

Parliament should Use Its Oversight to Improve Electoral Model

Introduction

The electoral model¹ by Somalia's National Leaders Forum (NLF)² outlining the 2016 selection/election plan does not adequately enhance the democratic process. Rather, some aspects of the proposed roadmap significantly stifle the prospects of a legitimate and inclusive election process. Though it is encouraging that the oft-acrimonious federal and regional politicians reached a consensus, the model has significant flaws that, if implemented, could result in social conflict, weaker institutions and unwarranted power grab. Fortunately, the NLF included in the model a clause that calls for parliamentary approval of the ambitious plan.³ Since time is of the essence, and its implementation is crucial, parliament must scrutinize the plan, improve where necessary and adopt the plan expeditiously.

Upper House

Key sections of the April 12, 2016 agreement between the president, the speaker of parliament, the prime minister and his deputy and the leaders of the federal member/interim states fall short of the leaders' previously stated commitment⁴ to an inclusive, legitimate and democratic process. Important elements of the accord largely satisfy the leaders' short-term interests rather than entrenching democratic principles. Undemocratic clauses include an unabashed attempt to

have regional leaders appoint the entire upper house, a scheme that impedes democratization efforts in the regions and at the national level. The proposed plan confers on the executives or the regional presidents the power to nominate two candidates for each seat in the upper house (senate). The local parliaments are then relegated to select one of the handpicked candidates. This format could lead to regional leaders stacking the upper house with their cronies. The provisional constitution calls for an elected senate. It also makes sense that the bar should be set high for this nascent and vital institution. Instead of making the upper house a pet project of the regional bosses, it should represent all the citizens of the states.

Electoral commission

Similarly, the notion that appointees handpicked by the signatories (who are mostly presidential candidates or promoting one of the candidates) should oversee the election is a clear conflict of interest, and it will sully the prospects of a free and fair election. Likewise, calling for the creation of regional electoral committees – appointed by the regional politicians – is unnecessary at best, if not detrimental to ushering in an enhanced electoral process. The upcoming process is a national election rather than regional, and only the national electoral commission should lead the process. More ominously, tasking the management of the selection/election of the 275-member lower house with appointees by the regional leaders could result in the manipulation of the process, if not an outright rigging of the election. Somali clans generally consider themselves as sovereign or separate entities from other clans, and any gerrymandering attempts by politicians in the regions could trigger violence and avoidable conflicts.

Rigging the election rather than enhancing it will thus destroy the possibility of ushering in a legitimate political

¹ Find the full text here, <http://www.wardheernews.com/wp-content/uploads/2016/04/NLF-Communique-Final-April-12-2016.pdf>

² Members of the NLF are the president, prime minister, deputy prime minister, speaker of the federal parliament, presidents of three interim regional states and the president of Puntland.

³ The communiqué states that, "The 2016 electoral model and its implementation mechanism shall be tabled to the Federal Parliament for final endorsement."

⁴ The international community also welcomed those stated commitments and principles, <http://reliefweb.int/report/somalia/international-community-welcomes-mogadishu-declaration-2016-electoral-process>

dispensation in 2016. It will also dampen the prospects of one-person one-vote in 2020⁵, a risk Somalia should not be exposed to. Concrete steps should therefore be taken to make this historic selection/election process fair and free of manipulation. A single, credible, inclusive, non-partisan, independent electoral commission, as outlined in the constitution, should oversee the process. Appointees by politicians/ candidates should not taint the integrity of the promised enhanced process.

Final Signature and Mogadishu

Once the elders / the 50 electors vote for MPs, the current model states that the regional presidents must certify their selection before they can take office. This gives the designers of the roadmap a veto over the entire process, which again is a self-aggrandizing scheme. Moreover, the NLF has arbitrarily deprived the 1.7 million residents of the national capital, Mogadishu, the right to be represented in the senate. This is exclusionary. Most of federal government resources are collected from the port and airport of Mogadishu. Taxing the residents of Mogadishu without representation is unfair. Allocating senatorial seats is prudent so the city can equally meet the representation needs of its residents while at the same time maintaining its national capital and cosmopolitan character.

Women representation

The political leaders also reversed the constitutional requirement affirming a 30 percent quota of parliamentary seats for Somali women. Instead the NLF announced that 30 percent of the proposed 50 electors for each seat should be women. This does not mean 30 percent of selected/elected MPs will be women, and it is therefore far from an enhanced election.

