

Contested Models of Education Governance in Federal Context: A Case Study of Somalia

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Abstract

This study explores practical federal models for education within the post-conflict context of Somalia. It notes that there is no uniform federal model for education, as such models are influenced by various social, cultural, historical, geographical, and economic factors. Some federal systems employ decentralized models for education, while others feature more centralized approaches. The Provisional Federal Constitution (PFC) of 2012 defines education as a concurrent power between the Federal Government of Somalia (FGS) and its Federal Member States (FMS), based on the principle of subsidiarity. This arrangement assigns limited administrative functions to the federal government, with states taking primary responsibility for the delivery of educational services. Despite proposals for several educational delivery modalities, no specific federal model has yet been adopted. This study raises questions about how to organize and transform fragmented educational structures into a harmonized and standardized system, develop sustainable governance and financing mechanisms, and learn from federal models elsewhere that could be adapted to Somalia's context.

Keywords: Somalia, Federal, Federal Member States, Governance, Models, Education.

I. Background

In Somalia, federalism was first introduced in 2004 through the adoption of the Transitional Federal Charter, which heralded the transition from the unitary system which existed prior to the fall of the military rule in 1991 to a new federal structure. Unlike most federal states in the world, where multinationalism present itself as the driving factor for federalization, the Somali federalization has emerged from balkanization caused by the legacy of the authoritarian regime and prolonged civil war. Somali Federalism has consequently been adopted to serve as a process for conflict resolution and state building. It is comparable in this regard to other recent federation in Africa, Asia, and Middle East, namely Ethiopia, Nepal and Iraq, where federalism emerged as unique response to post conflict situations. These federations have in common that they are characterized by state of "incomplete or emerging federalism, as none have so far fulfilled the federal institutional design commanded by their constitutions" (Vural & Adan, 2021, p. 5). In this sense, Somali federalism is built on "holding-together" model of federalism to protect the territorial integrity of the country and accommodate competing clan and political interests.

Considering the fragmentation realities and the need to advance Somali Federalism, a new Provisional Federal Constitution (PFC) was adopted in 2012, which designated the country's governance system as a federal one (Article 1). The current Federal Republic of Somalia (FRS) is comprised of seven entities: five Federal Member States (FMS) namely: Hirshabelle, Galmudug, Southwest and Jubbaland which were formed after the adoption of PFC (between 2013 to 2016) and

Puntland which pre-existed the federal system as it was formed in 1998. It includes the Regional Administration of Banadir or Mogadishu, the nation's capital, which serves in practice as a federal district, but its status is yet to be agreed upon as the PFC commands and "Somaliland", which unilaterally declared its independence from Somalia without gaining an international recognition and consequently considered de jure Federal Member State of the Somali federation in the current federal arrangements.

In the backdrop of this evolving political structure, the country's education system began the slow journey of recovery from the destruction and neglect due to the years of devastating civil war to restore its public education services and deliver valuable schooling experience, knowledge and thinking abilities to the next generations of children, youth and adults. However, in a situation of state fragility, constitutional, and national level policy void for education, Federal Member States (FMS) have developed education systems at their respective levels in a disjointed manner without a political agreement on a federal education model. FMS like Puntland and Somaliland established their education structures prior to the formation of the federal government, and consequently, the involvement of the Federal Government of Somalia (FGS) in the education service delivery in those states is minimal. As such, Somalia's education system lacks an agreed upon legal framework to guide the federal vis-à-vis the sub-national roles and responsibilities (World Bank, 2018), combined with low capacity of the Federal and

FMS ministries to manage a sector which is still highly reliant on development partners for the payment of salaries, interventions, technical advice and materials (MoECHE, 2020). Several attempts to agree on a federal education model have failed due to the political furor and disagreement over the sharing of donor grants, curriculum development and examination administration (Salad, 2022). However recent agreement reached by the National Consultative Council (NCC), except Puntland, on allocation of powers is expected, if it is implemented, to abate the long-standing disagreement and contestation between the FGS and FMS on management and administration of education sector.

