



**Commentary**

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# **Somalia: Preserving the Integrity of the Election**



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When the prime minister of Somalia announced last week the members of the Federal Electoral Implementation Team (FEIT), the nation got an early glimpse of what to expect from the upcoming parliamentary and presidential election: a return to the widespread irregularities seen in the 2016 polls. Members of the FEIT include senior officials from both the Office of the President and the Office of the Prime Minister, senior officials working for regional leaders, diplomats, senior security officials and many civil servants. These appointments are a clear violation of the agreement reached in September between the Federal Government of Somalia (FGS) and federal member states (FMS), which stipulated that both sides would appoint individuals perceived as nonpartisan and objective by the Somali people.

Not only do the current appointees come across as very partisan, but they appear to have been appointed to achieve a particular objective, namely to advance and protect the interests of the federal and regional leaders who appointed them. Sadly, this same scheme was used in the 2016 election, when senior advisors of the FGS and FMS leaders oversaw and manipulated the polls, tarnishing election integrity. Ultimately, that effort did not pay off as the FGS and FMS leaders had hoped, but it did lead to excessive rigging of the parliamentary election in favour of candidates supported by these leaders. The scope of the rigging in 2016 was legendary and the current scheme appears to be a redo of that disaster, on steroids.

There are plenty of reasons to believe that the current FGS and FMS administrations are attempting to replicate the 2016 playbook, hoping that the results will be different this time. Their actions are doing significant damage to the credibility and legitimacy of Somalia's entire electoral system and further cementing the apathy of Somalis towards their country's democratic experiment. Preserving the faith of the Somali people in their electoral system should be a cornerstone of the peacebuilding and statebuilding agenda.

The Heritage Institute was one of the first to advocate for a negotiated and implementable indirect election, based on a broad political agreement among the country's key stakeholders, instead of haplessly pursuing an elusive one-person-one-vote system. As we noted in our July 2019 report, the notion of holding a universal suffrage election on time was an unrealistic goal pushed by politicians who actually wanted to extend the mandate of the current executive and parliament. Regrettably, once that delay tactic failed, it was replaced with an even worse approach— packing the interim electoral bodies with political operatives for the sole purpose of swaying the outcome of the election.



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We are once again sounding the alarm about the dangerous consequences of this vicious cycle, in which incumbents in Mogadishu and in the FMS capitals spare no effort to engineer the outcome of the election. Deep wounds remain from the badly mismanaged 2016 electoral process, and adding a fresh layer to those wounds could have a deleterious impact on the relative peace and stability that now prevails.

Besides the composition of the FEIT, the makeup of the State-Level Electoral Implementation Teams (SEITs), the bodies mandated to manage the process at the state level, is equally troubling. Almost all states have appointed individuals who have been handpicked by the FMS presidents in an overt attempt to weaponize the SEITs and control the outcome. In fact, it was the SEITs that caused the most widespread irregularities across the country in 2016. For this cycle, the writing is all over the wall, indicating a similar, if not qualitatively worse, attempt.

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## Electoral process: a vicious cycle marred by corruption, lack of oversight



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There are myriad other problems with the implementation of the electoral process, for example the proposed fee structure for candidates for both houses of parliament. Candidates for the Upper House (Senate) are required to pay a whopping 20,000 US dollars to compete for a seat, while candidates for the Lower House are required to pay 10,000 US dollars. Although this financial prerequisite has been justified based on the need to raise domestic funds for election operations, the unintended consequences are clear: only the wealthiest Somalis (and the politicians they sponsor) are eligible to seek elected office. This price tag, possibly the most expensive in the world, also directly encourages the proliferation of corruption. Most candidates for the 329-member bicameral parliament are simply unable to come up with these funds on their own, and are forced to find political sponsors who will expect the candidates to serve their interests in exchange for financial support. Somalia's political barons have effectively created a food chain in which they have sole control over both the supply and demand.

Even after candidates pay these prohibitive fees, the overwhelming majority will lose the elections. Even the winners will emerge from this deeply corrupt process laden with tens of thousands of dollars in debt from paying the 101 delegates who serve as their electors, and pockmarked by endless political punches within their constituencies. By the time the new MPs make their way to Mogadishu for the presidential election, their calculus will be entirely animated by a deep desire to amass huge amounts of money from as many presidential candidates as possible in order to pay back their own debts, settle into the capital's expensive lifestyle and, in some cases, save considerable amounts of money for the dry season ahead. This impending corruption foreshadows, unfortunately, an even dirtier political future for the country.



*The ultimate losers in this apocalyptic process of political cannibalism are the Somali people*

This vicious cycle benefits no one in the end, not even the winner of the presidential election, because it will deprive him of the credibility and the gumption he will need to combat systemic corruption, in the knowledge that he paid substantial amounts of money to MPs to get elected. The ultimate losers in this apocalyptic process of political cannibalism are the Somali people.

Corruption is only part of the problem. The new electoral process also lacks meaningful oversight and reliable integrity mechanisms. Nominally, the Dispute Resolution Committee (DRC) will resolve issues that arise from what will likely be a litigious process. However, like the FEIT and SEITs, the DRC is filled with aides and close associates of key stakeholders at the federal and state levels. Also, the federal courts in Mogadishu lack the credibility they need to settle electoral disputes, exposing the entire process to serious fraud and vote rigging.



