



**SOMALIA 2016-2017 LIMITED ELECTION PROCESS**

**EU ELECTION EXPERT MISSION**

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## 1. LIST OF ABBREVIATIONS

ASWJ - Ahlu Sunna Waljamma  
AMISOM – Africa Union Mission in Somalia  
EDR – Electoral dispute resolution  
EEM – Election Expert Mission  
ESTF – Electoral Security Task Force  
FIEIT – Federal Interim Election Implementation Team  
FGS – Federal Government of Somalia  
HoP – House of the People  
IEDRM – Independent Electoral Dispute Resolution Mechanism  
ISWA - Interim South West Administration  
MPTF – Multi-Partner Trust Fund  
NISA – National Intelligence and Security Agency  
NIEC – National Independent Election Commission  
NLF – National Leadership Forum  
PUNSAA - Puntland Non-State Actor’s Association  
SOSCENSA - Somalia South Central Non-State Actors  
SIEIT – State Interim Election Implementation Team  
UNDP – United Nations Development Programme  
UNSOM – United Nations Mission in Somalia  
UN SRSG – United Nations Special Representative of Secretary-General

## 2. EXECUTIVE SUMMARY

Upon the invitation of the Ministry of Foreign Affairs of the Federal Republic of Somalia, the EU deployed an Election Expert Mission (EEM), composed of two members to assess the Somali electoral process, which included the elections for the Upper House, the House of the People and the Presidential elections. The EEM was mandated to provide targeted and detailed recommendations that may contribute towards the preparation and implementation of a credible political roadmap for holding universal elections in 2020. The EEM met with a broad range of stakeholders in Nairobi, Mogadishu, Garowe, Baidoa, and Kismayo. The EEM arrived in Mogadishu on 13 September 2016 and completed the mission on 16 February 2017.

The process to establish a new Federal Parliament and elect a President of the Federal Republic of Somalia took place over the course of September 2016 - February 2017. Indirect elections were held for an Upper House of Parliament, established for the first time. Limited electoral colleges were nominated to elect members of the House of the People. The two houses, in a joint sitting thereafter elected Mohamed Abdullahi Mohamed “Farmaajo” as the President of the Federal Republic of Somalia.

Despite an initial commitment to organise universal elections in 2016, Somali political actors adopted a political transition process with some limited electoral features that expanded political participation from 2012 but delayed holding universal elections until 2020. Reasons for the delay included the overall security situation, the absence of the necessary legislative and institutional preparations and a lack of political will.

The overall arrangements for the elections were conducted with the limited compliance with the existing constitutional or legal framework, and consisted mainly of presidential decrees and communiqués issued by the National Leadership Forum (NLF)<sup>1</sup>. These were supplemented by decisions and procedures from the Federal Indirect Election Implementation Team (FIEIT). The process adapted some of the mechanisms employed in 2012. It retained a system of political representation based on a 4.5 formula that divides political power according to the four major clan groupings in Somalia and a half share for minority clans.

The NLF is a non-constitutional body which played a key role in the process by ensuring regional buy-in. It drafted the underlying agreements and election modalities, as well as exercised political influence throughout the process.

By NLF decision, the constitutionally mandated body to conduct elections, the National Independent Election Commission (NIEC), played no direct role in the electoral process. Instead,

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<sup>1</sup> The NLF is composed of the Federal President, Prime Minister, Deputy Prime Minister, Speaker of Parliament and the existing and emerging (at the time) Federal Member States’ Presidents

the NLF appointed members to several temporary bodies to administer the elections and election disputes – a Federal Indirect Election Implementation Team (FIEIT), State Indirect Election Implementation Teams (SIEITs), and the Independent Electoral Dispute Resolution Mechanism (IEDRM).

The deadlines for delegate nomination, candidate registration, polling for parliamentary and presidential elections were postponed multiple times. The delayed and uneven progress of the election timeline may be characteristic of the Somali environment, but it also exposed the limitations of the SIEITs and FIEIT's ability to coordinate efforts across all states.

There was no formally established campaign period and the general conditions of insecurity, intimidation and limited transportation infrastructure constrained importantly the exercise of freedoms of movement, assembly and expression for delegates and candidates. A significant number of candidates nevertheless participated in the process.

Provisions to ensure transparency and accountability in the process were minimal. In the absence of regulations governing political finance or use of state resources for campaign purposes, the exchange of money reportedly played a role in every step of the process. Moreover, incidents of intimidation and disinformation were also reported throughout the process with competing attempts to manipulate delegate lists, challenge or replace clan elders, and to influence the polling process.

The Upper House polls were conducted by State assemblies beginning 19 October 2016 and ending the day before the presidential election on 7 February 2017. For the House of the People elections, delegates were convened to vote in their respective state capitals, with special arrangements for Somaliland<sup>2</sup>. SIEITs managed each polling location, with frequent breaks in the proceedings, which often extended over days or weeks as clan elders continued to work on delegate nomination and reservation of women only seats.

Only House of the People candidates had the right to file complaints. The IEDRM received 98 formal complaints and annulled 11 elections based on instances of fraud and bribery. However, NLF overruled the IEDRM and ordered only 5 re-runs and allowed the suspended candidates to participate. The original winner was elected in each case. The IEDRM was hastily arranged and lacked the legal authority and sanctioning power to intervene effectively, and thus lacked the ability to function as an effective deterrent against fraud.

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<sup>2</sup> Somaliland is a self-declared state internationally treated as an autonomous region of Somalia. The government of Somaliland regards itself as the successor state to the former British Somaliland protectorate. Following the collapse of Barre's government in 1991, local authorities, unilaterally declared independence from Somalia. Since then, the territory has been governed by democratically elected governments that seek international recognition. Somaliland does not participate in the government of FGS. As a political and geographic entity, Somaliland has its own government and own elections and electoral system, which are delinked from the process under review.

The newly elected House of the People has approximately 50% new MPs. The election results also reveal nearly 50% of elected MPs won with a margin of 40 or more of the total 51 votes that could be cast. Of these, a significant portion won by acclamation when their opponent(s) withdrew at the last minute.

The presidential election was conducted on 8 February 2017 in Mogadishu and proceeded without disruption under tight security conditions. Mohamed Abdullahi Mohammed ‘Farmajo’ was announced the winner after the second round of voting, as incumbent President Hassan Sheikh Mohamud conceded defeat rather than going to a third round of voting. Farmaajo was immediately sworn in as President; his inauguration took place on 22 February.

In a notable achievement, the share of women seats increased from 14% in the 2012 parliament to 24% with 67 women elected to the House of the People and 13 women in the Upper house. This was the result of several affirmative action measures which were adopted to strengthen women’s representation: a 30% quota for Members of Parliament (MPs), a 50% reduction in the candidate registration fee for women, and 16 of the 51 delegates of the electoral colleges had to be women.

Overall security for the polling locations was provided by AMISOM and various Somali security forces, and UNSOM assisted in the establishment of the Electoral Security Task Force, a new model for coordination of security assets for the elections. This was deemed a success as it managed to prevent major security incidents. Nevertheless, many serious incidents of electoral related violence took place in and around the polling locations, occasionally with fatal outcomes.

Civil society involvement in the process included some 80 accredited domestic election observers, with the majority coming from two major platforms. The EEM noted that FIEIT placed a limit of no more than three domestic observers per organisation at polling locations.

International actors played a significant role in the 2016 process by providing security, financial and technical assistance. They also called on Somali political actors to ensure integrity in the process, to fully apply the rules on reserved seats for women, to establish an electoral disputes mechanism, and to resist corrupt practices. Significant international actors included: the European Union, United Kingdom, Sweden, Italy, United States, Ethiopia, Turkey, several Gulf States, the African Union Mission in Somalia (AMISOM) and United Nations Mission in Somalia (UNSOM) and United Nations Development Programme (UNDP).

FIEIT developed a \$14 million budget for the election but some estimate the overall costs have risen to as much as \$20 million<sup>3</sup> given the multiple extensions in the process<sup>4</sup>. Funds came

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<sup>3</sup> Budget estimate: Donor funded through UNDP (\$ 11.35 million exclusive of 0.6 absorbed by UNDP), Donor funded through the IOM (\$ 1.06 million), Candidate fees (\$ 5.1 million) and FGS \$1.5 million committed out of

principally from three main sources: Federal Government of Somalia (FGS), donor funds through the Multi-Partner Trust Fund (MPTF) administered by UNDP (\$12.16 million), and candidate registration fees (\$5.1 million).

The EU EEM proposes a number of recommendations for the consideration of the Somali stakeholders in view of the 2016 process and the preparations towards universal elections in 2020, including in the following key areas:

- Clear delineation of the roles and responsibilities of the two houses of Federal Parliament.
- Choice of the electoral system and adoption of a clear legal framework for elections.
- Enhance the independence and capacity of the NIEC to enable it to fulfil its constitutional mandate.
- For the NIEC to implement the political party law (though with amendments to address current inconsistencies in the law).
- Adopt and implement a system of voter registration, with appropriate contingency plans (and appropriate safeguards) in the event national coverage is not possible.
- Adopt regulations and supervisory body for political finance.
- Develop an electoral dispute resolution mechanism founded in law. There are several valid models to consider, including a potential role for NIEC as the judicial sector remains largely undeveloped.

### 3. INTRODUCTION

The process to establish a new Federal Parliament and President of the Federal Republic of Somalia took place over the course of September 2016 - February 2017 with multiple days of polling. Indirect elections were held for an Upper house of Parliament and limited electoral colleges were established to elect members of the House of the People. In a joint sitting thereafter, the two houses elected the Federal President.

The European Union deployed an Election Expert Mission (EEM) in Somalia from 13 September 2016 to 16 February 2017. The EEM consisted of two members: an electoral/political expert and a legal expert. The EEM was mandated to collect factual information concerning the electoral process and to provide regular reports on the preparations and conduct of the election of members of Parliament and President. The EEM was tasked to provide targeted and detailed recommendations and advise on elements from the 2016 electoral process that may

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which \$ 0.8 are yet to be reimbursed). Less quantifiable costs include: UNSOM/UNSOS, AMISOM, electoral security, Civil society work.

<sup>4</sup> All monetary figures rendered in US dollars as this was the denomination used by Somali and international partners.



contribute towards the preparation and implementation of a credible political roadmap for holding universal elections in 2020<sup>5</sup>.

Despite travel limitations imposed by the security situation in the country, the EEM conducted field visits to Baidoa, Kismayo and Garowe, as well as meetings with interlocutors in Mogadishu and Nairobi, Kenya. The EEM was able to gather information from a variety of credible sources, and to cross-check information received. Owing to the limited and indirect nature of this process, the EEM did not have access to all stages of the electoral process. No public statements were made by members of the mission and no systematic election observation of polling stations was conducted on election days.

## 4. POLITICAL BACKGROUND

### A. Political Context

Universal elections were to be introduced in 2016 following the end of the transitional period since the establishment of the Federal Government of Somalia (FGS) in 2012. The outgoing Parliament was selected by 135 clan elders and in 2012 Parliament had elected the President, Hassan Sheikh Mohamud. At the time, the FGS promised that 2016 would see the country's first democratic poll in nearly 50 years.

However, neither the necessary legislative and institutional preparations, nor the overall security situation were adequate to enable universal elections in 2016. Thus, under pressure to renew the mandate of the Federal Government, Somali political actors adopted a political transition process with some limited electoral features that would somewhat expand political participation, but delay holding universal elections.

Somalia's 2015 National Consultative Process agreed that the 2016 Federal Parliament would be constituted on the basis of a mix of community and geography<sup>6</sup>. Parliamentary seats would

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<sup>5</sup> The final dates for the next elections remain to be clearly defined. The Provisional Constitution defines the term of office for Parliament is four years from the day of the announcement of the election results. The tenth Parliament of the Federal Republic of Somalia was sworn in on 27 December 2016, whereas the President was sworn in on 8 February and inaugurated on 22 February 2017, indicating that the next elections may be conducted in 2021.

<sup>6</sup> The National Consultative Process was launched in October 2015 to produce electoral options for 2016. Consultations were held with variety of actors including, Federal government and Federal Member States' representatives, members of civil society, the diaspora, the President, Prime minister, Speaker and members of Parliament and States' Presidents. These discussions generated the Mogadishu Declaration of 16 December 2015 which stated: "A political roadmap shall be developed and agreed for (1) the period between now and the implementation of the electoral process in 2016, and (2) the period 2016 to 2020 to deliver universal suffrage elections in 2020. This roadmap shall be an integral part of the final agreement on the electoral process for 2016."

be distributed in accordance with a 4.5 power-sharing formula albeit for the last time. The formula accommodates the interests of clans and the existing and emerging Federal Member States Puntland, Galmudug, Jubbaland, Southwest, Hirshabelle and representation for Somaliland by distributing equal shares of seats to the four major clans and a half share to the combined minority clans<sup>7</sup>. Furthermore, as stated in the Provisional Constitution, a second house of Federal Parliament, the Senate or Upper House, was elected for the first time.