Coordination, decision making and provision of education services is a major challenge to the Federal government since over half of primary school children and 70% of secondary education students are educated outside the public sector. Service delivery in the states in the Central and Southern parts of the country is dominated by private education providers (World Bank, 2018). Further complicating the situation of Somalia's education sector is the occurrence of periodic droughts as well as continued terrorist attacks by Al-Shabaab (World Bank, 2018). UNSECO (2022) notes in a recent report that the education is primarily financed by the households and development partners. According to the High-Frequency Survey of 2017, households spent a total of \$24 million on education in 2017, nearly seven times the amount spent by the government in the same year (World Bank, 2017). In this regard, the delivery of education services in the current Somali federal system mainly takes place at the district level due to the huge funding of parents and communities in the face of limited resources from the Federal and State governments.

Against this backdrop, this study posed the questions; How can Somalia under the current federal system organize and transform the fragmented education structures into a harmonized and standardized fully functioning education system? How can Somalia develop and sustain a practical governance and financing mechanisms for the education sector? What lessons can Somalia learn from other federal models elsewhere in the world which could be benchmarked in the light of the Federal Somali context?

II. Overview of several federal education models in the world

In many federal countries, their federal constitution is likely to include a federal framework for the delivery of education services by providing institutional frameworks or guidelines for administration of education under federalism. If states and regions have their own constitutions and share authority over the education, arrangements for the education system at that level are likely to be included in federal and states constitutions as well. Two sets of connected issues arise in considering arrangements for the education system in a federation.

- a) Whether power on delivery of education is divided between the levels of government.
- b) Whether each level of government has its own education policy or whether the whole education system is guided by centralized education policy.

In dealing with these issues under federalism, there are three prominent federal models as described below:

1. In an integrated education federalism model, such as South Africa, Austria and Germany, the delivery of education services, especially primary and secondary education is shared in that the authority to make laws and set standards for education is allocated to the federation government, while the power to implement those laws and standards is delegated to the constituent governments. Thus, legislative, and executive powers over most policy fields can be separated and assigned to different orders of government. Under this system, the federation government exercise the power of regulatory oversight to monitor and ensure schooling quality and success. Austria, for example, exhibits higher levels of centralization of education through maintaining national standards and assessment. However, Austria faces the challenge of finding the proper balance between its central authority and the states. In Germany, quality assurance standards are decided by the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder (Germany's states). Because of its control over admissions to higher education institutions, the German federal government exercises its general influence on educational accountability (Wong, et al, 2020). In south Africa, the legislature granted significant powers to the Minister of Education through establishing norms and standards, while the provincial governments were made responsible for service delivery and decision-making within the parameters established by the center.

2. In other federation, where highly decentralized education model is exercised, such as Switzerland, Pakistan, Canada, Australia and the United States, the federating units or states exercise power over education, while the central authority just provides the necessary policy

framework. Under this model, states are given the primary responsibility in developing their accountability policy to oversee school performance, even though the legislation preserves the federal role on civil rights issue. In the United States, the 2015 legislation on every Student Succeeds Act has weakened direct federal intervention in education at state level and left more regulatory oversight power for the States (Ibid). Unlike countries with centralized education model, the education of federal countries with highly decentralized models are generally characterized by a much lower central fiscal role than the unitary system (Cameron, et al., 1974). In Pakistan, for example, the level of autonomy granted to provinces depends on the level of development and capacity in the provinces. Specifically, two of the more developed provinces (Punjab and Sindh) were granted greater autonomy than the others until recently as other provinces have caught up (World Bank, 2018).

3. In other federal countries, education is highly centralized and unified, as the case with Malaysia and United Arab Emirates. In Malaysia although the education decentralization process is at a very early stage, the roles and responsibilities at each level are being defined in the Malaysia Education Blueprint. In general, the federal government is responsible for the regulatory framework for education, the setting of standards to ensure equity and quality, and for providing most of the funds. Regional governments are responsible for adapting federal standards to their situation, for co-financing education with their own fiscal revenues, and for supervising education service delivery (Means, et al., 2005). Under the more centralized federal countries like Malaysia, the central government assumes the biggest responsibility of funding.

