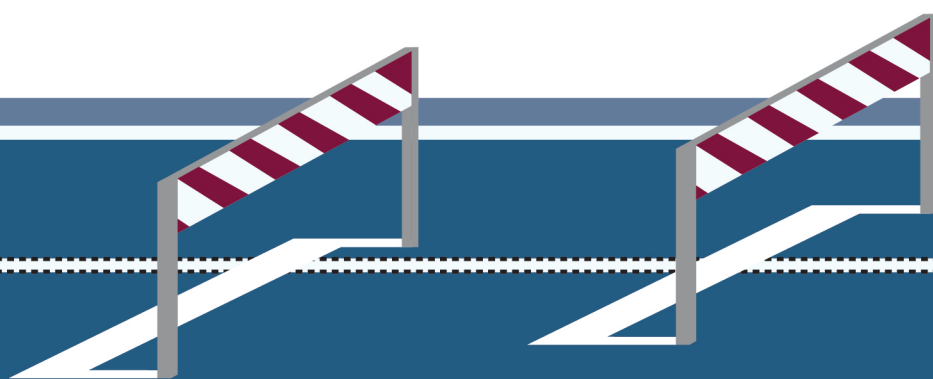


HERITAGE
I N S T I T U T E

Impediments to good governance in Somalia



March 2021

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1. Executive summary

Somalia has been dismally underperforming in key benchmarks of good governance namely, rule of law, government effectiveness, political stability, public participation, accountability, transparency and control of corruption. At the political level, elite collaboration invariably collapses and the Federal Government of Somalia (FGS) and the Federal Member States (FMSs) increasingly squabble.¹ The incomplete nature of the provisional constitution exacerbates political instability. Public input and participation in how the country should be governed is largely muted. Demand for service delivery and institutional performance is equally limited. The media landscape is listed ‘not free’ to meaningfully monitor actions of those in power. The voice of the civil society is rarely accommodated by the governing elite due to the fragmented nature of civil societies themselves as well as the absence of state institutions that are interested in amplifying or implementing calls for reforms.

Unsurprisingly, Somalia is thus consistently ranked as one of the world’s least transparent and the most corrupt countries, further eroding public confidence. Most crucially, a continuous intra-group rivalry replaces the rule of law and political infighting unfolds outside of constitutional and legal frameworks. The unwillingness of the national stakeholders or their inability to build and work within autonomous and functioning public institutions, coupled with the 4.5 political formula perpetuate Somalia’s underperformance in all indicators of good governance. This study aims to assess the impediments to good governance in Somalia, paying a particular attention to the federal government which the international community has been providing with financial and political support for 20 years.

2. Introduction



Continuously ranked as one of the world’s most corrupt and the least transparent countries, Somalia has failed to create a political ambience in which accountability and public trust and participation in good governance is institutionalized

Since the reconstitution of the Somali state in 2000, the country has made a very limited progress in advancing good governance. With respect to the rule of law, the provisional constitution is regarded as incomplete with 15 contentious articles.² The constitutional court, which is supposed to review draft legislations, determine the legality of laws passed by the federal parliament and resolve political disputes between the FGS and the FMS and organs of the federal government is yet to be established. This in turn, generates what seems to be an incessant political instability and government ineffectiveness, in terms of preventing random outbreaks of violence and offering nationwide security and service delivery. Continuously ranked as one of the world’s most corrupt and the least transparent countries, Somalia has failed to create a political ambience in which accountability and public trust and participation in good governance is institutionalized.

1 http://www.heritageinstitute.org/wp-content/uploads/2020/01/HIPS_2020-SOS-2019-Report-English-Version.pdf

2 HIPS Interview with a member of the Independent Constitution Review and Implementation Commission (ICRIC), 20 October, 2020, Mogadishu.



Lifting Somalia from its decades-long state of regression and despair is crucial because 80% of citizens live on and or below the poverty line

The word ‘good’ in governance is not in this case a cliché or philosophical statement but rather a critical factor for the life and wellbeing of all Somali citizens. Lifting Somalia from its decades-long state of regression and despair is crucial because 80% of citizens live on and or below the poverty line.³ More importantly, the country is endowed with the largest marine resources in Africa, abundant livestock and agricultural land which, if the country gets its governance right, could easily make it the breadbasket for the Horn of Africa.⁴



In this case, political actors in Somalia neither seek consensus nor offer incentives to the public for political participation

Youth unemployment now stands at 67%.⁵ Basic primary education is virtually privatized and highly commodified, putting three million children out of school.⁶ Improvements in good governance have been slow and the practice of politics is chaotic and confrontational. The benefits of the fragile state have not trickled down to the ordinary people, resulting in citizens who are seriously disaffected from politics, not in terms of talking about it, but in terms of demanding practical elements of good governance. In this case, political actors in Somalia neither seek consensus nor offer incentives to the public for political participation.

Failure to connect citizens to the process of state building has resulted in an overflowing of cynicism. One discussant told HIPS that the Somali government is “stale, corrupt and dominated by dishonest diaspora politicians who are not serious about the country’s future” and another described it as inherently cartelistic entity in which members of the diaspora seek vocational leadership and financial reward.⁷ Therefore, the fragility of the Somali state and the embedded bad governance lie in the utter failure to connect citizens to the process of state building. Afyare Elmi argues that in Somalia, the “concept of citizenship is poorly understood by the political class.”⁸ If the citizens have no emotional attachment to the current form of state, the practice of governance is equally detached from the suffering of the people and their day-to-day struggle.

Theoretically, Somalia’s fragile statehood fits what Douglass North, an American economist and social scientist described as “limited order” of governance in which access to state resources is a privilege and not a right, and there is neither a dominant actor in terms of preventing a random outbreak of violence nor is there respect for the rule of law.⁹ This limited order of governance creates a web of corruption through the politics of patronage and personal interaction, aborting the evolution of impersonal institutions. The practice of political cronyism impedes the professionalization of public administrators. For example, connections and political loyalties primarily determine appointments to important positions such as ambassadorships, ministerial directors or cabinets of the government.¹⁰

3 Human Capital Strategy for Somalia. <http://www.heritageinstitute.org/wp-content/uploads/2020/11/HCD-Strategy-English-version.pdf>

4 Somalia’s fisheries: Untapped potential held back by skill shortage. <http://www.heritageinstitute.org/wp-content/uploads/2020/06/June-2020-FISHERIES-REPORT.pdf>

5 Productive labour and employment creation for Somalia: Key challenges and strategies. <http://www.heritageinstitute.org/wp-content/uploads/2020/08/Labor-HCDM-REPORT-1.pdf>

6 Somalia’s education sector: Fostering skills through a demand-driving education. <http://www.heritageinstitute.org/wp-content/uploads/2020/08/Education-HCDM-REPORT-.pdf>

7 HIPS interview with an academic 15, December 2020, Qardho.

8 Elmi, A. Developing an inclusive citizenship in Somalia: Challenges and opportunities. [file:///C:/Users/Envy14/Downloads/Developing_an_Inclusive_Citizenship_in_S%20\(1\).pdf](file:///C:/Users/Envy14/Downloads/Developing_an_Inclusive_Citizenship_in_S%20(1).pdf)

9 North, D., Wallis, J., & Weingast, B. (2009). *Violence and Social Orders: A conceptual framework for interpreting recorded human history*. Cambridge University Press.