## B. Key Political Actors

The National Leadership Forum (NLF), a non-constitutional body, drafted the underlying agreements and modalities for the 2016 political transition and exercised political influence over all aspects of the 2016 process. Its members were Federal President Hassan Sheikh Mohamud, Speaker of Parliament Mohammed Sheikh Osman Aden 'Jawari'; Prime Minister Omar Abdirashid Ali Sharmarke; Deputy Prime Minister Mohamed Omar Arte, and four State presidents: Abdiweli Mohamed Ali-Gaas (Puntland); Ahmed Mohamed Islaan (Jubbaland) Sharif Hassan Sheikh Adan (Southwest); and Abdikarim Hussein Guled (Galmudug).<sup>8</sup> Though an informal group without constitutional basis, the NLF set the political direction of the 2016 process.

There are four major clan groupings in Somalia for the purposes of political power-sharing (Hawiye, Darood, Dir, Digil/Mirifle) with multiple sub clans. Traditional elders consulted with their clan members to nominate delegates to the electoral colleges that elect members of the House of the People.

The actions of Al-Shabaab and other militant groups played a shaping role through their control of territory and populations, and the threat or reality of attacks but they did not manage to derail the overall process.<sup>9</sup>

The existing and emerging Federal States and their political leadership also played a direct role in the elections, beyond their activities in the NLF. They directly intervened in election administration through disputes over seat allocation, delegate nomination, candidate registration and the conduct of polls, enabling or constraining the terms of political activity, and exercising a significant role in election security.

Finally, international actors were central in the 2016 process, providing security, financial and technical assistance and issued public statements calling for integrity and credibility of the

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<sup>7</sup> The Provisional Constitution provides for the conditions and process to establish FMS (art. 48 and 49).

<sup>8</sup> The Deputy Prime Minister represented the interests of the Somaliland community. State president of Hirshabelle, Ali Abdullahi Osole, elected 17 October 2016 thereafter joined the NLF.

<sup>9</sup> For example, Ahlu Sunna Waljamma (ASWJ) is a moderate Sufi paramilitary group opposed to Al-Shabaab, primarily based in Galmudug, ASWJ has also conflicted with federal and state governments.

electoral process. Significant international actors providing support to the process included: the European Union, United Kingdom, Sweden, Italy, the United States, African Union Mission in Somalia (AMISOM), United Nations Mission in Somalia (UNSOM) and UNDP<sup>10</sup>. Other countries also featured prominently, though as reported through sources of financial and political support to presidential candidates (e.g. Ethiopia, Turkey, Qatar, UAE and other Gulf states).

#### *Assessment and recommendations for 2020*

- The members of the NLF were key actors in the 2016 process as they established the electoral model, appointed the election administration and dispute resolution bodies and intervened with political decisions throughout the process. There is however no legal basis for the NLF, even though it appears to have been a useful forum for the federal and state participants. **Should the NLF or another new forum be established by federal and state executives, the basis for their interaction and any operational outcomes should be established in a legal framework<sup>11</sup>.**

## 5. LEGAL ISSUES

### A. Legal Framework

As a member of the United Nations and the African Union, Somalia is signatory to the main international and regional human rights instruments containing standards for democratic elections. The 2012 Provisional Constitution of the Federal Republic of Somalia defines the country as a federal democratic republic founded on inclusive representation of the people, a multiparty system and social justice. The Provisional Constitution ensures the right of political participation and guarantees fundamental rights and the freedoms of opinion and expression, assembly, association, and movement (art.16, 18, 20, 21 and 22). The Provisional Constitution provides for universal suffrage, direct elections of the members of the two chambers of parliament, who in turn elect the president. However, specific laws on elections as foreseen by the Provisional Constitution (art. 47) have not been developed yet.

The outgoing parliament did not pass the necessary electoral legislation so arrangements for the fundamental elements of the 2016 electoral process were primarily based on political decisions of the NLF rather than a legal framework. The governing framework for the process was *ad-hoc* and temporary bodies, notably NLF and FIEIT, issued the rules and the system put in place - election modalities were not provided for by law as Parliament failed to adopt an election law.

<sup>10</sup> The African Union also sent a technical assessment team for the elections.

<sup>11</sup> Key recommendations are highlighted in bold in each section summary and reproduced in the section on Recommendations and the accompanying table in the annex.

In the absence of statutory applicable legislation, and based on political consultations in 2015 that the 2016 elections would not be universal but limited and indirect, the framework governing these elections was mostly non-constitutional<sup>12</sup>. It largely consisted of executive decrees: presidential decrees and communiqués issued by the NLF supplemented by decisions and procedures of a temporary, *ad hoc* election management bodies<sup>13</sup>. The framework covered basic aspects of an election including the electoral model, timetables, delegate and candidate registration, and terms of reference for an electoral dispute resolution mechanism. There were no rules for campaigning, political finance, against conflict of interest and for the media.

Key features of the process were regulated as the process unfolded, such as procedures pertaining to candidate registration and the certification of results, while some basic aspects already agreed upon were revised during advanced stages of elections, for example seat allocation, the election modalities for Somaliland, the conditions to inaugurate the Parliament or the competencies of the electoral dispute resolution body. Decisions that determined key aspects of elections were taken in *ad hoc* basis compromising the principles of legal certainty, clarity and accessibility. The framework offered no mechanism to enforce compliance, for example with regards to the gender quota or the election timetable.

#### Assessment and recommendations for 2020

- The electoral process was based on clan identity rather than the rule of law and international standards for elections. Private political negotiation instead of a rules-based system limited scrutiny and transparency and did not provide space for full public participation or, in the event of disputes, review and appeal. **The establishment of an overall legal framework for elections in 2020 should be an essential undertaking for the new Parliament which needs to safeguard the rule of law.**
- The establishment of the new interim Federal Member State in Hirshabelle during the 2016 process enabled the Federal Parliament to be fully composed. **A parliamentary committee should continue to review the Provisional Constitution and propose appropriate amendments to define the competencies of the president, the executive, the legislative and judicial branches of government as well as the relation between the central government and the regional states (and to determine the status of Benadir region). The roles and responsibilities of the two houses of parliament should also be clearly defined.**

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<sup>12</sup> With the exception of the overall number of MPs elected, other features failed to follow Constitutional Provisions, such as freedoms, mandates, deadlines, number of MPs per state and state formation. For instance, some states consist of one region and a half in contradiction of the Constitution which states 2 or more regions etc.

<sup>13</sup> Described in more detail below in section on election administration.

## B. Election Modalities

Somalia is a federal republic with a president as head of state and a bi-cameral parliament according to the Provisional Constitution. There is a Federal Government of Somalia (FGS) based in Mogadishu and six states at different levels of institutional formation: Somaliland (a self-declared state internationally treated as an autonomous region of Somalia), Puntland, Galmudug, Jubbaland, and Southwest, and Hirshabelle. The status of Benadir, the region encompassing Mogadishu, is yet to be determined.

### Election of the President

The system to elect the president is defined in article 89 of the Provisional Constitution. To become president a candidate needs to win 2/3 of the votes of both houses of Parliament. If no candidate wins 2/3 of the votes, the four candidates with the highest number of votes in the first round compete in a second round of voting. A third round between the two candidates with the most votes from the second round is conducted if no candidate won 2/3 of the votes in the second round. The candidate with the highest number of votes in the third round is then declared president.

### Election of Members of Parliament

The Provisional Constitution provides for a bi-cameral parliament with a 275-member House of the People and a 54-member Upper House (Senate). In December 2015 it was agreed that for the first time, elections to the Upper House would take place in 2016. On 27 January 2016, the NLF announced the electoral model for these elections based on a balance of region and clan.

### Upper House

The 54 members of the Upper House were elected through an indirect election by state parliaments, themselves appointed by clan leaders. Galmudug, Southwest, Hirshabelle and Jubbaland elected 8 seats while Somaliland and Puntland elected 11 seats each. State executives had to nominate at least two candidates for each seat. A minimum of 30% of the seats were to be reserved for women. According to NLF directives, each Upper House seat had to be voted for individually. Candidates needed to gain 50 per cent +1 of the votes to be elected. In the event no candidate received a majority, a runoff between the top two candidates had to be conducted. To ensure compliance with the women quota, a number of seats had to be exclusively contested by women; two when electing eight seats and three when electing eleven.

### House of the People

Members of the House of the People were elected by limited elections by electoral colleges selected by 135 traditional elders. Each electoral college was composed of 51 delegates who voted for a seat in parliament. On average, each of the 135 elders selected the delegates of two colleges (two seats). Seats were allocated according to a 4.5 clan-based formula, a quota system under which the four majority clans each receive 61 seats while the remaining minority clans received 31 seats combined. Voting and counting took place in each of the capitals of the

Federal Member states (with special arrangements for representation from Somaliland). Jubbaland elected 43 MPs, Southwest 69, Galmudug 36, Puntland 37, Benadir 6, Hirshabelle 37 and representation for Somaliland 46. A minimum of 30% of the seats had to be contested exclusively by women candidates. However, the seats to be guaranteed to women were not specified.

### Representation for Somaliland

Special arrangements for Somaliland were only agreed in mid-November 2016, when elections in all states had already started: Their 23 elders each designated one individual to form a group of 46 voters for the 11 Upper House seats. Special arrangements to the House of the People elections also applied. Owing to the challenge of identifying the full number of delegates in some cases, each electoral college voted for more than one seat. Since Somaliland proper is a self-proclaimed state and does not participate in elections in Somalia, Somalilanders voted at a polling location in Mogadishu.

### Assessment and recommendations for 2020

- While the 2016 process has been described as more inclusive than 2012, it remained premised on exclusive and discriminatory grounds. In 2020 elections, Somalia will face a challenging political transition from representation based on clans to the choices of individual voters. **The choice of an electoral system for Somalia should reflect considerations of geography, the diverse political interests of Somalia's Member States, gender and other national attributes while ensuring that fundamental individual human rights and freedoms are guaranteed.**
- The establishment of political parties, a new electoral system and individual rights and freedoms such as the right to vote will require public outreach and civic education on the part of FGS, NIEC, civil society organisations engaged in the electoral process and the parties themselves.
- Special consideration should be given to resolve the status (or justify exceptions) of Somaliland and Benadir, as each poses different challenges to the principle of one person, one vote and representation. **To establish constituencies, boundary delimitation and allocation of seats per electoral unit should take into consideration the need for special arrangements for areas that may remain out of government control in 2020.**
- The Provisional Constitution provides for the election of the president by parliament. **For 2020, consideration may be given to the introduction of direct election of the president, which may provide a single, unifying office for all Somalis.**

## 6. ELECTION ADMINISTRATION

### A. Structure and Composition of the Election Administration

The NIEC, mandated by the Provisional Constitution to administer elections, was established in 2015 but due to regional political concerns for representation in the election body, it was not tasked with the conduct of the 2016 indirect elections.<sup>14</sup>

In its place, a temporary body - the Federal Indirect Election Implementation Team (FIEIT) – was established by a communique of the NLF in April 2016 and its 22 members were appointed by Presidential decree in June 2016. FIEIT was tasked to oversee all aspects and ensure uniformity across the states for the parliamentary elections. The UN and the international community (including the EU) provided extensive financial and technical assistance to FIEIT.

At the state level, 11-member State Indirect Election Implementation Teams (SIEITs) were jointly appointed by state governments (8 members) and the federal government (3 members) in August 2016.

Without the prior establishment of rules of operation or experience in election management, FIEIT and the SIEITs were given technical and administrative responsibilities in the conduct of elections<sup>15</sup>. They operated in the absence of a clearly defined legal or regulatory electoral framework and had to respond to the decisions of political actors.

### B. The Administration of the Elections

#### Upper House

Elections for the Upper House of Parliament were conducted by *ad hoc* committees comprised of state assembly members according to the established rules and procedures of those assemblies. Given the nascent (and unelected) character of these assemblies, few have built a tradition of past democratic or legislative practice on which to draw. Some state provisions for assembly votes included secret ballot, show of hands, or verbal approval, but in practice vote by secret ballots was employed. Owing to its special status, Somaliland's elections were managed by its SIEIT in Mogadishu. Benadir does not have state assembly or seats in the Upper House.

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<sup>14</sup> It is expected the NIEC will conduct future elections and will be responsible for the establishment of a political party registration system in anticipation of general elections in 2020. The UN has been working with NIEC to provide technical assistance and build capacity.

<sup>15</sup> FIEIT developed its own internal rules and procedures shortly after its establishment.