Peacock and Wiseman conclude that greater centralization means greater allocations of funds by the central government for the following reasons; centralization is both a product and cause of the development of uniform standards of policy, it enables government to overcome problems which transcend or are external to local governments; and it allows a greater reliance on more efficient (i.e., wealth-elastic) revenue systems (Cameron, et al., 1974).

III. Constitutional and institutional frameworks of education federalism in Somalia

The PFC as the supreme law of the country provides legal and regulatory frameworks responsible for delivery of education services directly or indirectly. These institutions have legislative, executive and judicial mandates and they are either federal or state level institutions.

A. Constitutional basis of education federalism

In Somalia, the PFC, 2012 particularly Article 1 designates the country as a Federal Republic comprising two levels of government: the Federal and State governments, including municipalities as outlined in Article 48. The Constitution assigns four powers relating to: Foreign Affairs, National Defense, Citizenship & Immigration, and Monetary Policy to the center (Article 54)). It leaves the allocation of other powers subject to further negotiations between the center and the peripheries. Education is a constitutional right for every Somali child and places the Somali authorities under obligation to help children to access quality public education without paying school fees and creation of an enabling environment for them to complete school.

As per Article 52 of the PFC, the Somali authorities under the federalism are expected to deliver education as a concurrent function that should be carried out through vertical "cooperative relationship" between the FGS and the FMS and horizontal "collaborative relationship" between all levels of government (Article 51). In this sense, vertical and horizontal interactions are fundamental premises for effective delivery of education in such a way that FMSs including the municipalities are no longer treated as recipients, but rather as platforms where they are recognized as valued partners in the process of education services delivery.

The challenge is that the PFC does not clearly define functional competences of each level of government in the delivery of education. For instance, it is unclear under whose responsibility is to govern aspects, including curriculum development, quality standardization, setting and administering annual examinations & learning assessments, inspections, certifications and general teacher management are placed. The PFC, however, enshrines the principle of subsidiarity in Article 50 in which FMS have an authority to run most of education delivery services because they possess much competence in solving problems which confront government daily and that the federal government should only exercise power in respect of those matters in which the states are incapable of achieving result acting on their own because such matters are wide in scope, complex in nature or are of broad national effect. There is an ambiguity in how inter-governmental functions are implicated in the education sector and how financing and resources are distributed as the PFC makes no explicit reference to a framework for financing education and other inter-governmental functions.

In Article 54, the PFC states, “the allocation of powers and resources shall be negotiated and agreed upon by the Federal Government and the Federal Member States”, and that the principles of public finance must be deliberated between the FGSs and FMSs (Article 122).

B. Institutional frameworks for education federalism

Although, the Constitution lacks clear definition of powers between the FGS and FMS in relation to education system, however, there are several formal executive, legislative and judiciary institutions which are mandated to contribute to delivery of education services to the citizens in collaboration with the state level institutions.

Executive-based institutions with mandate to deliver education

The constitution vests the executive powers in the cabinet in accordance with of the PFC. The cabinet consists of different ministries and specialized agencies responsible for the performance of specific mandates. The Ministry of Education Culture and Higher Education (MoECHE) is mandated to develop regulatory frameworks, policies, and coordination of delivery of education services in collaboration with its counterparts in the FMSs which are also mandated to ensure implementation of education services, and to roll out national policies and regulations to the lowest constituencies. Based on its mandates, the activities of MoECHE, which is responsible for the management of the education sector in the country focus on plans and education policies, and international protocols and conventions on education, as well as best practices regarding the development of education.

The Ministry organized and chaired several inter-ministerial meetings to serve as a critical coordination forum between the MoECHE and the FMS education ministries. MoECHE also chairs the monthly Education Sector Committee (ESC) meeting, which serves as a key coordination forum between governmental and non-governmental stakeholders. The meeting has supported sector implementing partners and MoECHE to communicate more effectively about the implementation of education programmes (UNESCO, 2022). Another critical platform for coordination and cooperation across the sector is the Joint Review of the Education Sector (JRES), which has been held on an annual basis since 2014. The JRES is a government-led, participatory monitoring process which brings together different stakeholders, including government, donors, education development partners, civil society, and private education providers to engage in dialogue, review sector status, and monitor progress towards and performance in the implementation of the JRES plan (Ibid).