10 HIPS interview, 18 December, 2020, Garowe.

Competence and qualification seem to be the casualties in the practice of personalized state institutions, a symbol of a persistent bad governance in which individual interest is prioritized at the expense of professional and competent civil servants.¹¹

Impersonal and independent institutions are regarded as the paragon of good governance, making the practice of politics and mediation of conflicting interests more predictable because of codified rule of law from which governmental entities draw on their legitimacy. The existence of impersonal institutions which Somalia lacks, attenuate uncertainty in politics and increase predictability in managing crises, paving the way for the emergence of what Douglass North explains as “the open access order of governance” in which every citizen is equally treated and access to economic benefits and political participation are rights and not privileges.¹² In this regard, public voice and political participation are extremely low in Somalia. Citizens do not directly elect their representatives and the polarization of the political space and absence of working institutions and reliable service delivery have disillusioned the public. In short, citizens seem reluctant to engage in a fractured system of governance in which they see limited opportunities to make an impact because avenues to hold political actors accountable are not accessible to them.¹³

3. Research methodology

Researchers conducted a semi-structured qualitative interview with 23 government officials, parliamentarians and members of civil society, academics, journalists, federal judges and attorney generals. Researchers also interviewed policy practitioners in the banking sector and public institutions and members of the Independent Constitutional Review and Implementation Commission. The data was then transcribed and analyzed. The interviewees were selected according to their knowledge and expertise on the subject matter and their current position in public institutions. In addition, researchers reviewed a wide range of literature on good governance as well as transparency and corruption index reports.

4. Literature review

The concept of good governance was first coined by the World Bank to “overcome the legal constraints preventing it from interfering the internal affairs” of the developing world in 1989.¹⁴ The ‘good’ in good governance is not a static concept but is in the words of Kofi Anan, the UN’s late Secretary General “the single most important factor in eradication of poverty and promoting development,”¹⁵ but good governance has to be an internally driven and nationally owned strategic vision.

11 HIPS interview, 4 October, 2020, Mogadishu.

12 North, D., Wallis, J., & Weingast, B. (2009). *Violence and Social Orders: A conceptual framework for interpreting recorded human history*. Cambridge University Press.

13 HIPS interview, 3 November, 2020, Mogadishu.

14 Erkkila, T., & Piironen, O. (2014). (De) politicizing good governance: the World Bank Institute, OECD and the politics of governance indicators. <https://www.tandfonline.com/doi/abs/10.1080/13511610.2013.850020>

15 Fitimoaei, C (2018). Normative VS. Descriptive Dimensions. file:///C:/Users/Envy14/Downloads/SPAS_7_43.pdf

At the political and economic sphere, Somalia lacks an internally driven and coordinated policy framework. This in turn impedes the evolution of functioning and decentralized public institutions. Comparatively, the ‘good’ in good governance is often defined in relation to the changing nature of the state and its ability to serve its citizens.

It was regarded as a bait or external nod of encouragement for the poorly governed and underdeveloped countries to embark on internal reforms. In practice, good governance is a consensus-oriented effort of seeking to resolve a collective problem. The process demands a political will and is rarely driven by an individual interest or a personal aspiration. Where personal interest is prioritized in governance, the collective effort is undermined and the practice of politics polarizes society.¹⁶ For war-torn countries like Somalia, good governance would have entailed the collective establishment of the local, regional and national governments as per the provisional constitution. The polarization of the political space impedes the evolution of core elements of good governance.

As far as public administration is concerned, the World Bank defines good governance as “the traditions and institutions by which public authority in a country is exercised.” If this definition is anything to go by, a booming and privatized economy is not interpreted as one of the benchmarks of good governance. The emphasis is on the efficiency of the public sector in providing impersonalized service to the citizens and the reach of the state. Somalia’s bad governance stems from the inefficiency of the public sector. Analytically, the United Nations Development Program (UNDP) describes good governance as a process by which the following are promoted: “staff incentives, training of civil servants, administrative and fiscal decentralization and dialogue between government and civil society.”¹⁷ The administrative and fiscal decentralization aspects entail bringing the government closer to the people while training increases the capacity of civil servants. The incentives, whether material or psychological motivate employees in the public sector to accelerate the efficiency of service delivery. This implies that the quality of good governance depends on the relationship between the government and the citizens of any given country.

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In this case, the dysfunctionality of the Somali state and the persistent bad governance seems to have originated from the politicians’ inability to cautiously and collaboratively deploy instruments of power to regulate or accommodate conflicting interest and enforce compliance formally or informally. Formal compliance in this context is the use of the constitution and the judiciary in settling disputes while informality refers to the agreements reached by the regional and national leaders.¹⁸

16 Barakat, S., & Chard, M. (2002). Theories, rhetoric and practice: recovering the capacities of war-torn countries. <https://library.fes.de/libalt/journals/swetsfulltext/15164499.pdf>

17 Woods, N. (2000). The challenge of good governance for IMF and the World Bank themselves. World Development, Vol. 28

18 Fitimoaei, C (2018). Normative VS. Descriptive Dimensions. file:///C:/Users/Envy14/Downloads/SPAS_7_43.pdf

For Somalia, the absence of a guiding system of governance and the unwillingness to respect the spirit and the letters of the provisional constitution impede the evolvement of a common strategic vision. No goals are set in meeting the standards of good governance. This is to say, there is no coordinated and non-politicized governmental blueprints and national programs which could be used as a measure of what would be achieved in four to five years period and beyond. A four years National Development Plan known as NDP-9 comes the closest but it seems to be a ministerial-driven and says virtually nothing on establishing of basic elements of good governance. According to one senator the state's incapacity is as the result of Somali political actors' disinterest in promoting good governance and developing coherent national policies and priorities.¹⁹

5. The evolution of the Somali state

A discussion on impediments to good governance in Somalia necessitates a reflection on the evolution of the postcolonial Somali state. At the turn of the 19th century, colonial powers divided the Somali peninsula into five administrative and colonial spheres. Southern Somalia became an Italian colony while the northern region fell under the British protectorate. France took the present-day Djibouti while Ogaden, today's Somali state in eastern Ethiopia, and Northern Frontier District, now Kenya's northeastern region, were colonially incorporated into Ethiopia and Kenya. In the decolonization period, the British protectorate and the Italian colony united and formed the Somali Republic in 1960, championing a state that would represent the Somali nation. The postcolonial leadership adopted and articulated pan-Somali policies in the hope of re-uniting the previously dismantled Somali peninsula. But the colonial legacy presented a formidable challenge.

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At the governance level, “the new republic had to overcome different legal, language, bureaucratic and other official practice” of the two former colonizers.²⁰ Comparatively, the British left behind a fairly organized, merit-based bureaucratic structure in the north. According to Abdi Samatar, the colonial administration regulated bureaucratic establishment with “annual examinations, issuance of certificates and degrees” and laid the basis for merit-governed employment and remuneration in the public sector. If the British put in place a fairly organized structure of good governance, political appointees dominated the public sector and personal relations determined governmental positions in the south.²¹

From 1960-1964, the Somali post-colonial leadership struggled to integrate the different political experiences, governance systems and bureaucratic practices of the two territories to forge a uniform national agenda. Little progress was made in reforming the public sector and the overall government effectiveness was limited.

19 HIPS interview, 11 November, 2020, Mogadishu.

20 Samatar, A. (1997). Leadership and ethnicity in the making of African state models: Botswana VS Somalia. <https://library.fes.de/libalt/journals/swetsfulltext/11220689.pdf>

21 A. Samatar, (2016). Africa's first democrats: Somalia's Aden A. Osman and Abdirizak H. Hussen. Indiana University Press.

The democratic election of Aden Abdille Osman as president and the subsequent appointment of Abdirizak Haji Hussein as prime minister marked a sweeping reforms in what was an ailing public sector. Somali scholars widely agree that civil service commission was professionalized; the prime minister appointed his cabinet on the basis of meritocracy; and qualifications and separation of power among the branches of government existed between 1964 -1967. The second presidential and parliamentary election in 1967 reversed all these gains.

Corruption, clannism and cronyism replaced competency and meritocracy in governance. By 1969, professionalism in the public sector, bureaucratic effectiveness and separation of power collapsed, ushering in widespread public despondency. This public disappointment and the political vacuum that followed the assassination of President Abdirashid Ali Sharmarke paved the way for a bloodless military coup. Despite its initial popularity and the developmental project it initiated, the military regime eroded all the elements of good governance by suspending the constitution, disbanding the parliament and arresting perceived political opponents. It ruled the country with presidential decree until its collapse in 1991. Since then, the country has been labelled as the world's prime example of what Robert Rotberg, an American political scientist called a failed state. Internally at war with itself, international and regional powers designated the Horn of Africa nation as a threat to global security and organized a series of frantic peace and reconciliation conferences.