## House of the People

FIEIT and SIEITs were responsible only for the conduct of the elections to the House of the People. The *ad hoc* and temporary nature of these bodies complicated their administration of the elections. No electoral deadlines were met as proposed – all key dates for delegate nomination, candidate registration, polling for the parliamentary and presidential elections were delayed multiple times. Furthermore, FIEIT and SIEIT members lacked background in election management and required training on the elements of elections. Polling officials also required rapid training given the rushed and *ad hoc* nature of the House of the People election process.

The delayed and uneven progress of the election timeline exposed the limitations of the election administration bodies and FIEIT's ability to coordinate efforts with each of the SIEITs.<sup>16</sup> FIEIT deployed its members to individual member states in an effort to collect more data and assist implementation, but it lacked the ability to apply direct pressure or enforce compliance. This weakness was evident in the delayed announcement of candidates for the Upper House and in taking into consideration that the SIEITs did not consistently pass delegate and candidate lists to FIEIT for their review in a timely manner. From their side, however, FIEIT lacked an information management system, further undermining its responsibility to monitor the conduct of polls for uniformity across the states. FIEIT was unable therefore to manage effectively review of delegate and candidate lists for compliance with the election rules of eligibility and all SIEITs failed to manage the sequence of the electoral process properly (e.g. delegate nomination, candidate registration and polling overlapped).

## President

The presidential election was administered by the Joint *Ad hoc* Electoral Committee of the Federal Parliament, consisting of 17 representatives from the two houses of the Parliament to organise and conduct a vote by secret ballot<sup>17</sup>. Convened in Mogadishu on 8 February 2017, the proceedings were generally perceived to have been well administered, in a secured venue. Special measures were undertaken to minimize the circulation of money during the polling (e.g. entry subject to search and only by display of an access badge, restrictions on cell phones and electronics, etc.).<sup>18</sup>

## Assessment and recommendations for 2020

- The administration of the electoral process reveals the inadequacies of an election management system operating outside the rule of law. FIEIT and SIEITs were *ad hoc*

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<sup>16</sup> FIEIT did not officially publish final election procedures, leaving the overall conduct of the electoral process open to ongoing revision and political negotiation as circumstances dictated.

<sup>17</sup> Similar committee structures were employed to conduct the elections of the Speakers of each House of Parliament. The Speakers' elections also figured in the calculation of clan-based power sharing of legislative and executive leadership positions.

<sup>18</sup> Reportedly, though these measures hindered the open circulation of money, political brokers were still able to operate.



bodies, politically appointed by the Federal and State presidents, and subject to political interference. Their lack of independence, institutional capacity or sound financial basis left them weak from the outset.

- For 2020, a fully functional election administration should implement the national legal framework for elections based on the constitution and consistent with international principles. **To strengthen the independence of the NIEC, it must be afforded the legal protections and capacities as defined in the Provisional Constitution and should enjoy all necessary political support to implement the next elections.**
- **To strengthen accountability and transparency in the conduct of elections, NIEC should be provided with the financial and technical capacity to fulfil its mandate as established in the Provisional Constitution and in the 2015 law establishing the NIEC.**
- **FGS could reaffirm the central role of the NIEC in the 2020 elections and demonstrate their commitment to NIEC by assuring there is a line item in the federal annual budget and clear lines of reporting to legislative and executive branch of government<sup>19</sup>.**
- **Based on a strategic plan, NIEC to develop an operational plan to prepare for the 2020 elections.** These include, *inter alia*, organizing, conducting and monitoring elections of districts, regional, national level and public referendum; and all elements such as voter registration, party and candidate registration, complaints and appeals.
- The NIEC law enables NIEC to establish such regional offices as fit to discharge its duties but owing to the overall limited capacity of all levels of state, a range of organisational models may be considered<sup>20</sup>.
- **A permanent and fully functional NIEC may integrate training programmes more systematically into all aspects of election management and all stages of the electoral process.**

## 7. DELEGATE REGISTRATION

In the absence of universal suffrage, the voting population for the parliamentary elections consisted of 14,025 Somalis (51 delegates x 275 seats)<sup>21</sup>. The eligibility criteria for delegates to the electoral college were established in the terms of reference for the SIEITs and required delegates to be a Somali citizen from the clan to which the seat is allocated, of sound mind, minimum of 18 years of age, must not be a candidate for either house of parliament, have a

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<sup>19</sup> In a September 2016 communique, the NLF reaffirmed the central role of the NIEC in the 2020 elections while requesting international community support to this end.

<sup>20</sup> Issues of federalism may also affect the institutional development of NIEC – e.g. whether it builds capacity based on a strong, central organisation or, for example, plays more of a coordinating role among state-based bodies (akin, in some ways to the FIEIT-SIEIT model).

<sup>21</sup> Members of state assemblies voting for their state's share of Upper House members and the two houses of Parliament voting for the Federal President were the only other Somalis to cast a ballot.

sound understanding of the process, not been sentenced to a crime in the past five years, must not hold government office and must not have any relations with terrorist organisations<sup>22</sup>.

Delegates were nominated by their respective clan elder upon consultation with sub-clan leaders. The composition of delegate lists also had to conform to other criteria such as the inclusion of 16 women and 10 youth which was positively noted as measures to increase inclusivity and diversity in the process. The lists were to be verified for compliance by SIEITs and submitted to FIEIT for additional verification to ensure that all conditions have been satisfied. Verification for potential terrorist links was a particularly strong concern of the international community so the collection of lists was to be a crucial step in ensuring that the process was free from association with Al-Shabaab and other groups.

Delegate lists were to be submitted by 10 October, but no state met this deadline. In general, SEIETs either did not generate complete delegate lists on time and/or did not share these with FIEIT for review in a timely or prescribed manner. Elders faced various challenges in finalizing their respective delegate lists<sup>23</sup>. In one case in Benadir, some clan members joined in a bid to oust the formally listed elder on the grounds that he sought undue influence and overreach in the process, including placing his son as a candidate for MP<sup>24</sup>. Other disagreements involved sub-clan negotiations over seat allocation and protracted negotiations over the designation of reserved seats for women.

The polling schedule included registration of delegates, issuance of ID badges to gain access to polling locations and orientation on the voting process, but quickly fell out of use. The management of logistical arrangements for delegate transportation often over long distances through insecure territory to reach the polling location, accommodation and catering also complicated the schedule. FIEIT and SIEITs were challenged in the coordination and management of these logistical and financial arrangements. In an important and useful intervention, FIEIT with support from UN and other international partners worked with the Federal Government to establish a bank account into which candidate fees would be deposited to create a fund to cover delegate costs<sup>25</sup>.

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<sup>22</sup> It is unclear how or if all delegates were screened for all of these qualities.

<sup>23</sup> For example, some clan members and candidates disputed the composition of the lists while others challenged the authority or authenticity of the elders involved, sometimes proposing alternate elders and lists

<sup>24</sup> As stated in 1 October 2016 letter to UNSOM and the international community from High Council of Al-Shashi, Shaanshiyo clan.

<sup>25</sup> FIEIT managed the account and distributed funds to SIEITs upon receipt of their respective budget requests. The International Organisation for Migration was contracted to review invoices submitted to SIEIT from service providers prior to payment being authorised. For more detail, see section on election finance below.

## Assessment and recommendations for 2020

- The 2020 elections present an opportunity to remedy the partial and restricted basis of political participation in 2016 and to allow the individual the right to join political parties and to participate in public affairs as registered voters and as candidates.
- **To enable universal suffrage, Somalia will need to develop a voter registry.** If the voter register is to be based on a civil registry (which does not yet exist), then it should contain geographical information of citizens to be assigned to a particular electoral unit/constituency.
- The NIEC should be provided with adequate technical and financial means to conduct the voter registration exercise. Security considerations should also be carefully addressed prior to the launch of the activity.
- The establishment of a permanent voter registry which is regularly updated and where individuals would be able to request corrections and appeals is the ideal, but given the challenges of Somalia's current circumstances, it is unlikely that a comprehensive voter registration exercise can be conducted before 2020<sup>26</sup>. **Alternatives such as election day registration (with additional protections to guard against multiple voting and other irregularities) could be considered in areas where advance voter registration is not possible.**
- Any voter registration effort should be accompanied by extensive civic education on the right to vote and how to register to vote.

## 8. CANDIDATE REGISTRATION

### Presidential Candidate Registration

Candidate eligibility criteria for the position of president is specified by the provisional constitution and it includes being a Somali citizen and a Muslim; not less than 40 years of age; having relevant knowledge or experience for the role; a sound mind; and not having been convicted by a court of a major crime. Candidates had to pay a registration fee of \$30,000. Of the 24 candidates (all male) who registered, three withdrew and 21 run for office<sup>27</sup>. Candidates included the incumbent president and a past president, the incumbent prime minister and a past prime minister.

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<sup>26</sup> For example, insecurity, lack of infrastructure, the nomadic nature of an important part of the population, lack of civil registry, extremely low levels of formal education and literacy, absence of birth certificates or other forms of identification, cost implications of any national ID or voter registration, etc. Also, specific arrangements for Somaliland would have to be considered if its relationship with the FGS does not change.

<sup>27</sup> See Annex for table of registered presidential candidates.

## Parliamentary Candidate Registration

According to the Provisional Constitution, parliamentary candidates are required to have Somali citizenship, a sound mind, be not less than 25 years of age, a registered voter, not have had their citizenship suspended by a court order in the last five years, and minimum of secondary education or equivalent experience. In addition, for these elections, candidates were required to not have been detained or sentenced in the past five years by any court of law, must not have had any relations with terrorist organisations, and must have paid a registration fee of \$10,000 for the Upper House, and \$5,000 for the House of the People. As a good affirmative action measure to strengthen women's representation. The fee for women candidate was half of that for male candidates. The fee was non-refundable and became part of the electoral budget.

## Upper House

The state presidents nominated candidates for the Upper House, giving them effective control over who would occupy the seat. Although a minimum of two candidates had to be nominated per seat, the state president could, for example, name one strong and one weak candidate with the outcome thus agreed in advance. A total of 130 candidates were nominated, of whom 32 were women<sup>28</sup>.

Perhaps because the Upper House elections were first in the election calendar, the candidate nomination process received considerable scrutiny and proved to be somewhat chaotic. None of the state presidents met the 5 October deadline to submit candidate lists and FIEIT lacked leverage to ensure compliance (four states issued candidate lists by 9 October). Southwest was the only state to comply initially with the women quota provision as the other three states failed to reserve the adequate number of reserved seats for women<sup>29</sup>. There were also concerns about former warlords nominated as candidates in three states (one each in Jubbaland, Puntland and Galmudug). UN SRSG Michael Keating sent letters to the respective state presidents requesting the removal of the former warlords, but the letters were ignored and all three individuals stood as candidates - two were elected, again without sanction. A former armed militia leader also stood as an Upper House candidate and was elected in Hirshabelle<sup>30</sup>.

Initially, no candidates for the Upper House were selected for Somaliland because representatives from Somaliland objected to their share of the seat allocation. On 9 October representatives from Somaliland withheld their participation in the parliamentary elections, arguing they should have 15 rather than 11 seats in the Upper House on the basis of the

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<sup>28</sup> See Annex for table of candidate registration figures.

<sup>29</sup> After a FIEIT request for revision, two states complied but Jubbaland reserved only one upper house seat for women without consequence or sanction.

<sup>30</sup> Hirshabelle was formed as a state during the electoral process, combining the regions of Hiraan and Middle Shabelle. After intense negotiations, agreements were reached to name the state, select a state capital, establish a state assembly and elect a state president.

constitutional provision to receive three seats for each of the five regions in Somaliland as they existed in 1991. Puntland negotiated to receive 11 seats whereas all other states were allocated seats based on a second (contradictory) constitutional provision that each state member should receive an equal number of representatives (e.g. eight seats). The elections for the Somaliland seats were further delayed by a dispute with Puntland over seat allocations on clan lines. The dispute was eventually resolved and Somaliland representatives conducted upper house elections for 11 seats in January-February 2017.

### House of the People

House of the People candidate registration was scheduled to take place 12-22 October but these dates were missed and candidate registration became a rolling process that overlapped with other steps of the election process. A total of 707 candidates registered for the elections. Of these, 206 were female (29%). The average number of candidates per seat was 2.5.

### Assessment and recommendations for 2020

- Although the Provisional Constitution provides for an Upper House directly elected by popular vote, Upper House elections in 2016 were indirect and the candidate registration process was explicitly determined by the state presidents who nominated the candidates. In order to ensure that Somalis may enjoy the right to participate in public affairs, **the constitutional provisions for direct election of members of the Upper House should be respected in 2020.**
- The Provisional Constitution establishes the eligibility criteria for all parliamentary candidates and vests the NIEC with verification authority but this was not applied in 2016. **In the 2020 elections, NIEC should have the authority to reject any candidates who do not meet the legally established criteria (deadlines, gender quota, absence of links to terrorist organisation, etc.)**
- **The overall candidate eligibility requirements should be reviewed in line with applicable international standards.**
- **Candidate registration fees were very high and these deserve review and possible adjustment to be more affordable to enable greater public access, including women to the right to stand for elected office.**

## 9. ELECTION CAMPAIGN AND PRE-ELECTION ENVIRONMENT

### A. Campaign Environment

There was no formal campaign period for the 2016 electoral process nor was there any legal, regulatory framework for campaign activities. There is a political party law but regulations for party registration are yet to be developed; some political groupings exist but these formal provisions did not apply in 2016. The ongoing conflict and limited transportation infrastructure

heavily constrained the exercise of freedoms of movement, assembly and expression. Although FIEIT drafted a Code of Conduct for candidates, there is little evidence of its application or positive effect. In the absence of universal suffrage there was little evidence of broad civic or voter education campaigns.