However, the practice of delivery of education under the evolving federalism demonstrates contestation, fragmentation and competition combined with significant capacity challenge at the federal, state and district level. There is a culture in which the federal government and the FMSs do not operate within the confines of the constitution in the delivery of education and have taken some powers into their own hands in violation of article 51 (2) of the PFC that states “every government shall respect and protect the limits of its powers and the powers of other governments”.

The National Consultative Council (NCC)

Article 51(3) of the Constitution requires the executive heads of the FG and FMSs to meet annually to discuss and agree on the issues of national significance, including national unity, security and peace, common market policies, and socio-economic development. The NCC has been acting as the highest executive Inter-governmental platform in Somalia since 2015 and has subsequently reached several inter-governmental agreements including security, election and revenue sharing inter-governmental agreements. In this regard, the NCC has mandate to contribute to establishing effective federal education delivery governance. However, the practice of the NCC reveals its failure to agree on model laws and policies on education or federal education delivery despite their consecutive annual meetings since 2015.

The Senate /Upper House of Federal Parliament

The PFC establishes a bicameral legislature on the basis of the separation of powers principle, with the upper chamber representing the interests of the states and acting as the guardian of the federal system (63(1)). The Upper House, in accordance with articles 79, 82, and 83 of the PFC, has a role in the making of all laws, including those affecting the delivery of education services.¹

As a result, the House plays a major role in the development of legal frameworks for inter-federal functions including education sector even though the practice shows that FMS do not trust the Upper House, and some states continue to boycott laws approved by the house on the grounds that they were not fully consulted (Salim, 2022).

The constitutional court

Although, such court is yet to be established, Article 109B of the PFC, establishes federal constitutional court as an apex court with final judicial review over matters relating to the compatibility of legislation with the federal constitution, the constitutionality of laws passed by the parliament, and issues of interpretation of the constitution. Given this final judicial review power, such a court has a crucial role in unification of laws on education in the country by ensuring legal uniformity throughout the federal system to keep the education laws within constitutional boundaries and in line with the provisions of Article 4 of the PFC on the supremacy of the federal constitution.

Inter-state Cooperation

This inter-state cooperation platform is enshrined in article 52 (2) of the PFC by stating: "Federal Member States may enter cooperative agreements amongst themselves or with the Federal Government, which shall not contradict the national Constitution and the constitutions of the Federal Member States concerned and may not be legally binding." Therefore, inter-state cooperation platform, as advocated by the PFC, is one of the mechanisms to coordinate and promote inter-governmental cooperative relations in issues of mutual concern for the FMS, such as delivery of education.

Nevertheless, the Council of Inter-state Cooperation (CIC), which was founded in October 2017 with the purpose of strengthening the federal system and inter-state collaboration, has since vanished, and has never served as an effective inter-state cooperation platform (Salim, 2022).

IV. Proposed models for education federalism in Somalia

Although, the PFC assigns delivery of education as shared competency in Article 52, the experience shows that the sharing of such competency has not been as simple as it had caused a kind of tug of war between the FGS and FMS, especially issues relating to setting and administering examinations & certification, and international aid grants. In this regard, there have been several attempts pioneered by the Federal and State Ministries to agree on federal education delivery model. Several Memorandum of Understandings (MoUs) were signed between the Federal Ministry of Education and its State level counterparts. These non-binding agreements were aimed at establishing intergovernmental collaborative education delivery in Somalia to overcome conflict over sharing of aid grants, conducting examinations, curriculum development and teacher development & management. Unfortunately, all those agreements remained unimplemented.