The Arta conference in Djibouti reconstituted a semblance of the state in 2000 under a clan- based formula and the country adapted an undefined federal system in 2004 and a provisional constitution in 2012. The transitional period came to an end in 2012 and the country held two successive elections which observers considered to be conveyor belts of corruption and maladministration in 2012 and 2016 respectively.²² The same electoral malpractice is expected to be seen in the coming 2021 presidential and parliamentary election.²³ But the state's existence largely depends not on its institutional strength or popular public participation in governance but the support of the international community. The recent extensions of the UN's Assistance Mission in Somalia (UNSOM) and the EU-funded African Union Mission (AMISOM) points to Somalia's precarious fragility and that the basic structures of good governance have not been revived.²⁴

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22 Somalia elections: 'Huge corruption' <https://www.bbc.com/news/world-africa-38105023>

23 Somalia: Preserving the integrity of the election. <http://www.heritageinstitute.org/wp-content/uploads/2020/11/Preserving-the-Integrity-of-the-Election.pdf>

24 UN Assistance Mission in Somalia (UNSOM) mandate renewal. <https://www.securitycouncilreport.org/whatsinblue/2020/06/un-assistance-mission-in-somalia-unsom-mandate-renewal-3.php>

6. Impediments to good governance

6.1. Disregard for the rule of law



The paralysis of the rule of law generates endless political instability and unrestricted elite competition

Somalia's fragility and bad governance is perhaps best manifested by the political stakeholders' disregard for the rule of law. The state-building process is based neither on constitutional principles nor on established conventions, making governance inherently chaotic. The paralysis of the rule of law generates endless political instability and unrestricted elite competition. If political stability is the mother of all good governance indicators, the rule of law is the source of legitimate political authority. The definition of the rule of law depends on different political, social, economic, and cultural contexts but it generally refers to a "system of governance in which law is able to impose meaningful restraints on the state and individual members of the ruling elite."²⁵

Paradoxically, article 4 of the constitution stipulates that "after the Sharia, the constitution of the Federal Republic of Somalia is the supreme law of the country. It binds the government and guides policy initiatives and decisions in all sections of government." But stakeholders consider the very same constitution incomplete and nonbinding and no other working legal framework impose meaningful restraints on the Somali political class. As a step to revive the justice system, President Sheikh Sharif Sheikh Ahmed reconstituted Somalia's first Judicial Service Commission (JSC) since the collapse of the state in 1991. But President Hassan Sheikh Mahamud disbanded the JSC in 2016 in order to remove, the then chief justice, Aydid Abdullahi (Ilkahanaf). President Mohamed Abdullahi Farmajo also sacked Ilkahanaf's successor, Ibrahim Eidle Suleyman, without due process in 2018.²⁶ This is a violation of article 106 of the provisional constitution which states "the judiciary is independent of the legislative and the executive branches of the government whilst fulfilling its judicial function."²⁷

Constitutionally, the Judicial Service Commission is to act as a protective cover from political and nepotistic interference in the affairs of the judiciary, ensuring its independence. Article 109A of the provisional constitution stipulates that the Judicial Service Commission "shall comprise of nine (9) members: the chief judge of the constitutional court, the chief judge of the High Court, the Attorney General, two (2) members of the Somali bar, appointed by the Somali Law Society for four years term, the chair of the human rights commission and three (3) people of high reputation within Somali society, proposed by the council of ministers, then appointed by the president." Ironically, the constitutional court, the Somali national bar association and the human right commission are not in place.

25 Botero, J., & Ponce, A. (2010). The world justice project: Measuring the rule of law. file:///C:/Users/Envy14/Downloads/SSRN-id1966257.pdf

26 Omondi, J. (2018). Somalia's President Farmajo sacks Chief Justice. <https://africa.cgtn.com/2018/05/27/somalias-president-farmajo-sacks-chief-justice/>

27 HIPS interview, 3 November 2020, Mogadishu.

The structure and the membership of the JSC which President Hassan Sheikh Mohamud disbanded in 2016 and its current form as reconstituted in 2020 by President Farmajo are not in compliance with the constitutional requirements. The consequence is an ailing judicial system which, according to a senior advocate, is subjected to political manipulation, making it ineffective in protecting itself.²⁸ A judge in the federal appeals court confirmed to HIPS researchers that the executive arm of the government demands political loyalty from judges.²⁹ For example, the government dismissed a senior judge who ordered the release of Abdirahman Abdishakur, an opposition politician whose home was raided by the government and was subsequently arraigned in court.³⁰

In this regard, the rule of law in Somalia and its practice lack the “principle of governance in which all persons are accountable to the laws publicly promulgated, equally enforced and independently adjudicated.”³¹ In principle, Article 121 of the Somali provisional constitution stipulates that “the constitution of the Federal Republic of Somalia and those of the Federal Member States shall be harmonized.” This harmonization has not been undertaken and judicial collaboration between the federal government and the member states is minimal. In Hirshabelle state, the high court is yet to be established. It is barely a month old in Galmudug state and the one in Southwest state recently began to take its first cases. The legal role and responsibilities of each level of government are not codified in the constitution. Therefore, the uncooperative character of the Somali political stakeholders has resulted in the absence of publicly promulgated, equally enforced and independently adjudicated law to advance indicators of good governance.

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The World Justice Project (WJP), an international civil society organization which advocates the rule of law around the world, has identifies the necessary components of what the organization terms rules-based system in which the following four universal principles are upheld:

- The government and its officials and agents are accountable under the law.
- The laws are clear, publicized, stable, and fair, and protect fundamental rights, including the security of persons and property.
- The process by which laws are enacted, administered and enforced is accessible, fair and efficient.
- Access to justice is provided by competent, independent and ethical adjudicators, attorneys or representatives, and judicial officers who are of sufficient number, have adequate resources and reflect the makeup of the communities they serve.³²

28 HIPS interview, 3 November 2020, Mogadishu.

29 HIPS interview, 2 November, 2020, Mogadishu.

30 HIPS interview, 3 November, 2020, Mogadishu.

31 Botero, J., & Ponce, A. (2010). The world justice project: Measuring the rule of law. file:///C:/Users/Envy14/Downloads/SSRN-id1966257.pdf

32 Botero, J., & Ponce, A. (2010). The world justice project: Measuring the rule of law. file:///C:/Users/Envy14/Downloads/SSRN-id1966257.pdf

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It is this intergroup rivalry both at the federal and the FMS level that impede the evolution of good governance in Somalia

In reality, no government at any level in Somalia is accountable under any law and the current legal system does not correspond to the federal system of governance. The justice system is neither clearly codified in the provisional constitution nor publicized or stable and the courts use the 1960s penal code.³³ The legitimacy and application of the law is not internalized, the government, its officials and agents initiate lawlessness. For example, the federal government was in 2018, accused of instigating electoral violence in Southwest state to install its preferred candidate in violation of the provisional constitution which mandates the FMS to manage their own elections. In Puntland, the speaker of the regional parliament was acrimoniously ousted while in Jubbaland a number of candidates declared themselves presidents. Peter Leeson, a professor of economics and law at George Mason University observes that self-governance with no application of law creates unregulated “intergroup rivalry” among the political stakeholders.³⁴ It is this intergroup rivalry both at the federal and the FMS level that impede the evolution of good governance in Somalia.