Most political interactions therefore took place among relatively small groups but participants maintain that the clan consultation in the delegate nomination process was an important opportunity to build alliances (and reveal enduring differences). These were largely opaque processes with very limited transparency.

Various actors – state administrations, candidates, clan elders, members of security forces and others – were able to campaign and influence directly activity around the polling process. This influence manifested itself in several ways, including the final composition of delegate lists and clan allocations of seats, the late ‘withdrawal’ of candidates (voluntary, but with claims of intimidation and/or bribery) leaving a single candidate to win unopposed, manipulation of delegates through misinformation or blocking access through security checks, and restrictions on observer and media freedoms.

## **B. Campaign Finance**

There were no regulations governing political finance for campaign purposes and the role of money exemplified the transactional nature of political relationships. One pair of interlocutors (a high ranking parliamentary official and an elder) openly confirmed to the EEM that money changes hands in the determination of delegates and that delegates were instructed on how to cast their vote.

Overall, it is difficult to confirm the reported sums of money in circulation among elders, candidates, delegates and other parties. Reports range from \$1,000 to as high as \$20,000 for delegate slots with prices rising variably for different House of the People seats and leading presidential slots rumoured to run into several millions<sup>31</sup>. As the campaign period continued, Somalis and the international diplomatic community voiced growing concern about the widespread reports of bribery and corruption.

While some women MPs stressed that the expansion of voting from a reliance on a single elder to the electoral college system was somewhat more inclusive, it also became much more expensive with more resources required to gain the support of a majority of delegates, often beyond the reach of women aspirants.

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<sup>31</sup> Though in some cases this practice may have resulted in buying of seats, money alone did not guarantee election though neither did it guarantee that delegates or eventual parliamentarians could not receive payments from more than one contender in exchange for their support.

Foreign political contributions were not regulated but appear to have played a significant role. Some candidates made official and unofficial visits overseas, reportedly to seek foreign political support and/or receive funds. Although such trips were widely reported by the media, there were also divergent accounts as to what agreements were reached, with whom and what amount of money (if any) may have been offered, leaving such claims difficult to confirm.

### **C. Use of State Resources**

There were no regulations governing the use of public or state resources for political purposes. In Galmudug and Hirshabelle, for example, Federal President Hassan Sheikh reportedly worked closely with each state president to build a bloc of sympathetic MPs in areas where his sub-clan predominated. Some aspirant candidates also complained that current elected office holders abused state resources for their personal election campaigns.

### **D. Election Security**

General insecurity was cited as the main reasons not to hold universal suffrage elections in 2016. Al-Shabaab, publicly announced their intention to disrupt and attack the electoral process and to target international support. However, in an important achievement, the overall conduct of the process was not derailed by these attacks. Major security incidents continued across Somalia during the entire electoral period, including numerous Al-Shabaab attacks resulting in significant civilian casualties<sup>32</sup>.

To provide security at polling locations for the House of the People elections, an Electoral Security Task Force (ESTF), linking AMISOM military and police forces, Somalia National Army, National Intelligence and Security Agency, federal and state police and state armed forces was established and managed through a National Operations Centre. Joint Operations Centres at the state level facilitated command and control and intelligence sharing and demonstrated good cooperation among federal and state forces. AMISOM assumed the primary responsibility to establish outer security perimeters around the polling locations with other forces supporting in different capacities adapted to local circumstances. These arrangements had to be supported for several months as the delays extended the electoral calendar from September 2016 until early 2017 in some locations.

#### **Assessment and recommendations for 2020**

- The 2016 process suffered from inadequate transparency, e.g. premised on clan discussions involving a limited number of individuals. These discussions were

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<sup>32</sup> Security assessments warned that throughout December as more and more MPs-elect returned to Mogadishu and as the focus turned to the speaker and presidential elections there would be increased threat of Al-Shabaab attacks in the capital. These warnings proved correct as large blasts resulting in many dozens of casualties occurred on at least three separate occasions in Mogadishu in December 2016 and January 2017.

nevertheless described to the EEM as consultative and useful means to address clan issues. For 2020, with the introduction of political parties and the individual right to vote, it would be beneficial if such consultation and discussion of communal issues could be retained and adapted to the new political process.

- There were widespread reports of electoral irregularities in 2016 (e.g. misinformation, intimidation, and bribery), illustrating the need for legislative and regulatory measures to introduce greater accountability on the part of political actors. **Appropriate legal, regulatory and sanctioning provisions on political behaviour (as are often contained in the electoral law and code of conduct) should be adopted for the 2020 election campaign.**
- **The implementation of the political party law by NIEC should be an immediate priority with the initiation of temporary party registration regulations** (according to the political party law, full registration requires signatures from registered voters).
- **To strengthen accountability and limit impunity, an adequate mechanism for timely and effective oversight of campaign rules with the authority to sanction for violations should be established. This authority may be vested with NIEC in its capacity as the registrar of political parties and as the election management body.**
- **Legislation and regulations on political and campaign finance (domestic and foreign) as well as the use of state resources, should be introduced to better enable Somalis to exercise their fundamental political rights and freedoms on more equitable terms. A monitoring and reporting capability should also be established, again, potentially within NIEC.**
- The security coordination mechanism established for these elections was deemed a success by interlocutors; it was the first time the national and international security assets were coordinated in such a manner. **In the absence of a fully functioning police force, it is recommended that a mechanism such as the ESTF be retained for 2020 to enable efficient allocation of constrained security assets.**
- AMISOM's planned withdrawal in 2018 however poses a major challenge to Somalia's national security forces and it is difficult to assess the impact of the withdrawal. However, **overall security sector reform should in any case be a priority for Somalia. Security forces could receive additional training on human rights and the provision of security to civilians in the context of elections.**

## 10. ELECTION DAYS

### A. Overview of Voting - Parliamentary Elections

The initial date to complete the elections was 20 August 2016. However, late preparations resulted in a delay to the period 24 September – 10 October 2016 for the House of the People elections, with all states conducting their Upper House elections on 25 September. However, on 26 September FIEIT postponed the Upper House elections to 10 October and House of the



People elections to 23 October-10 November. These revised dates also lapsed and no new calendar for conduct or completion of the polls was announced.

The Galmudug state assembly was first to conduct an Upper House election on 16 October, followed by Southwest and Jubbaland on 19 October, Puntland on 20 October and the newly formed state of Hirshabelle on 9 November. Conducted under special arrangements, elections for Upper House seats for Somaliland began on 8 January 2017 and completed them on 7 February 2017.

The House of the People elections were conducted on a rolling basis by SIEIT officials with polls in 6 principal locations: the towns of Kismayo, Baidoa, Adado, Jowhar, Garowe and Mogadishu. The first polls were conducted on 5 November in Garowe (Puntland) and they concluded on 18 January 2017 in Mogadishu. As a limited number of seats were elected on any given day, the polls proceeded at different paces in each state, often with breaks of days or weeks as clan elders continued to work on delegate nomination. Overall security for the polling locations was provided by AMISOM and various Somali uniformed security forces.

In general, polling procedures provided for the identification of delegates eligible to vote, the issuance of a ballot paper, the use of voting booths to provide secrecy of the ballot and sealed ballot boxes. Counting was conducted immediately upon completion of polling<sup>33</sup>. However, candidates, political brokers and others were frequently present in and around polling locations and polling could be halted should one of these actors want to engage in unofficial negotiations (e.g. with another candidate)<sup>34</sup>.

The open circulation of candidate money in the polling process appeared to be widespread. Interlocutors informed the EEM of instances when delegates openly compared how much money they received from candidates and political brokers present with cash to distribute as needed. Despite such eye witness accounts and reliable second hand reports, it is difficult to substantiate this activity in detail.

The absence of a legal framework for the parliamentary elections meant that there was no clear guideline as to when the parliamentary elections would be declared finished. Political observers speculated that a schedule for the parliamentary speaker and presidential election could be set once quorum (two-thirds of the members or 183 seats) was reached but this benchmark risked leaving Somaliland representatives unable to participate in the presidential election. However, Somaliland representatives re-joined the process later. Part of the motivation was to keep up the momentum in the process and many hoped to complete the elections before the end of 2016.

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<sup>33</sup> Some candidates complained of delegate manipulation - misinformation about the date and time of voting, last minute or otherwise irregular changes in the composition of delegate lists, bribery and other means.

<sup>34</sup> Reportedly, a candidate calls for a "coffee break" part way through polling if they sense the vote may not be going their way in order to enter into informal negotiations,

Although no major security incident prevented the process from progressing overall, there were many serious incidents of electoral related violence perpetrated by participants, including fights among candidates, delegates and elders in and around the polling locations, shootings and some killings, as well as numerous allegations of intimidation and threats.

## **B. Overview of Voting: Presidential Election**

The election for the Federal President of Somalia was held on 8 February 2017 by a joint session of the Federal Parliament in Mogadishu. Voting proceeded in an orderly manner in a hangar at Mogadishu International Airport amidst fears of Al-Shabaab attacks and under tight security measures. Logistical and operational aspects of the election were efficiently delivered by a Joint *Ad-hoc* Committee on the Election of the Federal President created by the new Parliament inaugurated on 27 December 2016. In somewhat of a surprise victory, former Prime Minister Mohamed Abdullahi Mohamed “Farmaajo” was elected president after two rounds of voting.

The presidential election date was rescheduled several times and was the source of considerable speculation and uncertainty throughout October-December. There were 24 candidates for president but three withdrew shortly before or on election day. A first round of voting took approximately three hours to complete. As no candidate won two-thirds of the votes, the top four finishers proceeded to a second round. Immediately prior to the second round of balloting, the outgoing Prime Minister Sharmarke addressed the assembly to announce his withdrawal. After the second round of voting, former President Sheikh Sharif also announced his withdrawal, followed by Hassan Sheikh who conceded defeat, leaving Farmaajo as the victor who was sworn in immediately.

### Assessment and recommendations for 2020

- Despite the limited nature (and widely reported irregularities) of the 2016 electoral modalities, overall their implementation successfully established a full federal parliament and president. Moreover, despite delays in the electoral calendar, the process was not derailed. A considerable number of Somalis now have experience in some of the formal procedures to conduct polling and counting operations and in the management of election results and this experience could be applied to future elections.
- **It will be important to ensure that the 2016 process is well documented and that this knowledge is transferred to NIEC. FIEIT and IEDRM should hand over all documents – from forms to procedures to cases and meeting notes and decisions- they have produced to NIEC. A conference on lessons learnt with all institutions and stakeholders that have participated in 2016 should be organized to facilitate this transfer.**

## 11. COMPLAINTS AND APPEALS

The Provisional Constitution provides for the right to redress through an independent judiciary and outlines a judicial framework that includes a Constitutional Court, federal government courts, and federal member state courts, but these institutions have yet to be established and relevant legislation passed. With a weak judiciary and no electoral legislation, a communiqué of the NLF issued in September 2016 provided for an Independent Electoral Dispute Resolution Mechanism (IEDRM) to resolve electoral disputes. In the absence of any other formal legal recourse, the IEDRM represented the only appeal mechanism in the 2016 electoral process and was therefore considered as a key element towards acceptance of results.

The NLF appointed the 25 members of the IEDRM and drafted its Terms of Reference. Only candidates to the House of the People had the right to file a complaint upon the payment of a non-refundable \$1,000 fee. IEDRM received 98 formal complaints (most of which referred to the manipulation of delegates) and annulled 11 elections disqualifying candidates involved in fraud and bribery to participate in the repeat elections. However, on 27 December NLF overruled IEDRM decisions ordering only 5 re-runs, one in each of the state capitals where elections had been conducted, and allowing the suspended candidates to participate<sup>35</sup>. The winning candidates of the 5 re-runs were the same that had won the annulled elections.