Based on the discussion on the federal framework for education services delivery, the following options are recommended for discussion and consideration:

A. Option One

The Somali Federal Government and its Federal Member States could adopt a federal framework for delivery of education services that devolve powers to the sub-national levels based on the subsidiarity principle in the PFC. The Federal Ministry's authority is limited under this model to providing the necessary legal and regulatory frameworks, strategic policy-making and coordination and standardization, while States are

responsible for providing most education services including secondary and tertiary education. The model may also be appropriate in contexts where emerging or well-established States are primarily responsible for financing of the education system. The implementation of this model requires adequate co-ordination mechanisms across levels of government and strengthening of the capacity and competence of State Ministries of Education. The existing NCC could develop and agree upon model policies, laws, regulations and standards to govern the delivery of education service in the country by granting significant regulatory and oversight powers to the Federal Ministry of Education to control multiple aspects of the education system through establishing norms and standards, while the States are responsible for service delivery and decision-making within the parameters established by the NCC. This model is consistent with the model proposed by 2019 MoU signed between (MoECHE) and representatives of the education ministries of the five Federal Member States. The document mandated MoECHE to develop national education policies and standards in collaboration with the States, whereas states were required to finance education at the State level, establish and manage the schools, and manage school personnel. This model also is in line with 2021 MoU signed between the (MoECHE) and ministries of education of FMS. It proposed joint decision-making in administration of education through establishing national education council and joint independent examination commission. Since there will be certain shared responsibilities under this model, it will be crucial to establish governance mechanisms to manage those joint responsibilities such inter-ministerial coordination council.

Such tools for vertical co-ordination include for example platforms of dialogue and intergovernmental consultation boards. This model is relevant in the current post conflict situation of Somalia in which the reconfiguration of education policies should involve all different political groups in the decision process to promote reconciliation, trust and unity, while at the same time empowering the States to deliver social services. The disadvantage of this model lies in its propensity to create conflict emanating from the overlapping mandates, laws, and strategic policies between the levels of government. A study in Belgium and South Africa argued that "decentralization did not constitute a clear shift or restructuring of power from the center to the periphery but was often an amalgamation of decentralization and concealed centralization measures" (Berkhout, 2005). This model could also create inequality as it had been observed in Germany, where the educational decentralization and the greater sovereignty of Länder over educational planning, policy making and control of quality assurance standards led to variations in educational outcomes between Federal States (Freitag, et al., 2009).

B. Option Two

The Somali Federal Government and its Federal Member States can explore fully decentralized federal framework for education delivery based on the United States or Swiss model by making the delivery of education the quintessential responsibility of the States and local governments where there is no educational decision-making role for the central government. This does not necessarily mean federal de-regulation, but rather a devolution of education powers under the full control of district and state institutions.

There is a role for the Federal government to oversee the distribution and monitoring of federal funds for the education sector. The advantage of this model is related to its tendency to strengthen self-rule and autonomy of sub-national, localize social services, and stimulate innovative, diverse and competitive education programmes. This model may be rational under the current context in which parents and communities primarily finance education in Somalia, however, the model may not work for States with inadequate financial, material, and human resources and can consequently create inequality in access to quality education across the country. Furthermore, it will be very challenging to improve the quality standards and efficiency of the education system across the country equally and at the same pace under the current Somali state fragility and limited resources.

In Switzerland, the Confederation and the Cantons are obliged to a process of inclusive decision making which forces the levels of government to reach consensus. According to Fisher, et al. (2010), the Swiss education system suffered from what they termed as "joint decision-making trap" after constitutional provision which gave the Confederation a role in the education system. They posited that "shared belief, common frame of reference, the procedural separation of constitutional and distributional issues and the existence of informal structures helped overcome the barriers posed by the "joint decision-making trap". In Somali education system, the FGS and FMS need to develop shared belief and common frame of reference that it is necessary to harmonize and standardize the education system so that it could be reformed to be efficient, sustainable, high-quality standard and competitive.

It is also essential to deal with the constitutional, distributional and delivery issues such as laws and regulatory frameworks, standardization and quality assurance, distribution of funds and resources, planning and policy making and implementation of the services.

C. Option Three

The Somali Federal Government and its Federal Member States could agree on the establishment of highly centralized education system with a language of instruction, harmonized school curriculum, centralized public examinations, common teaching service rules, and central funding for all public schools. The rationale for such a model is to make optimal use of financial, material and human resources and to circumvent the wasteful duplication of mandates. The ultimate aim of the Federal MoECHE is to ensure that the national education system supports the government's primary objective of national unity. Another justification for this model could be that the central control and provision of education is desirable for the provision of equitable education of reasonable quality for all children in the country. The States through their education Ministries directly respond to the Federal MoECHE and receive regular directives from the center. The State level education offices including the districts implement all the education programmes in schools within the State. The State Ministries manage, monitor, and supervise all matters related to curriculum, schools, teachers, students, and public funds, in compliance with center directives. Under this model the financing of the education comes primarily under the responsibility of the Federal government.