In the same vein, the political engagements of the Somali actors at any level is not rule-based. It is instead guided by short-term loyalty and lawless transaction. The constitutional court which would have been a reference to the governance crisis has not been established. One interviewee likened the behavior of Somali political stakeholders to that of “poachers in an unguarded game park.”³⁵ In other words, their predatory political behavior is unfettered, the exercising of power is arbitrary while the rule of law is subordinate to political contingency and unable to contain governance crises and despotic tendencies. Alternative institutional power structure are yet to evolve, prolonging Somalia’s fragile transition. According to a federal judge, majority of the cases in the federal courts relate to land and property and the process is tedious and ineffective.³⁶ According to a senior federal high court judge, this is because institutions are not independently empowered to enforce verdicts of courts.

It seems that Somali political actors are oblivious or unwilling to accept that modern government is a “collection of institutions that act as the machinery of the state and the rule of law binds governance structure.”³⁷ In this case, if one arm of the government underperforms or falls into crisis, other state institutions continue to function and put the rule of law into practice to resolve disputes. Comparatively, election crises, cabinet reshuffles and the underperformance of a ruling party hardly interrupts the governing exercise in Denmark, the paragon of good governance in today’s world.³⁸ In his study, ‘Getting to Denmark,’ Francis Fukuyama argues that the essence of good governance is to “keep citizens safe from personalized power and that is what Denmark has achieved.”³⁹

33 HIPS interview, September, 23, 2020, Mogadishu.

34 Leeson, P. (2009). The laws of lawlessness. <https://www.semanticscholar.org/paper/The-Laws-of-Lawlessness-Leeson/dfd9213d6e922e26eccbc100a43cdd5761c8e2e5?p2df>

35 HIPS interview, 24 September, 2020, Mogadishu.

36 HIPS interview, 4 October, 2020, Mogadishu.

37 Mungui-Pippidi, A. (2013). Becoming Denmark: Historical Designs of corruption control. file:///C:/Users/Envy14/Downloads/Becoming-Denmark-Historical-Lessons-Learned%20(1).pdf

38 Mungui-Pippidi, A. (2013). Becoming Denmark: Historical Designs of corruption control. file:///C:/Users/Envy14/Downloads/Becoming-Denmark-Historical-Lessons-Learned%20(1).pdf

39 Mungui-Pippidi, A. (2013). Becoming Denmark: Historical Designs of corruption control. <https://media.africaportal.org/documents/Getting-to-Denmark-Final.pdf>

This is mainly attributed to a strong respect for the rule of law which shields state institutions from political shocks and party wrangles. In other words, state bureaucracy and institutions are successfully separated from day-to-day political quarrels and service delivery is optimized. The judiciary is independent, enjoys public trust and its legal principles and practices are ingrained in the socio-political and cultural history of the Danish public.

Unlike Denmark, Somalia's formal legal system does not hinge on the socio-cultural history of the population.⁴⁰ It cannot mediate political disputes in a federal system of governance, as Somalia's legal structure draws its existence on a mishmash of colonial laws. Political actors have made little progress in transitioning the country from the pre-civil war centralized legal system to putting the provisional constitution into practice. The disregard for the rule of law implies that politicians and public officials at all levels of government often seek "alternative sources of legitimacy such as through patronage."⁴¹ If the political class bypasses the rule of law, the public finds other informal sources of justice.

At the societal level, customary law, religious jurisprudence and al Shabaab 'courts' are common sources of dispute adjudications because of the failure, ineffectiveness and alienating nature of the formal state judiciary in Somalia.⁴² The ineffectiveness of the judiciary has resulted in what Michael Jana terms as "high distrust" in the delivery of justice and the belief that the government does not function in accordance with citizen's expectations, impeding the emergence of good governance. Therefore, the current system of judicial and political practice in Somalia would in the words of De Waal "retain the pervasive incentives for corruption, instability" and inherent group rivalry⁴³ as long as the rule of law continues to be disregarded.

6.2. Political instability

Political stability is considered to be the mother of all other indicators of good governance while instability in governance is seen as "the presence of violence."⁴⁴ This definition assumes that political stability exists where there is no active conflict and absence of violence is an indication of good governance. Indicators of bad governance, including politically motivated assassinations, jailing, harassing of real or perceived opponents and centralizing power are embedded in political instability. In other words, the degree of peace, state capacity and institutional strength depend on the level of political stability in any given country. In a richer and broader definition, Claude Ake, a Nigerian political scientist states that political stability is the "regularity of the flow of political exchange."⁴⁵

40 HIPS interview, 15 October, 2020, Mogadishu.

41 Jana, M. (2014). Understanding Political Legitimacy in African Emerging Democracies: The Judiciary, Symbolic, and Instrumental Legitimacy Interface, in Ewusi, S, & Butera, J. Beyond State-building: Confronting Africa's Governance and Socio-economic challenges in the 21st century. University for Peace Africa Program.

42 HIPS interview, 23 August, 2020.

43 De Waal, A. (2015). The Real Politics of the Horn of Africa: Money, War and the Business of Power. Polity Press.

44 Kaufmann, D. (2010). The Worldwide Governance Indicators: Methodology and analytical issues. <http://info.worldbank.org/governance/wgi/pdf/WGI.pdf>

45 Ake, C. (1975). A definition of Political Stability. https://pdfs.semanticscholar.org/19b0/54f3cfa294fc87a3b85025132807bb6864c3.pdf?_ga=2.5758576.2114777747.1601894998-433876670.1568462440

The flow in this regard, is the predictability of political events including but not limited to, timely elections, institutional mechanisms of dispute arbitration while exchange is interpreted as rule-bound political transactions, rewards and legal transfer of power from one individual or party to another.

If political rewards, transactions and transfer of power does not follow established legal norms, political actors continuously invite instability in governance. In Somalia, political instability is embedded in the weak governance structure. The absence of what Francis Fukuyama describes as “pillars of order”⁴⁶: political stability and the rule of law perpetuate the structural weakness of the Somali state. In Fukuyama’s viewpoint, where there is a stable political order, the state’s legitimate use of violence is justified. It is precisely because of the political instability and the pervasive deficit in trust among political stakeholders in Somalia that the federal government’s interference in the federal member states’ internal affairs and the deployment of the Somali National Army are interpreted as illegitimate. Subsequently, the relationship between the FMS and the national government is invariably acrimonious while the 2020/2021 electoral model has been generating more uncertainty and instability, impeding the evolution of good governance.

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If good governance
is to be advanced,
political stability
and the rule of
law “must evolve
together

If good governance is to be advanced, political stability and the rule of law “must evolve together.”⁴⁷ More importantly, political stability empowers civil societies and concerned citizens to predict the actions and the behavior of political actors. In other words, a detour from established norms and laws is quickly recognized and legal means of conflict resolution are identified. Where a reliable and trusted arbiter in governance crisis is not collectively identified, political instability creeps in. Somalia defies Ake’s definition of political stability and that of the World Bank. The possible outbreak of violence is ever present. Armed non-state actors such as al-Shabaab and other militia groups aggravate Somalia’s political instability.

The country’s political space is thus punctuated with uncertainty. Fluid loyalty to individual politicians impedes institutional development and the state’s capacity to serve its citizens. The likelihood of destabilizing the political landscape does not emanate only from non-state insurgence. At the political level, successive executive arms of the government bribe, intimidate and coerce parliament into doing their bidding.⁴⁸ For example, a member of parliament described the manner in which the former speaker of the lower house, Mohamed Osman Jawari was ousted as a “coup,” engineered by the executive arm of the government. The ousting of Jawari indicated that the executive imposed its will on the other arm of government.

46 Fukuyama, F. (2019). ‘Getting to Denmark’: how societies build capable, democratic and rule-bound states <https://media.africaportal.org/documents/Getting-to-Denmark-Final.pdf>

47 Fukuyama, F. (2019). ‘Getting to Denmark’: how societies build capable, democratic and rule bound states <https://media.africaportal.org/documents/Getting-to-Denmark-Final.pdf>

48 HIPS interview with a Senator, 4 November, 2020, Mogadishu.

Parliament is often divided along political interest and hardly mounts a resistance to legally safeguard its collective independence and operational mandate, individualizing the practice of politics and rather than institutionalizing.