The IEDRM faced significant challenges owing to the lack of a legal framework and regulations, its late establishment, the absence of a formal secretariat, the lack of formal experience among the members in conflict resolution, management of a complaints system or electoral dispute resolution, as well as undefined powers of investigation, sanction or enforcement. The work of IEDRM was marked by its lack of transparency with no information made available on the cases being considered or their status - a position the IEDRM justified based on security arguments which remained a major concern for IEDRM members who reported having been subject to threats and political pressure. IEDRM's post-election report sheds some light on the internal procedures it used to consider cases which included the establishment of a review committee and decisions being taken by plenary session held in Mogadishu. Although the possibility to invalidate an election was expected to act as a deterrent for fraud, the complaint system offered no effective tools to FIEIT. Ultimately the IEDRM's limitations further illustrate the fundamental character of the 2016 process: a political negotiation led by the NLF who designed the process, appointed the *ad hoc* bodies for its implementation, equipped them with no tools to enforce the rules agreed upon, and overruled their decisions.

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<sup>35</sup> Case references of the 5 repeated elections are: DRD/0010/PL UGAAR SALEEBAAAN; HW/0055/GM MURUSADE; HW0094/JL GAALJECAL; DW/0156/KG MACALIN WAYNE; and HW/0208/HSJ JIDLE

## Assessment and recommendations for 2020

- Despite the weaknesses of the IEDRM, in the absence of the possibility to seek legal remedy through a court system, nearly 100 candidates lodged formal complaints with the IEDRM.
- The electoral dispute resolution process lacked transparency as the IEDRM operated in near total secrecy and offered no information on the number of cases being considered, the ones dismissed, and reportedly some candidates that filed complaints were only notified on the resolution of their cases through informal channels.
- **Future elections should be conducted with an electoral dispute mechanism established well before the elections based on a clear legal framework for all aspects of the elections and operate with transparency. If the judicial system remains inadequately developed, several valid EDR models may be considered, including complaint and review procedures managed by NIEC, a reformed version of the IEDRM or the establishment of special electoral courts, among others – with an appeal mechanism before the constitutional or supreme court<sup>36</sup>.**
- The presence of IEDRM in polling sites appeared to be an important factor for the mechanism to be effective. **To strengthen the right to appeal and for the state to take measures, the electoral dispute resolution mechanism should conduct public outreach activities and information campaigns to enhance its visibility with political parties, candidates and the electorate.**

## 12. ELECTION RESULTS

### A. Announcement of Results

The announcement of results proceeded without controversy for the Upper House and presidential polls as they were conducted by their respective assemblies.

The announcement and certification of House of the People election results was more complicated given that the elections were conducted by multiple SIEITs. The recording of full results and subjecting them to review prior to certification as final official results was a new practice. The guidelines for the division of FIEIT and SIEIT responsibility in the certification of results were disputed and final results forms were haphazardly shared by SIEITs with FIEIT. Results were circulated by the media which became the main source of information. FIEIT posted the results on its website but generally well after they had already been publicised by the media.

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<sup>36</sup> Owing to the extremely underdeveloped judicial sector, not only does the Provisional Constitution need to be implemented fully, all elements of the judicial sector, including policing, courts and correctional services, are yet to be established. A Constitutional court without these foundations may lack credibility and the force of law.

Confirmation of final results and certification of the list of elected MPs was also delayed by the IEDRM which was concerned that MPs with complaints against them might seek retribution against the body should they not be confirmed elected. This concern was overtaken by events as the NLF (described above) took over. The episode illustrates yet another technical process influenced by political considerations.

## **B. Political Overview and Summary Figures**

The Upper House election results largely reflect the political interest of the respective state president as the one who nominated the candidates. The presence of several former warlords among the candidates generated an early flashpoint for the international community as did concerns that the states would not meet their commitment to reserve the required number of seats for women only contests.

The House of the People election results show an increase in the number of women members to 67 and many new MPs who comprise nearly 50% of the house membership. The election results also reveal nearly 50% of elected MPs won with a margin of victory of 40 or more of the 51 votes available, suggesting many races were non-competitive. Of these, a significant portion won by acclamation when their opponent(s) withdrew at the last minute.

In the presidential election, the top four finishers in the first round of voting were as expected: incumbent President Hassan Sheikh Mohamud (88 votes), former Prime Minister Mohamed Abdullahi Mohamed “Farmaajo” (72), former President Sheikh Sharif Ahmed (49) and outgoing Prime Minister Omar Abdirashid Sharmarke (37).

In the second round, Farmaajo finished with 186 votes followed by Hassan Sheikh (97) and Sheikh Sharif (46). Thereafter, Sheikh Sharif withdrew followed by Hassan Sheikh who conceded defeat rather than going to a third round of voting. Farmaajo was immediately sworn in as president; his inauguration took place on 22 February.

Media and other commentators dubbed Farmaajo as the “people’s president” based on his reported popularity as an agent of change. President Farmaajo was Prime Minister (Oct 2010-June 2011) during Sheikh Sharif’s presidency and resigned owing to political differences with the President and the Speaker. President Farmaajo holds Somali and US citizenship. In clan terms, President Farmaajo will be the first Somali president from the Darood clan (Marehan sub-clan) since 2008 whereas both Sheikh Sharif and Hassan Sheikh are Hawiye (Abgaal sub-clan). President Farmaajo also reportedly enjoys good relations with the country’s military which some commentators cite as a promising sign for stability.

### Assessment and recommendations for 2020

- The electoral outcomes in 2016 were generally accepted and not subject to dispute or post-election disturbances.

- **Given the complexity of universal elections, the NIEC should pay careful attention to all aspects of results management by developing thorough and transparent procedures for the recording and verification, communication, tabulation and announcement of results.**
- Advance outreach to voters, political parties and candidates (as well as training of election officials) on the results management system is advised.

## 13. MEDIA

### A. Media Environment

With a high rate of illiteracy and poverty, radio is the primary news medium in Somalia. Internet and mobile telephone services are available in urban areas and social media is a growing source of information - in particular Twitter in English and Facebook in Somali.

According to the 2015 Freedom House report<sup>37</sup>, Somalia scored 7 where 1 is free media and 7 lack of freedom of the media<sup>38</sup>. Somalia remains one of the most dangerous countries in the world for journalists. Incidents in 2016 include 16 arrested journalists in the past four months, and three journalists assassinated in relation with their work with no investigation launched.

Journalists informed the EEM about the difficult conditions under which they work - closure of media outlets, detentions, arrests, intimidation, threats, and self-censorship. For example, on 27 September, broadcast journalist Abdiasis Mohammed Ali was murdered by two assailants in the streets of Mogadishu. In a second incident, on 15 October, Somalia's National Intelligence and Security Agency (NISA) shut down Xog Ogaal, the oldest and leading daily newspaper in Mogadishu, and detained without charge its editor-in-chief Abdi Adan Guled. The National Union of Somali Journalists and others demanded his release and condemned the act as state security harassment in an increasing climate of intimidation. Guled was released without charge on 18 October<sup>39</sup>.

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<sup>37</sup> <https://freedomhouse.org/report/freedom.../freedom-press-2015>

<sup>38</sup> In 2015, Somalia was ranked the worst country on the Global Impunity Index list, that captures data about the lack of accountability for crimes against journalists and media workers. Cases are also documented by Human Rights Watch: attacks on media freedom in Somalia (2016), Ch. IV., and UNSOM report on the right to freedom of expression, August 2016.

<sup>39</sup> On 21 October, the UN, AU, EU, IGAD, Denmark, Ethiopia, Italy, Norway, Sweden, and UK issued a joint statement urging FGS to promote and protect the rights of freedom of expression and association, and to investigate and swiftly bring to justice those who violate these freedoms and threaten those who exercise them.

## B. Legal Framework for the Media and Elections

The right to freedom of expression is protected by a stand-alone provision in the constitution and positively includes freedom of speech, and freedom of the media, including all forms of electronic and web-based media (art. 18.2). Limitations that can be placed on these rights contain the elements of legality, legitimacy of aims, and necessity under a proportionality principle (art. 38), and are required to be generally applicable and not to target particular individuals, e.g. journalists or members of a particular group.

However, while the Provisional Constitution calls for freedom of speech and the press, the government has taken a heavy-handed approach toward the media statutory legislation, with the new law on media of January 2016, that permits censorship by the Ministry of Information, forbids reports against the interest of the country (art. 3.4), obliges journalists to reveal their sources and provides high penalties and fines for violations such as disseminating false news, defamation of persons and institutions etc. (art. 5). There are no specific media regulations for elections and no provision that regulates the coverage of campaign events and candidates.

## C. Media Coverage of the Elections

FIEIT issued accreditation for the media that would grant journalists access to election sites during the process. The 16-point code of conduct for media to be accredited was the same that applied to domestic and international observers and to candidate agents. A total of 104 accreditations across 29 outlets were issued for national media and 71 for international media.

According to domestic observers and available information, broadcast and print media was present in most of the House of the People elections. Most Somalis relied on radio for news of the elections. Somalis were also active on social media, a positive contribution to transparency, geographical span and live reporting, but with the caveat that only a small portion of the Somali population has access to such media. However, Somali media appeared to follow the electoral process very closely, reporting on campaign incidents, allegations of corruption, conduct of polling officials and political figures as well as providing regular updates on the election results. The presidential elections received wide media coverage from both national and international media and the UN provided online livestream coverage of the presidential election.

### Assessment and recommendations for 2020

- The media, including social media, added a degree of transparency to the process, but given the limited nature of these elections, its role, impact and influence varied<sup>40</sup>. Prior to the 2020 elections, several measures could be adopted to enhance transparency and

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<sup>40</sup> For example, delegate nomination discussions were held privately among clans, the proceedings of FIEIT and SIEIT meetings were not necessarily made public, and the NLF largely issued political communiqués following closed discussions.

accountability, strengthen freedom of opinion, access to information and protection of media, including:

- **The law on media should be reviewed to bring it in line with the constitution and international standards, with particular emphasis on review of the existing censorship provisions and protection of the media.**
- **Media regulations should be developed to enhance freedom of speech and freedom of information.** Measures could include provision for equitable and non-discriminatory media access for diverse political opinions, definition of rules for equitable coverage of different political parties and candidates, equal advertising prices and so on.
- **An independent media monitoring authority could be established to enforce these regulations with the ability to sanction violations.**
- **Investment in capacity building of the media and journalists in political reporting and investigative journalism will protect the media in a practical way by making them a more effective (non-partisan) participant in the political process.**
- As a longer term goal, to facilitate messaging by all public institutions, including the NIEC in the conduct of elections and to enhance publicly available non-partisan information, **consider the establishment of a public broadcast service with nationwide coverage.**

## 14. PARTICIPATION OF WOMEN

Somalia has signed key international instruments for equality between women and men and the principles of equality and non-discrimination are constitutionally protected with a non-discrimination clause that specifically mentions women (art. 11). The Provisional Constitution prohibits any form of violence against women (15.2) and female circumcision is equated to torture (15.4). The Provisional Constitution outlines as one of its founding principles “the inclusion of women in all state institutions, in particular in all in elected and appointed positions across the three branches of government and in national independent commissions” (art. 3.5).

Despite the absence of legal barriers for the participation of women in public life, and the inclusion in 2012 of a 30% quota for women in parliament, women remained under-represented in decision making bodies, holding 14% of the seats (37 of 275 seats) in the House of the People. In the outgoing FGS cabinet, only the Minister of Women Affairs was a woman. In the federal state assemblies, Southwest has the highest percentage of women (21.5%); women hold 9% of the seats in Galmudug, 4% in Jubbaland, and 3% in Puntland.

Several measures were implemented to strengthen women’s political participation: a 30% quota for members of parliament, the female candidate registration fee was 50% of that of men candidates, and 16 of the 51 delegates of the electoral colleges should be women. To ensure compliance, the NLF mandated that 83 seats should be contested by women candidates only in reserved seats. In the Upper House elections, there must be two women only seats in states electing eight members or three when providing 11 Upper House members.



In addition to Somali women's organisations and initiatives as well as FIEIT, international partners were strong and often publicly vocal advocates on behalf of women's right to participate in the political process and exhorted the electoral stakeholders to implement fully the provisions for the women's quota. Also, the UK conditioned some of its financial support to the implementation of these quotas.

The NLF warned that a seat designated as reserved would remain vacant if not filled by a woman, however, the specific assignment of the 'female seat' rested with the 135 male elders (with reportedly, few sub-clans willingly assigning their seat to become women only). Thus, although the principle was stated, there was no formal direction from the NLF as to how to implement the quota in the context of the 4.5 clan formula. Moreover, those who failed to select 30% women in 2012 faced no consequence. Several women MPs reported to the EEM that clan members who nominated them in 2012 preferred to be represented now by a male MP.

EEM interlocutors pointed to the many cultural and religious barriers, gender stereotypes and prevalent political culture of male dominance that hinder women participation in politics. The Goodwill Ambassadors, appointed by a presidential decree on 29 May 2016 to advocate for the implementation of the 30% quota, reported as a challenge the "active threat" from some religious leaders who claimed that women's political participation is not Islamic and against Somali tradition. The limited access of women to resources combined with the absence of any campaign finance rules, resulting in high campaign spending from candidate's own resources, was also cited by women's groups and aspirant candidates as a problem.

