparations for elections can be accelerated.
3. Somali political leaders need to ruminate over the proposed electoral models including the two model presented in this paper and ensure that any agreed model clearly establishes link between the constituencies and the representatives, produces more competitive political landscape and more independent, accountable, transparent and less corrupt electoral process which does not upset the current clan seat sharing balance in the House of the People.
4. Somali political leaders must use the remaining time to complete all the election planning activities such as security risk assessments, formation of electoral security instruments, constituency identification and demarcation, voter registration, recruitment of election officials, preparation of polling stations and production of ballot papers.
5. The National Independent Electoral Commission must engage with State Election officials in the Federal Member States to develop legal and cooperation frameworks for the national elections.
6. The international community must not undermine the local ownership of the political reforms and elections. They need to support an inclusive and participatory democratisation process technically and financially and must refrain from interfering in the negotiations between the FGS and FMS over the electoral bill and the most effective and acceptable electoral model.

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Somalia in which social justice prevails and inclusive economic growth benefits all and improves the well being of all people.

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A centre of development and research that generates relevant and original knowledge for dynamic policy environment support, institutional capacity development and alliance.

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