Instead, parliamentarians side either with the sitting president or his prime minister, taking part in the act of causing political instability. On the other hand, power struggles between successive presidents and prime ministers have often paralyzed the performance of executive branches. The recent unceremonious removal of Hasan Ali Khayre, the longest serving prime minister in the presidential term of Farmajo shows the unpredictability and the inherent instability in the post-civil war Somali politics. According to one key informant, the Somali parliament barely considers the legality of any issue on the table but focuses on the immediate individual material gains.⁴⁹ In short, the behavior and ways in which political dividends are transacted in Somalia are obstacles to the emergence of functioning institutions and good governance.

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The recent unceremonious removal of Hasan Ali Khayre, the longest serving prime minister in the presidential term of Farmajo shows the unpredictability and the inherent instability in the post-civil war Somali politics

Additionally, Alex De Waal points out the uniqueness of political instability, state fragility and bad governance in Somalia. He says that governance in Somalia is “treated as a technical project” and the practice of politics manifests a “hybrid of protectorate and native administration.”⁵⁰ The technicality aspect is a short, projects funded by donors which does not translate to building durable institutions while hybridity refers to politicians’ inability to run the affairs of the country without the helping hand of AMISOM and the international community. Ironically, a threatening statement or action from the international community is considered as a stabilizing thread in the politics of the troubled Horn of Africa country. This is because Somali political stakeholders tend to collaborate when threatened with the possibility of being listed as political spoilers by the international community.⁵¹ For De Waal, the difference between the colonial era and the current political condition of Somalia lies in the “openness and dynamic private economy.”⁵² Unlike the neo-liberal and market-oriented conceptualization of governance, this openness of the market in Somalia is not as the result of good governance but it is the product of state failure.⁵³

Transitioning from the limited, fragile and politically unstable setup to “open access order” in which the practice of politics is impersonally institutionalized and good governance is enhanced, North identifies what he describes as “three doorstep conditions:”⁵⁴

- Rule of law for elites
- Perpetually lived organizations in the public and private spheres
- Consolidated control of violence

49 HIPS interview, 15 Sep, 2020

50 De Waal, A. (2015). *The Real Politics of the Horn of Africa: Money, War and the Business of Power*. Polity Press.

51 HIPS interview, 21 August, 2020.

52 De Waal, A. (2015). *The Real Politics of the Horn of Africa: Money, War and the Business of Power*. Polity Press.

53 Little, P. (2003). *Somalia: Economy without state*. Indiana University Press.

54 North, D., Wallis, J., & Weingast, B. (2009). *Violence and Social Orders: A conceptual framework for interpreting recorded human history*. Cambridge University Press.

The rule of law for elites is necessary for the mediation of conflicting interest, the distribution of power, the sharing of political dividends and the structuring of public and private interaction by reducing the risk of personalized political loyalty. In this case, coercive power is not vested in political personalities but it stems from law itself, creating a political ambience in which good governance would evolve. Independent public institutions reduce political instability and give strength to the rule of law and administer justice. In other words, formal laws are inconsistent with individual elite interest and they remain ineffective if there are no durable institutions or organizations to enforce it.

To advance good governance, the constitution should protect the impartiality of state institutions from political interference and any possible loss of independence. South Africa's Chapter Nine institutions such the public protector and the auditor general are examples of constitutionally protected and independent institutions on the African continent⁵⁵. The political history of the modern state indicate that achieving consolidated control of the military is the "most difficult doorstep condition," because the state is in Douglass North's viewpoint, the "organization of organizations." In other words, if the state is unable to consolidate military power, it gives sub-state or non-state actors the leeway to start violence, opening the way for disgruntled elites to form their own armed organizations. This is to say, consolidating the control of the military is a prerequisite for political stability, the mother of all indicators of good governance.

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Like the political elite, military organization in Somalia is highly fragmented with no center of command

Like the political elite, military organization in Somalia is highly fragmented with no center of command. The FMSs have their security apparatus. Individual politicians, businesses and aid organizations have their security personnel. Donor countries trained contingents of soldiers whose activities and operation might not be part of the regular national army but conduct specific operations.⁵⁶ For example, the United States and Turkey respectively finance and train Special Forces, Danab and Harama'ad. Danab's deployment and operations are not conducted under the command of the Somali National Army but under the orders of the United States African Command (AFROCOM). A senior security expert interviewed for this report said that the "activities and operations of security apparatus in the country are uncoordinated,"⁵⁷ making the fight against al shabaab ineffective. The decentralization of armed groups without a central command and uniform national rule of engagement makes Somalia's political landscape, fragile, unstable and highly volatile. Talking about good governance in this political environment, where the state as the organization of organizations, is in an utter disarray, sounds quite idealistic. Somalia thus seems to be a long distance away from the doorsteps of political stability and good governance.

55 Andrews, A. (2010). Good government means different things to different countries. <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1468-0491.2009.01465.x>

56 HIPS interview, 11 September, 2020, Mogadishu.

57 HIPS interview, 3 November, 2020, Mogadishu.

6.3. Absence of accountability

If governance is the manner in which power is exercised, accountability is the institutional and public ability to monitor the political, economic and social practice of those in authority. Public participation in governance and accountability are in this case embedded in “capturing perceptions of the extent to which a country’s citizens are able to participate in electing their government, as well as freedom of expression, freedom of association and free media”.⁵⁸ This is to say that the citizens’ power to monitor public administrators and politicians comes from elections, freedom of association and free media. For Somalia, the last general, one-person-one-vote election took place in 1969.⁵⁹ The media landscape is, according to Freedom House’s 2020 report, listed as “virtually not free.”⁶⁰ In the last 20 years, over 60 Somali journalists were killed according to the Committee to Protect Journalist (CPJ).⁶¹



The political practice in Somalia under the 4.5 formula relegates the universal notion of citizenry to the rear end of governance

The political practice in Somalia under the 4.5 formula relegates the universal notion of citizenry to the rear end of governance. For their part, the citizens do not demand political participation and service delivery. One civil servant interviewed for this report articulated that successive governments have not been able to reduce poverty, increase school enrolment and ameliorate the living condition of the Somali people.

The Somali state is not a public entity. It is an exclusive club.⁶² An empirical example of this exclusivity is how identification cards are used in Mogadishu for accessing even public roads. When a soldier at a roadblock, entrance to a government institution or a hotel asks for an identification card, he is not referring to a national document available to all citizens such as a national ID or a passport. Instead, the soldier is asking for government employment card. Only 4799 employees work for the federal government as per the 2017-2018 civil servant reform program.⁶³ The rest of the population have no ordinary means of accessing governmental institutions. The inaccessibility also denies journalists the opportunity to cover presidential and ministerial press conference to inform the wider public. According to a Mogadishu-based journalist, it has become increasingly difficult to report the activities of governmental authority and the alternative is to be fed with propaganda.⁶⁴

From the accountability perspective, the decision-making power in Somalia is unilateral in nature and public participation is remote, a considerable challenge to the emergence of good governance and functioning public institutions. In this case, the unilaterality aspect takes the form of bad governance if the intended consequences are in favor of individual politicians and against the common good.