#### Women in Upper House Elections

Of 54 seats in the Upper House of Parliament, 13 women (27% overall seats) were elected, two of whom won open seats (e.g. against male and/or female candidates). No state met the prescribed allocation of reserved seats for women to meet the 30% quota and none received any sanction<sup>41</sup>.

#### Women in House of the People Elections

A total of 67 women won seats. Nearly all women MPs were elected through reserved seats (61) with 6 women defeating male and/or female opponents in open contests. All states except representation for Somaliland and Benadir failed to reserve an adequate number of seats to meet their share of the women's quota.

The share of women seats increased from 14% in the 2012 parliament to 24% in the House of the People and 80 seats total (24.3%) in the combined houses. Though short of the 30% goal, this is a progressive and important achievement.

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<sup>41</sup> See Annex for tables of women elected to upper house and House of the People.

## Women in Presidential Election

No women formally registered as candidates for the presidential election. One aspirational candidate, Fadumo Dayib, announced on 9 December she would not continue her bid, in an election “marred by corruption, rigging, intimidation, violence and blatant disregard for the rule of law.”

### Assessment and recommendations for 2020

- The achievement of 24% women representation in parliament is a major success to which many contributed: the lobbying efforts of civil society organisations and women associations, the affirmative action measures in place by Somali actors, and the pressure of international partners that demanded compliance with the rules.
- **To sustain this momentum towards the goal of increasing women’s political participation and elected representation, various measures could be considered. This could include electoral quotas, capacity building support to women’s caucus in parliament and leadership roles in committees and cabinet, candidate training tailored to reflect specific challenges facing women, etc.**
- **In the long term, consideration should also be given to introduce measures to promote women in non-elective positions; for example, in public institutions and other bodies based on appointment.**

## 15. PARTICIPATION OF CIVIL SOCIETY

Civil society actors pressed for greater transparency and credibility but given the limited and indirect nature of the process their impact was fairly limited. FIEIT accredited 80 domestic observers from civil society organizations and 36 international observers. Contrary to international best practice, FIEIT chose to pre-emptively restrict the number of domestic observers to three per polling station as any more would “cause overcrowding”<sup>42</sup>.

Civil society organisations that deployed election observers, included the Puntland Non-State Actor’s Association (PUNSAA) and Somalia South Central Non-State Actors (SOSCENSA) which deployed LTOs and STOs and accounted for two-thirds of the domestic observers overall. Others included Somali Women Development Centre, Puntland Development Resource Centre (PDRC) and Somalia Women Agenda.

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<sup>42</sup> See: <http://doorashada2016.so/wp-content/uploads/2016/11/Observer-accreditation-report.pdf> In many countries, polling station presiding officer often may determine how many eligible individuals to allow into the polling station based on its specific circumstances (e.g. propose a rotation of observers to accommodate the numbers present, if necessary).

PUNSAA and SOSSENSA reported that observer access to House of the People elections varied by location. States varied in the degree of top-down control exercised by their respective state presidents and domestic observers report that they frequently felt that they were being closely watched and were treated with suspicion.

Domestic observers did not issue any preliminary statements during the process. The joint effort of the PUNSAA and SOSSENSA platforms plan to release a public report at the beginning of March 2017.

Domestic observers gained access to the election of the parliamentary speakers but were excluded from the presidential election venue on the grounds that there was inadequate space to accommodate them. Whereas the original venue had a 1,300-person capacity, the proceedings were switched to a hangar on the grounds of the Mogadishu International Airport with a reduced capacity of 750.

SOSCENSA and PUNSAA also engaged in civic education activities with varying degrees of successful collaboration with FIEIT and SIEITs. It was reported to the EEM that Puntland SIEIT has been responsive and PUNSAA has developed public service announcements posters, stickers and other products with information about the elections. SOSSENSA was less successful in engaging with FIEIT or SIEITs. These variations of experience in both domestic observer accreditation and civic education further illustrate the disconnect between FIEIT and SIEITs, undermining more effective civil society collaboration across the states.

#### Assessment and recommendations for 2020

- Civil society organisations are often well-placed to foster civic engagement more generally and to conduct activities in direct support of the electoral process, especially in an environment where state resources to meet the security, logistical and financial will likely be constrained.
- **The emerging activities of Somali civil society in the 2016 process – particularly as election observers and civic education providers – should be fostered and strengthened for future growth towards 2020.**
- Elected officials and NIEC should consider clearer definitions of the potential roles of civil society organisations in elections (e.g. as civic education or alternative dispute resolution providers, national election observers, etc.) as these may enhance Somalis right to participate in public affairs while building overall support for universal suffrage elections. **The rights and responsibilities for domestic (and international) observers should be clarified in the electoral law and regulations.**

## 16. ELECTION FUNDING

Funds for the electoral process came primarily from three sources: 1. Federal Government of Somalia (FGS), 2. donor funds through the Multi-Partner Trust Fund (MPTF) administered by UNDP, and 3. candidate registration fees.

In July 2016 FIEIT developed an election budget of approximately \$14 million. However, the 2016 FGS national budget had not included a special sub-heading to cover for the cost of running the 2016 elections. Under pressure from donors, in September, the FGS approved a revised national budget where it included an allocation of \$2 million to cover election security, and \$1.5 million for the salary remuneration of the FIEIT, SIEITs and IEDRM. FGS agreed to use candidate registration fees for the operational expenses of the electoral colleges (transport to election sites and accommodation of delegates and elders) and requested that the UN took the management role of the fees. IOM was hired to ensure that funds were appropriately disbursed to vendors in support of the delegates. Based on the number of delegates, their travel arrangements and the days that they were to spend in the electoral sites, the FIEIT in consultation with SIEITs determined a maximum amount per SIEIT. The amounts assigned and the prices for accommodation and transport claimed by SIEITS were verified by IOM staff in the field. Funds were disbursed directly by IOM to vendors only (hotels and transport companies). Donors had committed \$8.2 million to cover for all other budgetary lines of the election budget, including an allowance 35 of \$200 per delegate, channelled through UNDP to each delegate individually after completion of his/her polling duty.

Although donor contribution to the direct costs of elections increased to some \$13 million<sup>43</sup>, approx. 60 % of the estimated cost of elections, at the time of writing the report there is a funding gap of \$1 million, attributable to higher running operational costs mostly due to the extended electoral process, and the failure of the FGS to meet its financial obligations towards elections.

Candidate fees amounted to some \$5.1 million to cover the \$3.3 million cost of the electoral colleges. At the time of writing, electoral security costs were revised to somewhat less than \$1 million but the funds had not been released by the FGS<sup>44</sup>. According to UNDP at 27 April 2017, the FGS had also yet to reimburse the payment of salaries for October and November advanced by UNDP which amounts to approx. \$800,000<sup>45</sup>. In the event that FGS is unable to reimburse UNDP, a portion of the candidate fees collected is to be utilised for this reimbursement.

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<sup>43</sup> EU with \$5.1 million, Germany \$1.1 million, Italy \$550,000, Norway & Sweden (PSG1 un-earmarked), \$1,2 million, UK \$3.1, US \$500,000. All figures approximate. See table in annex for precise figures.

<sup>44</sup> According to UNDP on 14 February 2017, FGS provided \$200,000 for electoral security.

<sup>45</sup> See Annex for table detailing election funding contributions.

## Assessment and recommendations for 2020

- The 2016 process would not have been possible without the support of international partners and the 2020 elections will demand more resources and more advance planning, with the federal government of Somalia likely to continue to rely on external support.
- **Based on NIEC strategic plan and other inputs, FGS, NIEC and international partners to undertake a realistic cost assessment of election funding needs 2017-2020.**
- **The FGS should also demonstrate its commitment to universal suffrage in financial terms, at a level of funding to be determined. For example, a separate line item in the federal annual budget and clear lines of reporting to the legislative and executive branch of government could reaffirm the government's commitment to the central role of NIEC in the 2020 elections.**
- **To avoid duplication and take advantage of lessons learned in 2016, international donors should coordinate their financial efforts through timely consultation with one another, FGS, NIEC and other electoral stakeholders such as judicial and security sectors and civil society organisations.**
- **Reproduce a reasonable candidate fee system as employed in 2016 as a means to secure funding for the elections in 2020.**
- **In light of ongoing discussion about federalism in Somalia, the international community to carefully consider any request for support of sub-national elections, and the impact that this support may have on the overall institution building of Somalia and the relation between the central government and regional states.**

## 17. RECOMMENDATIONS

### Assumptions and Risks

The general assumption of the recommendations is that progress will be made in institution building and that the security situation does not deteriorate. It is also acknowledged that significant funding will be necessary to realise the full complement of actions to prepare Somalia for universal elections in 2020. It is very likely that some areas of the country will remain out of the control of the government in 2020, making it impossible for the elections to be conducted in those locations. Depending on the extent and intensity of insecurity as well as many other concerns, contingencies and alternative approaches should be anticipated.

Some of the recommendations will require immediate attention and/or launch, certainly in the first six months of the new government, if adequate preparations are to be made for 2020. Some actions already have specific timelines - the political party law requires all MPs to join a political party within 18 months of being sworn in to office. Others are clearly more aspirational for instance – a complete voter register is impossible unless there is peace throughout Somalia and the federal government of Somalia reaches political agreement on Somaliland's status.

## Legal Framework

1. Should the NLF or another new forum be established by federal and state executives, the basis for their interaction and any operational outcomes should be established in a legal framework.
2. A parliamentary committee should continue to review the Provisional Constitution and propose appropriate amendments to define, amongst other measures:
  - a. the relation between the central government and the regional states (and to determine the status of Benadir region), and;
  - b. the competencies of the President, the executive, the legislative and judicial branches of government;
  - c. roles and responsibilities of the two houses of Parliament.
3. The establishment of an overall legal framework for elections in 2020 should be an essential undertaking for the new Parliament which needs to safeguard the rule of law.

## Electoral System

4. The choice of an electoral system reflected in a new election law for Somalia should address considerations of geography, the diverse political interests of Somalia's Member States, gender and other national attributes while ensuring that fundamental individual human rights and freedoms are guaranteed.
5. The delimitation of constituencies and their boundaries should take into consideration the fact that special arrangements would need to be developed for areas that are likely to be out of government control in 2020.
6. Consideration may be given to the introduction of direct election of the President, which may provide a single, unifying office for all Somalis.

## Election Administration

7. For 2020, a fully functional election administration should implement the national legal framework for elections based on the constitution and consistent with international principles. To strengthen the independence of the NIEC, it must be afforded the legal protections and capacities as defined in the Provisional Constitution and should enjoy all

- necessary political support to implement the next elections.
8. To strengthen accountability and transparency in the conduct of elections, NIEC should be provided with the financial and technical capacity to fulfil its mandate as established in the Provisional Constitution and in the 2015 law establishing the NIEC. FGS could reaffirm the central role of the NIEC in the 2020 elections and demonstrate their commitment to NIEC by assuring there is a line item in the federal annual budget and clear lines of reporting to legislative and executive branch of government.
  9. Based on a strategic plan, NIEC to develop an operational plan to prepare for the 2020 elections. These include, *inter alia*, organizing, conducting and monitoring elections of districts, regional, national level and public referendum; and all elements such as voter registration, party and candidate registration, complaints and appeals. Whereas all elements of the electoral process require attention, NIEC should give special emphasis to election results management, including the recording and verification, communication, tabulation and announcement of results.
  10. A permanent and fully functional NIEC may integrate training programmes more systematically into all aspects of election management and all stages of the electoral process.
  11. It will be important to ensure that the 2016 process is well documented and that this knowledge is transferred to NIEC. FIEIT and IEDRM should hand over all documents – from forms to procedures to cases and meeting notes and decisions- they have produced to NIEC. A conference on lessons learnt with all institutions and stakeholders that have participated in 2016 should be organized to facilitate this transfer.

## **Voter Registration**

12. To enable universal suffrage, Somalia will need to conduct a voter registration exercise. If the voter register is to be based on a civil registry (which does not yet exist), then it should contain geographical information of citizens to be assigned to a particular electoral unit/constituency.
13. The establishment of a permanent voter registry which is regularly updated and where individuals would be able to request corrections and appeals is the ideal, but given the

challenges of Somalia's current circumstances, it is unlikely that a comprehensive voter registration exercise can be conducted before 2020. Alternatives such as election day registration (with additional protections to guard against multiple voting and other irregularities) could be considered in areas where advance voter registration is not possible.

14. The implementing authority (NIEC) for voter registration should be empowered and enabled with this task and adequate technical, financial and security concerns should be addressed in advance to achieve as complete and correct a register as possible.