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In 2016, an integrity commission was created with the mandate to observe and report on the overall electoral process. It was led by Professor Abdi Ismail Samatar, a highly respected, no-nonsense scholar known for his unabashed fidelity to the rule of law. Although the commission's power was limited, its final report was widely seen as the most credible of the process. The commission documented systemic corruption, intimidation and rigging across the country during the parliamentary election, in which the state-based SEITs played a disproportionately influential role. This time around, no integrity commission has been included in the process, depriving Somalis of a truly objective assessment of polling irregularities.

Adding to the problem is the prominent role of the security services within the electoral process. Officials from various federal and state security apparatuses have been appointed to the FEIT and the SEITs. Security officials bring no value to the electoral process other than intimidation of candidates and delegates to vote in a certain way. The politicization of the security services is perhaps the only creative addition to this cycle.

## Power of FMS leaders a stain on electoral system

As in 2016, FMS presidents wield excessive power, especially in the Upper House elections. For example, FMS presidents can deny anyone they dislike the right to run for a Senate seat. Even if a candidate meets all the guidelines of the political agreement (and is prepared to put up 20,000 US dollars), a simple stroke of an FMS president's pen can keep them from running. This outrageous practice violates the provisional constitution's protection of a citizen's right to run for office. It is a major stain on our electoral system.



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In Somalia's political system, senators are rightly expected to represent the interests of the state. However, FMS presidents conflate that with their desire to have senators represent their personal ambitions in Mogadishu, starting with the presidential election and continuing throughout the senator's four-year tenure. Senators are thus beholden to the narrow political viewpoints of the FMS presidents, and if they step out of line they will face punitive measures, potentially including the loss of their seat.

Having appointed eight of the 11 SEIT members, FMS presidents also have oversized influence over Lower House elections. Behind the scenes, they essentially decide the winners and losers of each state's seats through their proxies in the SEIT. This year, a clause in the electoral agreement goes even further, allowing FMS presidents to directly appoint an unspecified number of the 101 delegates (electors) for each seat, effectively ensuring their ability to control the outcome. In other words, FGS and FMS leaders have conspired to jointly manipulate the election in their favor.

Candidates for seats representing Somaliland are even more exposed than their counterparts from the rest of the country, as their election will take place in Mogadishu under the prying eyes of the FGS. Already, members of the Somaliland SEIT appointed to manage this process have sparked major controversies. Key actors such as the speaker of the Upper House and many opposition groups have denounced the committee as partisan and untrustworthy. This is similar to what happened in 2016, which led to widespread irregularities regarding the Somaliland caucus in the parliament.

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## Recommendations

Democracy is messy, especially in fragile contexts like Somalia. However, widespread violations can and should be avoided to protect the legitimacy and credibility of our nascent democracy. We propose the following concrete actions to achieve that objective.



*The integrity commissions should be mandated to intervene in real time to address irregularities such as the intimidation of candidates and unfair practices in the selection of delegates*

First, the current FEIT, SEITs and dispute resolution committee comprising loyalists and staff of FGS and FMS leaders should be disbanded and replaced with credible committees made up of respected individuals. If FGS and FMS leaders are incapable of selecting nonpartisan committees, they should at least appoint bipartisan committees that include people who represent the interests of opposition groups. The FGS and FMS cannot be both judges and juries in the upcoming election, and any competitive process should meet a minimum threshold.

Second, we urge the formation of integrity commissions in each of the FMS and Mogadishu with a strong mandate to provide oversight over the entire process. These commissions could work directly with the FEIT and SEITs to ensure free and fair elections. The integrity commissions should be mandated to intervene in real time to address irregularities such as the intimidation of candidates and unfair practices in the selection of delegates. The commissions should comprise eminent and highly respected individuals from each state, including faith and business leaders. There are plenty of people with those qualities across the country.

Third, FMS presidents should refrain from arbitrarily blocking eligible citizens from running for the Upper House. There is no legal or moral justification for this egregious and abhorrent practice of removing Somalis' inherent right to run for elected office. The SEIT in each state should accept the applications of all eligible citizens.



*This body should comprise prominent legal scholars, including Islamic jurists, who enjoy great integrity and respect among their communities. This body should settle disputes resulting from irregularities in the parliamentary and presidential election*

Fourth, a federal-level dispute resolution mechanism should be established for what is likely to be a highly-disputed election. This body should comprise prominent legal scholars, including Islamic jurists, who enjoy great integrity and respect among their communities. This body should settle disputes resulting from irregularities in the parliamentary and presidential election. It should be empowered to order the nullification and rerun of elections as necessary. Only after the mechanism finishes its work should MPs be allowed to take office and to elect the president.

Fifth, members of the security services, civil servants (including diplomats) and staff of FGS and FMS leaders should be barred from joining the electoral bodies. This logical step is enshrined in the electoral law passed by the federal parliament and signed by the FGS president earlier this year.

Sixth, the international community should not become an accessory by funding a highly compromised and corrupt process. This would be a disservice to their countries' taxpayers and an abuse of the Somali people's rights.

Seventh, the UN Security Council should understand that a stolen and tarnished election in Somalia could easily lead to conflict and undo the fragile stability secured over the past 20 years. Therefore, under the provisions of Chapter VII of the Charter and as per the international precept – the Responsibility to Protect – the Council should demand that Somali politicians organize a credible and fair election.

Taken together, these steps would undoubtedly strengthen the integrity of the polls and ultimately engender credibility in the outcome.



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