58 Manasan, R. (2015). Indicators of good governance: Developing an index of governance quality at the LGU level. <file:///C:/Users/Envy14/Downloads/pidsdps9904.pdf>

59 Somalia: Preserving the integrity of the election. <http://www.heritageinstitute.org/wp-content/uploads/2020/11/Preserving-the-Integrity-of-the-Election.pdf>

60 Somalia: Not free. <https://freedomhouse.org/country/somalia/freedom-world/2020>

61 60 Journalist killed in Somalia. https://cpj.org/data/killed/africa/somalia/?status=Killed&motiveConfirmed%5B%5D=Confirmed&type%5B%5D=Journalist&cc_fips%5B%5D=SO&start_year=2000&end_year=2020&group_by=location

62 HIPS interview, 21 August, 2020, Mogadishu

63 HIPS interview, 1 November, 2020.

64 HIPS interview, 3 November, 2020, Mogadishu.

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In Somalia, all these avenues of public participation in governance and accountability are dysfunctional and the Somali people are, as one civil servant puts it, “victims of unplanned” forms of governance, impeding accountability as well as the evolvement of good governance

Ordinarily, accountability in a democratic system of governance comes from three intertwined avenues: elected politicians supervise the performance of administrative bureaucracy; citizens voice their concerns to politicians if governmental service providers failed to meet their demands and the executive branch of the government reports to the people and to the parliament.⁶⁵ In Somalia, all these avenues of public participation in governance and accountability are dysfunctional and the Somali people are, as one civil servant puts it, “victims of unplanned” forms of governance, impeding accountability as well as the evolvement of good governance.

6.4. Poor transparency and rampant corruption

The absence of transparency and corruption are according to one key interviewee “identical twins.” Where transparency in governance is not considered as a device to promote good governance, corruption thrives and public institutions crumple. The interconnectedness of these two parameters of either bad or good governance stems from the absence or the consistent supply of accurate information to the wider public and the media. Transparency is in this sense, the “provision of relevant and reliable information to all,” while corruption is defined as the “abuse of power for private gain.”⁶⁶ The availability of reliable information is necessary for the fight against corruption and creates an element of predictability. If governance is dominated by secrecy and unpredictability in decision-making, the abuse of public power becomes prevalent. The openness of the political space attracts more participants in good governance, paving the way for public scrutiny of those in power. For Somalia, public scrutiny on governmental institutions and transparency in revenue collection and budgetary expenditure are largely absent.

The inaccessibility of governmental institutions and information creates public disinterest in the governing system. For example, ministers or parliamentary committees do not share with the public weekly, monthly or annual updates on what government entities are doing to curb corruption and maladministration. The combination of public disinterest and inaccessibility of reliable information seem to be the conduit of corruption and bad governance in Somalia. Sabina Schnell, a professor of public administration, identifies access to information as intrinsic instrument of transparency where the government provides platforms for public and media engagements in decision-making.⁶⁷

65 Sundaram, J., Chowdhury, A. (2012). Is good governance good for development? Bloomsbury Academic.

66 Myint, U. (2000). Corruption: Causes, consequences and cures. <https://www.unescap.org/sites/default/files/apdj-7-2-2-Myint.pdf>

67 Schell, S. (2020). Transparency Assessment in National Systems, in Paanakker, H. Masters, A, & Huberts, L. Quality of Governance: Values & Violations. Palgrave Macmillan.

These platforms increase the interaction between the government and the citizens in which the flow of information is unrestrictedly available for policymaking, media scrutiny and service delivery, a practice that does not exist in Somalia. Governmental instruments of communication empower citizens, civil society organizations and the media to “find out what is going on inside the government.”⁶⁸

Despite the widespread proliferation of websites, radio and television stations, the Somali media and the civil society face daily harassment, intimidation and experience difficulties in knowing what the government is doing.⁶⁹ If the modern state’s essence of easing collective political, economic and social difficulties is lost among the Somali political class, the role of the media and civil society as “spokespersons” of the public in demanding transparency and fighting corruption has limited influence.⁷⁰ For Schnell, transparency is the ability to know what the government is doing. Where the flow of information is inaccurate and disrupted, disinformation weakens the trust between citizens and public institutions, an example of bad governance. In this regard, the government acts irresponsibly and the public is irresponsive, impeding the emergence of good governance.

Somalia perfectly fits in this category of bad governance. The government has for the last three and half years been promising a one-person-one-vote election without putting in place the necessary electoral infrastructure. A parliamentarian interviewed for this report held the view that the government’s insistence on holding a one-person-one-vote election was tantamount to deliberate misinformation.⁷¹ For their part, the majority of Somali citizens have no way of holding the government accountable for its policies and actions. Alina Mungiu-Pippidi, a Romanian political scientist states that good governance took “centuries and decades of public demand, reform and resistance for the best governed countries to arrive where they are today and the work remains to some degree unfinished everywhere.”⁷²



Where rulers fear public revolt, transparency is enhanced but in Somalia, public participation in demanding good governance is limited and legal mechanisms are not in place to minimize the practice of bad governance.

Where rulers fear public revolt, transparency is enhanced but in Somalia, public participation in demanding good governance is limited and legal mechanisms are not in place to minimize the practice of bad governance. Consequently, the country has been unfailingly qualifying for the position of one of the least transparent and the most corrupt countries in the world, a position it has been occupying for the better part of the last three decades. If implementation of good governance is “unfinished” business in the best governed countries, the process has barely begun in Somalia.

68 Schell, S. (2020). Transparency Assessment in National Systems, in Paanakker, H. Masters, A, & Huberts, L. Quality of Governance: Values & Violations. Palgrave Macmillan.

69 HIPS interview, 9 August, 2020, Mogadishu.

70 HIPS phone call interview, 20 Sep, 2020.

71 HIPS interview, 27 October, Mogadishu

72 Audit of the financial statements of the federal Republic of Somalia for the financial year ended 31 December 2018. <http://oag.gov.so/wp-content/uploads/2019/10/Audit-of-the-Financial-Statements-of-the-FGS-FYE-2018-Copy.pdf>

6.5. Rampant corruption

Despite improvements made in financial management such as the biometric registration of security forces to weed out the so-called ghost soldiers, corruption remains a major impediment to good governance in Somalia. Even the conditions set by the IMF and the World Bank for the much-vaunted debt relief do not seem to have deterred politicians from mismanaging the meager public resources. Somalia's auditor general, Mohamed M. Ali reported that ministers resist to using the official single treasury account, opting for offshore banking or opening private accounts for developmental assistance.⁷³ In his 2020 report, Ali stated that “for most ministries, departments and agencies audited, each of them had at least two contracts which were not registered with office of auditor general.”⁷⁴ With no functioning anti-corruption commission, public officials evade auditing.⁷⁵ Although the country has been registering slow progress in the last five years, it occupies the lowest rank in the 2020 Mo Ibrahim Foundation's index of African governance. Its score is the lowest on the continent in terms of fighting corruption, tax and revenue mobilization and budgetary and financial management for the provision of public goods.⁷⁶

Likewise, the auditor general stated in the 2018-2019 report that the European Union “disbursed to the Ministry of Finance a total of \$17, 004, 816 and only \$13, 266, 667 was deposited in the Treasury Single Account of the federal government.”⁷⁷ Saudi Arabia too, donated \$20, 000,000 for the year ending 31 December 2018, but only 6, 070, 868 was disclosed in the financial statement. So widespread is corruption that locally collected revenue is “used at the source and never reported.”⁷⁸ Notwithstanding the auditor general's damning revelation on financial mismanagement, Somalia and the finance ministry in particular have been lauded for accelerating the debt relief process, expanding domestic revenue and adopting a degree of budgetary transparency.⁷⁹ The finance minister, Dr. Abdirahman Beileh insisted that the figures in the auditor general's report contradicts those of the Central Bank and pointed out that the office “did not consult with the finance ministry.”⁸⁰ According to the ministry of finance, the auditor general's report ‘was not in line with the auditing standards.’ What the auditor general reported as a corrupt offshore banking is according to the finance minister a “corresponding international bank account which the government uses for donor grants.”⁸¹

Somalia's interaction with the outside world would still fit in Jean-Francois Bayart's theory of extraversion in which African politicians rhetorically and artificially embark on governance reforms and “institutional image which does not exist at home,” a practice of bad governance.⁸²

73 Audit of the financial statements of the federal Republic of Somalia for the financial year ended 31 December 2018. <http://oag.gov.so/wp-content/uploads/2019/10/Audit-of-the-Financial-Statements-of-the-FGS-FYE-2018-Copy.pdf>