### **Candidate Registration**

15. The overall candidate eligibility requirements should be reviewed in line with applicable international standards.
16. The constitutional provisions for direct election of members of the Upper House should be respected in 2020.
17. In the 2020 elections NIEC should have the authority to reject any candidates who do not meet the legally established criteria (deadlines, gender quota, absence of links to terrorist organisation, etc.)

### **Campaign**

18. Appropriate legal, regulatory and sanctioning provisions on political behaviour (as are often contained in the electoral law and Code of Conduct) should be adopted for the 2020 election campaign.
19. The implementation of the political party law by NIEC should be an immediate priority with the initiation of temporary party registration regulations (according to the political party law, full registration requires signatures from registered voters).
20. To strengthen accountability and limit impunity of candidates, parties and their supporters, an adequate mechanism for timely and effective oversight over campaign rules with the authority to sanction for violations should be established. This authority may be vested with NIEC in its capacity as the registrar of political parties and as the election management body.
21. Legislation and regulations on political and campaign finance (domestic and foreign) as well as the use of state resources, should be introduced to better enable Somalis



to exercise their fundamental political rights and freedoms on more equitable terms. A monitoring and reporting capability should also be established, again, potentially within NIEC.

## **Complaints and Appeals**

22. Future elections should be conducted with an electoral dispute mechanism established well before the elections in a clear legal framework for all aspects of the elections and operate with transparency. If the judicial system remains inadequately developed, several valid EDR models may be considered, including complaint and review procedures managed by NIEC, a reformed version of the IEDRM or the establishment of special electoral courts, among others – with an appeal mechanism before the constitutional or supreme court.
23. The presence of IEDRM in polling sites appeared to be an important factor for the mechanism to be effective. To strengthen the right to appeal and for the state to take measures, the electoral dispute resolution mechanism should conduct public outreach activities and information campaigns to enhance its visibility with political parties, candidates and the electorate.

## **Media**

24. The law on media should be reviewed to bring it in line with the Provisional Constitution and international standards, with particular emphasis on review of the existing censorship provisions and protection of the media.
25. Media regulations should be developed to enhance freedom of speech and freedom of information. Measures could include provision for equitable and non-discriminatory media access for diverse political opinions, definition of rules for equitable coverage of different political parties and candidates, equal advertising prices and so on.
26. An independent media monitoring authority should be established to enforce these regulations with the ability to sanction violations.
27. Investment in capacity building of the media and journalists in political reporting and investigative journalism will protect the media in a practical way by

making them a more effective (non-partisan) participant in the political process.

28. To create a public broadcast service with national wide coverage and enhance publicly available information, news and varied viewpoints.

### **Participation of Women**

29. To sustain this momentum towards the goal of increasing women's political participation and elected representation, various measures could be considered. This could include electoral quotas, capacity building support to women's caucus in parliament and leadership roles in committees and cabinet, candidate training tailored to reflect specific challenges facing women, etc.
30. In the long term, consideration should also be given to introduce measures to promote women in non-elective positions; for example, in public institutions and other bodies based on appointment.

### **Participation of Civil Society**

31. The rights and responsibilities for domestic (and international) observers should be clarified in the electoral law and regulations
32. To enhance the capacity for public messaging for civil society organisations to contribute to civic and voter education, democratic practices and culture.

### **Election Funding**

33. Based on NIEC strategic plan and other inputs, FGS, NIEC and international partners to undertake a realistic cost assessment of election funding needs 2017-2020.
34. The FGS should also demonstrate its commitment to universal suffrage in financial terms, at a level of funding to be determined. For example, a dedicated and adequately funded line item for NIEC in the federal annual budget and clear lines of reporting to the legislative and executive branch of government could reaffirm the government's commitment to the central role of NIEC in the 2020 elections.
35. To avoid duplication and take advantage of lessons learned in 2016, international donors should coordinate their financial efforts through timely consultation with one another, FGS, NIEC and other electoral stakeholders such

as judicial and security sectors and civil society organisations.

36. Reproduce a reasonable candidate fee system as employed in 2016 as a means to secure funding for the elections in 2020.
37. In light of ongoing discussion about federalism in Somalia, the international community to carefully consider any request for support of sub-national elections, and the impact that this support may have on the overall institution building of Somalia and the relation between the central government and regional states.

### **Election Security**

38. In the absence of a fully functioning police force, it is recommended that a mechanism such as the ESTF be retained for 2020 to enable the efficient allocation of constrained security assets.
39. AMISOM's planned withdrawal in 2018 however poses a major challenge to Somalia's national security forces and it is difficult to assess the impact of the withdrawal. However, overall security sector reform should remain a priority for Somalia. Security forces could receive additional training on human rights and the provision of security to civilians in the context of elections.

## 18. ANNEXES

**Table 1: Distribution of Upper and House of the People Seats by State**

State	HoP Seats	Upper House Seats
Puntland	37	11
Galmudug	36	8
Hirshabelle	38	8
Benadir	6	0
Southwest	69	8
Jubbaland	43	8
Somaliland	46	11
<b>Total</b>	<b>275</b>	<b>54</b>

**Table 2: Registered Candidates for House of the People**

State	Seats	Total Candidates	Male	Female
Puntland	37	111	90 (81%)	21 (19%)
Galmudug	36	119	76 (64%)	43 (36%)
Hirshabelle	38	100	76 (76%)	24 (24%)
Benadir	6	13	8 (62%)	5 (38%)
Southwest	69	174	124 (71%)	50 (29%)
Jubbaland	43	110	80 (73%)	30 (27%)
Somaliland	46	80	47 (59%)	33 (41%)
<b>Total</b>	<b>275</b>	<b>707</b>	<b>501 (71%)</b>	<b>206 (29%)</b>

**Table 3: Women Elected to House of the People**

State	Number of Seats	Number of women candidates	Number of women elected – seats reserved unless “open”	%
Jubbaland	43	30 (27%)	10 (1 open)	23%
Southwest	69	50 (29%)	14 (2 open)	20%
Galmudug	36	43 (36%)	9	25%
Puntland	37	21 (19%)	7	19%
Benadir	6	5 (38%)	2	33%
Somaliland	46	33 (41%)	15	45%
Hirshabelle	37	24 (24%)	10 (2 open)	27%
<b>Total</b>	<b>275</b>	<b>206 (29%)</b>	<b>67 (5 open)</b>	<b>24.3%</b>

**Table 4: Women Elected to Upper House**

State	Number of seats	Number of candidates nominated by state president	Number of women candidates	Number of women only seats	Maximum allocation of women's seats	Number of women elected	%
Galmudug	8	19	5	1	3	2	25%
Jubbaland	8	20	4	1	3	1	13%
Southwest	8	16	5	2	3	2	25%
Puntland	11	29	10	2	4	3	27%
Hirshabelle	8	18	5	2	3	2	25%
Somaliland	11	n/a*	n/a**	3	4	3	27%
<b>Total</b>	<b>54</b>	<b>102 +*</b>	<b>29+**</b>	<b>11</b>	<b>20</b>	<b>13</b>	<b>24%</b>

**Table 5: International Partner Contributions to Electoral Process (USD)**

Partner	Contribution to Electoral Process
EU	\$5,126,143
Germany	\$1,091,466
Italy	\$546,994
Norway and Sweden (PSG1 earmarked)	\$1,175,000
UK*	\$3,506,242
US	\$495,000
Subtotal	\$11,940,845
Norway and Sweden (PSG1 unearmarked)	\$1,059,300
<b>Total</b>	<b>\$13,000,145</b>

\*In 2017 UNDP received additional \$662,385 from DFID

**Table 6: Summary Cost of 2016 Electoral Process**

Cost of 2016 electoral process	
<b>Donor funded through UNDP</b>	<b>11.35 million USD</b>
Support to FIEIT, SIEITs, IEDRM	8.2 million USD
Delegates allowance	
UNDP Technical Assistance (staffing cost, election consultants, DPC: comms, Ops, M&E, security, oversight)	2.09 million USD* (* Exclusive 600k DPC absorption by UNDP)
<b>Donor funded through IOM</b>	<b>1.059 million USD</b>
IOM operational costs to manage candidate fees for delegates support	1.059 million USD
<b>Candidate fees</b>	<b>5.1 million USD</b>
IOM disbursed support to delegates	3.33 million USD
<i>Under discussion</i>	1.7 million USD
<b>FGS</b>	<b>1.5 million USD</b>
Salaries FIEIT, SIEITs, IEDRM	1.5 million USD (800k still to be reimbursed)

Other less quantifiable costs: UNSOM/UNSOS, AMISOM, electoral security, CSOs

**Table 7: List of Registered Presidential Candidates**

- |                                   |  |
|-----------------------------------|--|
| 1. Shariif Sheikh Ahmed           | 13. Mohamed Abdullahi Farmaajo           |
| 2. Mohamud Mohamed Ulusow         | 14. Jabril Ibrahim Abdulle               |
| 3. Omar Abdirashid Sharmarke      | 15. Abdirahman Mohamed Mohamud (Farole)  |
| 4. Abdulqaadir Osoble Ali         | 16. Hasan Sheikh Mohamud                 |
| 5. Mohamed Ali Nuur Ameeriko      | 17. Mohamed Abdirizak                    |
| 6. Mohamud Ahmed Nuur (Tarsan)    | 18. Abdullahi Ali Ahmed (Addow Ali Gees) |
| 7. Bashiir Raage Shiiraar         | 19. Abdullahi Ilmooge Hersi              |
| 8. Abdinasir Abdille Mohamed      | 20. Haji Mohamed Yassin Ismail           |
| 9. Saiid Iise Mohamud             | 21. Ahmed Mohamed Abdi                   |
| 10. Ali Haaji Warsame             | 22. Zakariye Mohamed Haaji Abdi          |
| 11. Abdirahman Abdishakur Warsame | 23. Abdullahi Ali Hasan                  |
| 12. Saiid Abullahi Deni           | 24. Mohamed Ahmed Jabarti                |

**Table 8: Recommendations**

	Context	Action / Recommendation	Purpose	Applicable international instrument/ Key principle
<b>Legal Framework</b>				
1	The NLF is not provided for by law yet it determined the electoral modalities for the 2016 process.	<b>Parliament – New federal relations legislation:</b> Should the NLF or another new forum as provided for in the Provisional Constitution be established for federal and state executives, the basis for their interaction and any operational outcomes should be established in a legal framework.	A national forum for federal and state executives could be an effective consultative body but should not continue in its current form as an ad hoc policy-making body and in direct competition with constitutional provisions for the established branches of government.	Legal certainty
2a)	The Provisional Constitution was adopted in 2012 as a temporary framework for a transitional period. Since then federal member states at different level of institutional development have been established including the most recent state of Hirshabelle.	<b>Parliament - Constitutional reform:</b> Finalise the review of the Provisional Constitution including amendments to define the competencies of each level of government and the relation between the central government and the federal member states (and to determine the status of Benadir region).	Definition of the federal model for Somalia. Establishment of the fundamental units and levels of government is essential for finalising the system of political representation and electoral law.	Legal certainty
2b)	The Provisional Constitution does not provide clear delineation of the role of the President and that of the Prime Minister.	<b>Parliament - Constitutional reform:</b> Finalise the review of the Provisional Constitution including amendments to define the competencies of the President, the executive, the legislative (including the prime minister) and judicial branches of government.	Strengthen role definition and accountability in the executive and legislative branches of government.	Legal certainty

2c)	<p>In 2016 the Upper House of Parliament was established for the first time but lacks clearly defined role.</p>	<p><b>Parliament - Constitutional reform:</b> To delineate the roles and responsibilities of the two houses of parliament.</p>	<p>Strengthen the legislative process through the establishment of clear definition of competencies, elaborate system of checks and balances in legislative process and achieve goals of regional representation at federal level.</p>	<p>Legal certainty</p>
3	<p>Absence of election legislation. Elections were conducted under a negotiated process where rules were being developed and changed as the process unfolded.</p> <p>The goal is to enact an election law that defines the electoral system, the conditions to participate in the process as voters, parties and candidates, key electoral timelines, basic rules for polling, counting, electoral dispute resolution, and the certification of results.</p> <p>The constitutional discussion and agreement on the electoral system applicable may delay the adoption of an election law.</p>	<p><b>Parliament- New electoral legislation:</b> The establishment of an overall legal framework for elections in 2020 should be an essential undertaking for the new Federal Parliament which needs to safeguard the rule of law.</p>	<p>Introduce legal certainty and give effect to the fundamental right to vote through the adoption of an election law as a contribution to the establishment of a human rights regime evident in the legal framework.</p> <p>Election rules should be known well in advance of polling to avoid <i>ad hoc</i>, last minute or partisan changes.</p>	<p>Legal certainty, equal opportunities. UDHR, article 7, ICCPR, article 2.2 and Article 25 ICCPR, General Comment No. 25. Venice Commission Code of Good Practice in Electoral Matters Section II.2.b provides that “the fundamental elements of electoral law [...] should not be open to amendment less than one year before an election”.</p>
<p><b>Electoral System</b></p>				