The leaders also used deliberate vague wordings in their agreement, which could only lead to manipulation of the process. For instance, the accord states, "The list of the traditional leaders will be revisited, deceased elders will be replaced, contested elderships will be corrected ... the final agreed-upon traditional elders list will select the electors." Who will do the revisiting, replacing, finalizing and correcting is unclear, but it is obvious politicians will try directly or indirectly to determine the final elders list.

In 2012, national political leaders pledged that they would usher in a one-person one-vote election by

⁵ A one-person-one-vote election was planned in 2016, however this was unattainable, and the current selection/election process became necessary. Holding a proper election in 2020 is currently the new goal for both Somalis and donors. <http://www.un.org/press/en/2016/sc12333.doc.htm>

August 2016.⁶ They failed. Federal politicians and their regional counterparts have also pledged over the past year their commitment to an enhanced selection/election process where citizens are empowered to elect candidates. The April 12th declaration shows the NLF reserved for themselves significant rights and roles.⁷ The political leaders have positioned themselves to manage the elders, to appoint the election commission, to appoint senators and to sign off on lower house MPs. This all happens at the same time that most of them are contesting the election or backing a candidate.⁸ Fixing these erroneous and self-serving positions is imperative. Parliament should revisit and revise the model and expeditiously adopt a fine and finalized version of the current draft.

Policy considerations

- The upper house should not be filled with handpicked allies of the regional leaders. This new chamber should represent all citizens of the states. The scheme that the regional presidents will nominate two candidates, one of whom the regional parliament must pick, is totally undemocratic. Since the senate is a new institution and the slogan by politicians has been "we will usher in an enhanced electoral process", all electors in each region should vote for the senators in that state rather than regional presidents presenting two nominees.
- The current draft agreement does not commit to allocating 30 percent parliamentary representations to Somali women. The document only calls for 30 percent of upper house senators to be women. For the lower house, the agreement states that 30 percent of the 50 electors (an odd number such as 51 is more apt) for each MP should be women. This does not guarantee that the outcome will lead to 30 percent of MPs being women. Somali women should have 30 percent of the lower house seats. To ensure clans and politicians do not usurp their seats, this portion should be set aside, and parliament should pass an emergency law making it mandatory that the national electoral commission enforce the 30 percent rule.

⁶ When elected, the Somali president stated in his six-pillar plan that he would usher in a proper election in 2016, http://villasomalia.gov.so/wp-content/uploads/2014/11/FINAL_6_Pillar_Progress_Report.pdf

⁷ Full text,

<http://www.garoweonline.com/upload/files/1460470472.U7yDyIGeUphydDH.R.pdf>

⁸ Both President Hassan Sheikh Mohamud and Premier Omar Abdirashid Ali Sharmarke are eyeing the presidency, according to media and reliable sources. The southwest president has also stated he is running for the top office.

- There should only be a national electoral commission. The regional electoral committees or commissions should be scrapped, as the current election is a national contest. Regions even now are dominating the proposed national election committee. The notion that four other sub-national electoral committees, created by the regions, will conduct the national election/selection unnecessary, unless it is designed to manipulate the process. The commission overseeing the election should not be minions of the NLF. Credible and respected Somalis among civil society or academia – whose sole objective is to conduct a free and fair election – should be tasked with this enormous responsibility.
- The national election commission rather than regional leaders should sign off the final lists of the upper and lower house parliamentarians. Members of the NLF should not interfere with the list of those who are elected to be parliamentarians. Most of the NLF members are candidates, or they support candidates, and if they usurp this right, they could manipulate the process and tarnish the prospect of a free and fair election.
- Mogadishu should have upper house senators whose background reflects the city's current realities and its character as the national capital. Depriving 1.7 million residents of the representation enjoyed by other citizens is unfair at best and a power abuse. The city should be allocated eight senators. Four could be from its current dominant communities and four could be from the other four Somali clans. This could be an interim arrangement till the 2020 elections when political parties and proper general election will ensure each citizen's vote counts.
- Election monitoring committees manned by civil society and the international community should also be created. If the international community is financing this election and backing it with its diplomatic weight, it should also strive to ensure political leaders do not manipulate the selection/election process and that they do not rig the election. Complacency and appeasement is not what Somali citizens expect of the international community.



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