74 Audit of the financial statements of the federal Republic of Somalia for the financial year ended 31 December 2019. <https://oag.gov.so/wp-content/uploads/2020/12/Consolidated-Compliance-Audit-Report-of-the-FGS-for-the-Year-Ended-31-December-2019.pdf>

75 Audit of the financial statements of the federal Republic of Somalia for the financial year ended 31 December 2018. <http://oag.gov.so/wp-content/uploads/2019/10/Audit-of-the-Financial-Statements-of-the-FGS-FYE-2018-Copy.pdf>

76 2020 Ibrahim Index of African Governance-index report.<https://mo.ibrahim.foundation/sites/default/files/2020-11/2020-index-report.pdf>

77 Audit of the financial statements of the federal Republic of Somalia for the financial year ended 31 December 2018. <http://oag.gov.so/wp-content/uploads/2019/10/Audit-of-the-Financial-Statements-of-the-FGS-FYE-2018-Copy.pdf>

78 Shaxson, N. (2007). Oil, corruption and the resource curse. *African Affairs*, vol.83 (6).

79 Farmajo's presidency: A score card for the last two years and the prospect for the remaining two. http://www.heritageinstitute.org/wp-content/uploads/2019/03/HIPS_Policy-Brief_018_2019-English.pdf

80 Your figures don't add up, Beileh tells Auditor General. <https://www.somaliland.com/news/featured-news/your-figures-dont-add-up-beileh-tells-auditor-general/>

81 Federal government of Somalia: Office of the account general. <https://mof.gov.so/sites/default/files/2020-08/Quarter%20two%202020%20FGS%20FR%20%282%29.pdf>

82 Bayart, J. (2000). Africa in the world: A history of extraversion. *African Affairs*, vol. 99 (217-267).

Notwithstanding the pervasiveness of bad governance and corruption, a Banadir regional court convicted four government officials from the Ministry of Health for embezzling donated Covid-19 funds in August this year. In the words of one key interviewee. What is “disappointedly alarming” is that no serious investigation, public outcry or parliamentary debate was instigated by this case. It is as if the Somali public is desensitized from getting involved in the act of governing. Meanwhile, the utter absence of an organized counter-elite force gives impetus to Somalia’s identical twins of corruption and the absence of transparency⁸³

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The public, the media and the civil society must go beyond accessing raw governmental information by demanding explanations, interpretations and reasons behind the decisions of those in authority

If transparency demands effective two-way communication, disclosure of information is not in the words of Schnell enough in fighting fraudulent political practices. The public, the media and the civil society must go beyond accessing raw governmental information by demanding explanations, interpretations and reasons behind the decisions of those in authority. In this regard, raw governmental data however accessible it might be does not inform the public. This is where the civil society is critical in interpreting issues at hand and legal instruments by breaking down the raw information into digestible details for the public. For its part, the government is expected to provide a space for dialogue with citizens, a dialogue that informs governmental public policies, service delivery and decisions. On the other hand, public participation increases the predictability of administrative behavior and limits the scope of corruption and arbitrariness in governance. But it appears that as long as public numbness prevails and no counter-elite force emerges, corruption and the absence of transparency, the sinister identical twins will keep preventing the practice of good governance in Somalia.

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Al-Shabaab still pose enormous security challenge and the practice of politics is confrontational. The 4.5 clan formula takes the place of meritocracy, impeding the government’s effectiveness and the evolution of good governance

6.6. Government effectiveness

In governance, the state’s practical interactions with the livelihoods of its citizens often indicates the quality of government effectiveness. These interactions range from the provision of services, including security, maintaining territorial integrity and political and social cohesion, thus creating citizens’ attachment to the organs of the state. In Somalia, the ineffectiveness of the fragile state institutions created public apathy. Al-Shabaab still pose enormous security challenge and the practice of politics is confrontational. The 4.5 clan formula takes the place of meritocracy, impeding the government’s effectiveness and the evolution of good governance. According to the worldwide governance indicators, government effectiveness refers to “capturing perceptions of the quality of public service, the quality of policy formulation and implementation and credibility of the government’s commitments to such policies.”⁸⁴

83 HIPS interview, 21 Sep, 2020.

84 Kaufmann, D. (2020). The worldwide governance indicators: Methodology and analytical issues. <http://info.worldbank.org/governance/wgi/pdf/WGI.pdf>



For Somalia, the quality of public service is limited or nonexistent in many parts of the country, particularly areas which al Shabaab controls

For Somalia, the quality of public service is limited or nonexistent in many parts of the country, particularly areas which al Shabaab controls. Governmental credibility and commitment in terms of democratizing the political landscape and capacity to formulate policies and improve the quality of public services is low, eroding citizens’ trust in state institutions.⁸⁵

Ordinarily, government effectiveness is reinforced by the existence of a strong and independent bureaucracy, staffed with able civil servants that according to one key informant, constantly turn the wheel of the state to gain the confidence of the people, irrespective of the political temperature in the country. Such bureaucracy has not taken shape in Somalia’s tenuous transitional governance. Popular constituency through a one-person one-vote election and parliamentary representation has not been equally in place. At the federal level, the reach of state institutions in terms of delivering services to citizens and protecting their lives and property have not been extended beyond what the Foreign Policy recently described as Mogadishu’s “lattices of nervy checkpoints.”⁸⁶ The influence of the federal government is restricted to what one senator described as a “political ambush” to change the leadership of the FMSs which often generates more instability, uncertainty, electoral malpractices and unleashes new waves of governance crisis.

The FMSs have also failed to devolve power to the people as per the constitution and are unable to provide basic services.⁸⁷ Like the federal government, the FMS have not introduce creative mechanisms to invite the public for political participation or entice them with service delivery and bureaucratic efficiency. In this sense, the fragile state has not made progress in improving the livelihoods of the Somali people and the public is equally disengaged from demanding governmental effectiveness. The notion of active citizens and governance as a mechanism to ease collective hardship are moribund and have not been politically and economically resuscitated.⁸⁸ This widespread public apathy in governance acts as a protective cover for al Shabaab and political irresponsibility, a major impediment to good governance in Somalia.

According to the literature on good governance, the internal characteristics of public administration is the single most important factor that determines the effectiveness of the government. Effectiveness in this context refers to “whether public administration does well what it is supposed to do, whether people in governmental entities work hard and well, whether the actions and procedures of the public organization and its members help achieve the objectives” of good governance.⁸⁹ From this perspective, public administration in Somalia is ill-equipped to set-out coherent governmental policies and guiding constitutional principles are not practiced.



This widespread public apathy in governance acts as a protective cover for al Shabaab and political irresponsibility, a major impediment to good governance in Somalia.

85 HIPS phone interview, 29 September, 2020.

86 Manson, K. (2020). Can one woman fix a failed state? <https://foreignpolicy.com/2020/09/27/somali-army-corruption-hodan-osman-can-one-woman-fix-a-failed-state/>

87 HIPS interview, 21 September, 2020, Mogadishu.

88 HIPS interview, 21 Sep, 2020.

89 Sanchez, A. (2013). Determinants of government effectiveness. file:///C:/Users/Envy14/Downloads/IJPAgov-effectiveness%20(1).pdf



In this regard, the ability of public institutions to provide quality health care, clean water, education, reduce poverty or unemployment rates in Somalia is neither subjected to media scrutiny nor evaluated against the constitutional mandate

In this regard, the ability of public institutions to provide quality health care, clean water, education, reduce poverty or unemployment rates in Somalia is neither subjected to media scrutiny nor evaluated against the constitutional mandate. Planning, coordinating, regulating and monitoring in the public sector is weak. Therefore, governance as one civil servant puts it, is “temporary patronage” in its practice because basic constitutional adherence and division of power is unimplemented. The consequence is the failure to separate bureaucracy from day-to-day political wrangling.