However, this model will be reminiscent of the education centralization of the former central government and undermines the federal principles of State autonomy and self-rule and limits innovative state education programming. It can scupper the federalization process and make the education less democratic and participatory.

Conclusion: finding a middle-ground option

The questions posed by this study require contextualizing the education issue and critically analyzing the models outlined above. The starting point for a federal model for education system for Somalia should start with 1) understanding the competences and areas of responsibilities (outlined in the table below) which need to be negotiated and defined; 2) that competences and responsibilities are given to the level of government where they will be most effectively utilized; 3) that the negotiations need to be conducted in good faith and in a spirit and purpose of unity and cooperation between the Federal government and Federal Member States; and 4) that decision making need to be inclusive, consensus based and compromise oriented in line with the federal principles. If these four conditions are met, a practical harmonized federal model could be developed, by the same token, harmonization and standardization should not be mistaken with centralization. An ideal model would have some of the powers fully delineated, while others are shared between the two levels of government. But again, the shared powers will still be subject to "joint decision making" which supports the case for effective inter-governmental relations for Somalia Federal governance system.

Finally, the advantages and disadvantages of the three model signify the complexities and nuances in reconstructing a viable and harmonized education system for post conflict, resource limited Federal Somalia. Based on principles of subsidiarity and cooperative relations as laid down in the PFC, the study proposes that Option Two is

the most viable model to serve as federal framework for education delivery in Somalia. Under this model, the FGS has limited administrative functions because States are enabled to take the lead in the implementation of the most executive and administrative functions relation to the delivery of education.

Table 1: Powers and responsibility in the education system based on option two

Power and responsibility/functions	Exclusive responsibility of FGS	Exclusive responsibility of FMS	Shared competences
Policy and legal frameworks	Formulating policies and laws in collaboration with the States through the NCC	Formulating laws and policies where necessary at the State level to implement the federal policy and legal frameworks	
Coordination	Macro -Federal level	Micro-State level	
Planning	FGS is responsible for strategic macro planning of education through the federal education sector strategic plan, which is endorsed through the NCC	States are responsible for developing micro-plans and strategic policies for the education system in their respective States	
Procurement and supply of education materials		State level	
Education infrastructure (schools, textbooks, furniture, etc.,)		State level	
Financing of education	Federal budget	State budget	Sharing of donor grants

Curriculum development	Outline of national curriculum (i.e learning outcomes and goals)	State curriculum derived from the national curriculum	The two levels share the standardization and harmonization of national and state curricula
Teacher management	Standardization of teacher training curriculum and qualifications	Recruitment, training and management of teacher at State level	
Admissions and Schools Management		State level (with districts and municipalities)	
Examination and Qualifications	Joint Independent Examination and Qualification Oversight Board (FEQOB) comprising of members from the Independent State Examination and Qualification Management Boards (SEQMB)		
Inspection and Accreditation (schools, colleges, universities, training providers and other educational institutions and facilities)	Universities and colleges are inspected and accredited at federal level	Secondary, intermediate, and primary are inspected and accredited at State level	
Quality Standardization and harmonization	Federal level		
Equality, Diversity and Inclusion	Federal level through equality laws and policies	State level through equality laws and policies	
Education Information Management	A central unit at the Federal level	A unit at the State level	
Research and Collaboration			Inter-state level
Allocation of donor fund			Collaboration between the FGS and FMS and between FMS

Notes

ⁱIn some federal states, such as Nigeria, Argentina and the United States, the second chamber or the upper house is involved in the making of all laws. In Germany, the second chamber is, in principle, involved in the making of all laws. Nevertheless, ultimate approval by the second chamber is only necessary if the Constitution explicitly requires such approval, effectively creating an absolute veto right of the second chamber.

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