Paradoxically, the Somali federal parliament is seen by some as an internal hurdle to institutional reforms and government effectiveness, as members of parliament sabotage any externally induced reform.⁹⁰ For example, the World Bank initiated civil service reform in which all positions for ministerial directors were to be advertised and recruited on meritocracy, convincing the office of the former prime minister, Hassan Ali Khayre to implement the project.⁹¹ The prime minister’s office reluctantly agreed to the World Bank’s proposal but parliamentarians threatened the government and Khayre with a vote of no-confidence because of the 4.5 political arrangements by which lawmakers are selected.⁹² This makes the 4.5 political setup as one of the major hurdles to good governance. For the parliamentarians, fair and merit based recruitment was likely to deny some of their kinsmen ministerial directorates, prioritizing individual’s vested interest over qualified and able civil servants in the public sector. Khayre was not prepared to sacrifice his premiership for the sake of good governance and the initiative was completely abandoned at the federal level though it registered a considerable degree of success in Jubbaland.⁹³



This makes the 4.5 political setup as one of the major hurdles to good governance

Governance literature emphasizes on the importance of increasing government effectiveness by devolving authority. Merilee Grindle, a professor of international development and comparative analysis of policymaking argues that government effectiveness is all about “going local,” devolving power to the grassroots level. The way this done, according to Grindle, is less important than giving citizens a succinct constitutional right to exercise power in their localities. The state’s reach is extended by decentralization, devolution or delegation of authority.⁹⁴ Comparative evidence from federal countries such as Brazil, Mexico and South Africa indicate that citizens share more information, make decisions, debate about resource allocation and monitor policy implementation at the local government level, increasing the effectiveness of the government.⁹⁵

90 HIPS interview, 9 August, 2020.

91 HIPS interview, 9 August, 2020

92 HIPS interview, 21 Sep, 2020, Mogadishu.

93 HIPS interview, 20 Sep, 2020, Mogadishu.

94 Grindle, M. (2007). *Going Local: decentralization, democratization and the promise of good governance*. Princeton University Press.

95 Grindle, M. (2007). *Going Local: decentralization, democratization and the promise of good governance*. Princeton University Press.



Despite the constitutional declaration that Somalia's federal system consists of three tiers of governments, both the federal government and the FMS have not taken steps to decentralized power to the people

In reality, constitutional ambiguity and undefined political responsibilities arrest the evolution of government effectiveness in Somalia. Despite the constitutional declaration that Somalia's federal system consists of three tiers of governments, both the federal government and the FMS have not taken steps to decentralized power to the people. Where there is a skeleton of governance at the grassroots level, the process is controlled and manipulated by the interior ministries of the federal government and those of the FMS, limiting public participation in local governance.⁹⁶ Arguing that their authority is undermined, interior ministries at the federal and FMS level thwart donors' attempts to independently finance the establishment of local governments.⁹⁷ This is to say that the behavior of political actors and current characteristics and arrangements of public administration are obstacles to effective governance in Somalia. One interviewee described the intent to centralize authority in violation of the provisional constitution as a "cynical political checkpoint" that halts the evolution of good governance, bureaucratic performance and public interest in the process of state reconstruction.⁹⁸

Evidence from the literature reviewed highlighted that the top-down approach of state-building is less effective than the bottom-up and community owned initiatives, particular in fragile states where trust in government institutions is dismally low, as in the case of Somalia. For example, a study conducted by the Philippine Institute for Development Studies contends that local government is more responsive and encourages fiscal decentralization and efficiency, accommodating communities demands.⁹⁹ More importantly, local government is according to Grindle, a training ground for grassroots leadership, producing popular city mayors and councilors, offering an alternative competitors and increasing governmental representation and effectiveness.¹⁰⁰ This in turn allows aspirant young leaders to develop interest in national politics, wooing the community in their respective localities to equally engage in national politics. In Somalia, this prospect of forming independent and functioning local government is halted by the political checkpoints at the federal and FMS levels, impeding the formation of local government, denying the country both government effectiveness and the evolution of good governance. Somalia is thus trapped in a highly fragile transition with a stormy political ambience, where government effectiveness seems to be a distance echo.



Somalia is thus trapped in a highly fragile transition with a stormy political ambience, where government effectiveness seems to be a distance echo

96 Dysfunctional federalism: How political divisions, constitutional ambiguity and a unitary mind-set thwart power sharing in Somalia. <http://www.heritageinstitute.org/wp-content/uploads/2020/07/federalism.pdf>

97 HIPS interview, 29 Sep, 2020.

98 HIPS interview, 29 Sep, 2020.

99 Manasan, R. (1999). Indicators of good governance: Developing and index of good governance quality at the LGU level. file:///C:/Users/Envy14/Downloads/pidsdps9904%20(1).pdf

100 Grindle, M. (2007). Going Local: decentralization, democratization and the promise of good governance. Princeton University Press.

7. Conclusion

Despite the progress that has been made in the last 10 years, Somalia retains the characteristics of a failed state. Public institutions at all levels of government are tentative, underperforming in all the indicators of good governance. The rule of law has been replaced by a consistent group rivalry, making governance unpredictable and often chaotic in character. This unpredictability and the chaotic practice of politics have arrested the development of state institutions, limiting government effectiveness and the overall reach of the state. Consensus and compromise remain elusive and the practice of politics is not rule-bound, resulting in more polarization which impedes the evolution of good governance structure. The tenuous transition oscillates from direct confrontation of political stakeholders to lack of collaboration, freezing state recovery, increasing uncertainty and the risk of relapsing into a severe level of political instability. In terms of accountability, citizens have no avenue for influencing political decisions or holding those in public offices accountable. The space for public demand and participation is almost closed and governance is reduced to a political market in which a few actors transact temporary loyalty. In other words, the Somali public is not one of the stakeholders in the prevailing fragile governance structure.



Accountability and the essence of government as a service provider and protector of the people is yet to be revived



The identical twins of bad governance - chronic corruption and zero transparency in public institutions and political decision-making -exacerbate Somalia's fragility

Accountability and the essence of government as a service provider and protector of the people is yet to be revived. The federal parliament lost the representation role and the reputation as an arch of stability or a provider of checks and balances in Somalia's nascent state reconstruction under the experiment of undefined federalism. The identical twins of bad governance - chronic corruption and zero transparency in public institutions and political decision-making -exacerbate Somalia's fragility, earning its disreputable position of being one of the world's most corrupt and the least transparent countries in terms of media freedom and access to accurate governmental information. Political checkpoints at the federal and FMS level impede service delivery and the establishment of functioning local government in violation of the provisional constitutions. In short, Somalia is a long distance away from parameters of good governance and the status quo might continue unless the political boat is steered to another direction, and the public is brought on board.

8. Policy considerations

1. To stabilize the political interactions of the elite, the responsibility of each level of government should be formally codified in the constitution.
2. The stabilization plan should include the professionalization of security forces and keeping them out of politics.
3. To increase accountability and connect the state-building process with the people, the government at all levels should administratively take the lead in accommodating public voices, an active civil society and a free media landscape.
4. To regulate the political market and impose a legal restraint on the political actors' temporary loyalty, the rule of law should be restored by establishing the constitutional court or creating other agreed avenues of dispute resolution.
5. To restore public trust in state institutions, the judiciary should reflect the socio-cultural history and religious makeup of the Somali people by accommodating Islamic jurisprudence and customary law in the state's legal system.
6. To improve government effectiveness, employment in state bureaucracy should be based on meritocracy and not the 4.5 political formula, separating day-today political wrangles from institutional administration.
7. To open the political door for public participation, a bottom-up approach of state building should be encouraged by establishing local government as per the constitution, a platform that offers a practical alternative of leadership training and community mobilization.
8. To increase public trust and participation in the governance structure, direct local government election should be held in the FMSs.
9. To increase transparency and reduce corruption, both the FGs & the FMSs should consistently publish data on governmental decisions and public expenditure.
10. The FGS and the FMSs should create media friendly environment to allow public scrutiny and make information available to the public.

HERITAGE

I N S T I T U T E