<p>4</p>	<p>The electoral modalities for the parliamentary elections of 2016 were <i>ad hoc</i> and temporary and based in a mixed clan and constituency representation.</p> <p>To manage shift from clan to individual choice the definition of electoral units is a major challenge.</p> <p>Somaliland current political representatives in the Federal Republic of Somalia differ from those who claim independence for the geographic Somaliland.</p> <p>Benadir status to be determined as well as the overall relationship between states and the federal government.</p>	<p><b>Parliament- New electoral legislation:</b> The choice of an electoral system reflected in a new election law for Somalia should address considerations of geography, the diverse political interests of Somalia’s Member States, gender and other national attributes while ensuring that fundamental individual human rights and freedoms are guaranteed.</p>	<p>Ensure that the right to vote is established in law and promulgated in a manner consistent with other human and political rights.</p>	<p>Universal suffrage. Equality of the vote. UDHR art 21.</p>
<p>5</p>	<p>The current system of representation rests on a mix of clan identity and federal states but lacks formal relationship between geographic location, electoral constituency and political representation required for a system based on one person one vote. Also, there is a risk that 2020 elections cannot be conducted in some areas for security considerations.</p>	<p><b>Parliament- New boundary delimitation legislation:</b> The delimitation of constituencies and their boundaries should take into consideration the fact that special arrangements would need to be developed for areas that are likely to be out of government control in 2020.</p>	<p>Balanced representation of all geographical regions.</p>	<p>Universal suffrage. Equality of the vote. UDHR art 21.</p>
<p>6</p>	<p>The current system provides</p>	<p><b>Parliament- Constitutional reform:</b></p>	<p>All electoral systems have their strengths and</p>	<p>Universal suffrage. Equality of the</p>

	for the indirect election of the Federal President by the joint houses of parliament.	Consideration may be given to the introduction of direct election of the president.	weaknesses. Direct election of the Federal President is worth considering as it may provide a single, unifying office for all Somalis.	vote. UDHR art 21.
<b>Election Administration</b>				
7	2016 elections were administered by temporary ad hoc bodies appointed by the executives of the regional states and federal government- which compromised their impartiality.	<b>FGS, NIEC - Application of new electoral law:</b> For 2020, a fully functional election administration should implement the national legal framework for elections based on the constitution and consistent with international principles. To strengthen the independence of the NIEC, it must be afforded the legal protections and capacities as defined in the constitution and should enjoy all necessary political support to implement the next elections.	To give full effect to newly adopted electoral law through the constitutionally-guaranteed independence and impartiality of the election administration based on established legal framework and articulated through clearly defined rules and procedures.	Independence of the election management body. Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20, ICCPR General Comment no. 25, paragraph 24 and Nolan principles for public appointments.
8	NIEC, the permanent election management body constitutionally tasked to administer elections is formally established. However, it lacks institutional capacity, financial and technical ability to meet its constitutional obligations.  NIEC has insecure and uncertain funding from FGS and its current 30 staff members have not received salaries since July 2016.	<b>FGS, NIEC- Application of new electoral law:</b> To strengthen accountability and transparency in the conduct of elections, NIEC should be provided with the financial and technical capacity to fulfil its mandate as established in the Provisional Constitution and in the 2015 law establishing the NIEC. FGS could reaffirm the central role of the NIEC in the 2020 elections and demonstrate their commitment to NIEC by assuring there is a line item in the federal annual budget and clear lines of reporting to legislative and executive branch of government.	To enhance transparency and accountability while enabling NIEC to meet its constitutional obligations for party registration and conduct of elections.	Independence of the election management body. Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20 and 24.

9	<p>Sound advance planning coupled with institutional development in all aspects of election management will be necessary for NIEC to meet its obligations.</p> <p>All elements of the electoral process require attention, especially election results management, including the recording and verification, communication, tabulation and announcement of results.</p>	<p><b>NIEC - Application of new electoral law:</b> Based on a strategic plan, NIEC to develop an operational plan to prepare for the 2020 elections. These include, <i>inter alia</i>, organizing, conducting and monitoring elections of districts, regional, national level and public referendum; and all elements such as voter registration, party and candidate registration, complaints and appeals.</p>	To establish sound operational basis for NIEC activity and to allow for contingency planning.	Independence of the election management body. Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20 and 24.
10	NIEC lacks experience in the conduct of elections and will require new core staff and have to hire the entire corps of polling officials for the 2020 elections.	<p><b>NIEC - Application of new electoral law:</b> A permanent and fully functional NIEC may integrate training programs more systematically into all aspects of election management and all stages of the electoral process.</p>	To build NIEC human resource capacity and skills development.	Independence of the election management body. Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20 and 24.
11	NIEC did not conduct the 2016 process but important lessons learned by the experience of FIEIT, SIEITs, IEDRM and other electoral stakeholders should be retained.	<p><b>FIEIT, IEDRM, NIEC -Application of new electoral law:</b> FIEIT and IEDRM should hand over all documents – from forms to procedures to cases and meeting notes and decisions- they have produced to NIEC. A conference on lessons learnt with all institutions and stakeholders that have participated in 2016 should be organized to facilitate this transfer.</p>	To ensure that the 2016 process is well documented and that this knowledge is transferred to NIEC.	Independence of the election management body. Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20 and 24.
<b>Voter Registration</b>				
12	There is no voter register and no civil registry to use as a basis of voter registration allowing one-person, one-	<p><b>Parliament, FGS, NIEC - New voter registration/electoral legislation:</b> To adopt legislation that defines a system of voter registration with</p>	To enable universal suffrage, Somalia will need to develop a voter registry.	Universal suffrage. UDHR art 21. ICCPR General Comment no. 25, paragraph 11

	<p>vote in 2020.</p> <p>Security and cost consideration may prevent having a 'complete' voter register in 2020.</p> <p>If the voter register is to be based on a civil registry (which does not yet exist), then it should contain geographical information of citizens to be assigned to a particular electoral unit/constituency.</p>	<p>citizen information assigned to a particular electoral unit or constituency.</p>		
13	<p>The establishment of a permanent voter registry which is regularly updated and where individuals would be able to request corrections and appeals is the ideal, but given the challenges of Somalia's current circumstances, it is unlikely that a comprehensive voter registration exercise can be conducted before 2020.</p>	<p><b>FGS, NIEC - Application of new voter registration/electoral law:</b>          Alternatives to a regular voter register such as election day registration (with additional protections to guard against multiple voting and other irregularities) could be considered in areas where advance voter registration is not possible.</p>	<p>To consider contingencies in the event that it is not possible to produce a comprehensive, complete and accurate voter register, but still enable a credible democratic election to be conducted.</p>	<p>Universal suffrage.          UDHR art 21.          ICCPR General Comment no. 25, paragraph 11</p>
14	<p>The NIEC lacks experience and existing capacity to conduct voter registration.</p>	<p><b>FGS, NIEC - Application of new voter registration/electoral law:</b>          The implementing authority (NIEC) for voter registration should be empowered and enabled with the task of managing a voter register and adequate technical, financial and security concerns should be addressed in advance to achieve as complete and correct a register as possible.</p>	<p>To provide NIEC with the technical and financial capacity to mount a national voter registration exercise in an insecure and extremely challenging environment.</p>	<p>Universal suffrage.          UDHR art 21.          ICCPR General Comment no. 25, paragraph 11</p>

Candidate Registration				
15	Eligibility criteria are defined in the Provisional Constitution. However, the conditions are not fully in line with international standards.	<b>Parliament – Constitutional reform, review new electoral legislation:</b> To review eligibility criteria in line with applicable international standards to be reflected in the revision of the Provisional Constitution.	To ensure equal and fair ability of all eligible aspirants to participate in public affairs and for voters to choose freely their elected representatives.	Equality of opportunities. ICERD article 5 ICCPR General Comment no. 25, paragraph; OSCE Copenhagen Document para 7; Code of Good Practice in Electoral Matters (para.1.1.c) of the Venice Commission – CoE. ICCPR articles 2 and 3.
16	The NLF determined the electoral modalities for the 2016 process and state executives selected candidates for the Upper House.	<b>FGS, NIEC- Application of Provisional Constitution:</b> The constitutional provisions for direct election of members of the Upper House should be respected in 2020.	To bring parliamentary election of both houses in line with the Provisional Constitution and the rule of law.	Universal suffrage. Equality of the vote. UDHR art 21.
17	The NIEC played no role in the 2016 process but is constitutionally mandated to manage candidate registration.  NIEC could have the authority to review candidate registration fees for these to be more affordable and to retain affirmative measures by allowing reduced fees for women.	<b>NIEC - Application of Provisional Constitution and new electoral law:</b> The 2020 elections should respect the NIEC authority to reject any candidates who do not meet the legally established criteria (e.g. deadlines, gender quota, absence of links to terrorist organisation, etc.)	NIEC responsibilities respected.	Independence of the election management body. Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20 and 24.
Campaign				
18	There are no campaign rules. During the 2016 process there were reports on the use	<b>Parliament, FGS, NIEC – Application of new electoral law:</b> Appropriate legal, regulatory and	In the absence of campaign rules, it is impossible for NIEC to conduct effectively the pre-election stages of candidate registration	Equality of opportunities and level playing field. ICCPR, article 1.1 and 25; United Nations Human Rights

	of state resources by incumbents and widespread circulation of money. Many instances of corruption, fraud and manipulation were reported but not addressed.	sanctioning provisions on political behaviour should be adopted for the 2020 election campaign.	and other polling preparations nor to address corruption or other attempts to influence voter choice.  The start and end of the campaign period should also be regulated.	Committee, General Comment No. 25, paragraph 19; UN Convention against Corruption.
19	Political parties are to become the basis for electoral competition in the 2020 elections.  A political party law was enacted in 2016, providing for registration of national political parties by NIEC requires newly elected MPs to join a party within 18 months from being sworn into office.	<b>Parliament, NIEC – Review and application of existing political party law:</b> To implement the political party law and to remove inconsistencies and address shortcomings.  Careful consideration of the conditions to establish a party should be given (e.g. minimum geographic representation, consider restrictions on clan or faith based membership)	To gain political representation through parties and leave the clan quota system.  MPs to meet their constitutional obligation re. party membership.	Right of association and assembly and the right of any individual to form a political party. UDHR articles 20 and 23; and ICCPR General Comment no. 25, paragraphs 8 and 26.
20	Although a Code of Conduct for candidates was adopted there were many incidents of intimidation, misinformation and violence without any effective oversight or sanction by FIEIT or IEDRM.	<b>Parliament - New electoral legislation:</b> Establish an adequate mechanism for timely and effective oversight of campaign rules with the authority to sanction for violations should be established. This authority may be vested with NIEC in its capacity as the registrar of political parties and as the election management body.	To strengthen accountability and limit impunity of candidates, parties and their supporters.	Equality of opportunities and level playing field. ICCPR, article 1.1 and 25; United Nations Human Rights Committee, General Comment No. 25, paragraph 19; UN Convention against Corruption.
21	There were widespread reports of the use of money and state resources during the 2016 process but no regulations for political donations or disclosure and no oversight body.	<b>Parliament - New political finance legislation:</b> Legislation and regulations on political and campaign finance (domestic and foreign) as well as the use of state resources, should be introduced to better enable Somalis to exercise their fundamental political rights and freedoms on more equitable terms. A	To introduce greater accountability and to reduce impunity in the abuse of state resources or use of financial inducements through the establishment of political finance regulations and a monitoring body.	Equality of opportunities and level playing field. ICCPR, article 1.1 and 25; United Nations Human Rights Committee, General Comment No. 25, paragraph 19; UN Convention against Corruption.

		monitoring and reporting capability should also be established, again, potentially within NIEC.		
<b>Complaints and Appeals</b>				
22	<p>In 2016, electoral disputes were resolved by an ad hoc body (IEDRM) created by the NLF whose independence, capacity and effectiveness was questionable.</p> <p>Linked to broader justice reform, effective management of election disputes requires definition of respective roles of courts, EMB, and other regulatory or adjudication bodies.</p>	<p><b>Parliament- New electoral legislation:</b> To establish an electoral dispute mechanism well before the elections in a clear legal framework for all aspects of the elections and to operate with transparency.</p> <p>If the judicial system remains inadequately developed, several valid EDR models may be considered, including complaint and review procedures managed by NIEC, a reformed version of the IEDRM or the establishment of special electoral courts, among others – with an appeal mechanism before the constitutional or supreme court.</p>	Ensure equality before the law, right to appeal, to seek remedy and for state to take measures.	Right to an effective remedy. UDHR article 10, and 21 ICCPR article 2 and 25
23	<p>Despite its limitations, the IEDRM tried to meet the right to appeal and redress and many candidates made use of it. For 2020, with potential expansion of EDR in universal elections, public awareness of any such mechanism needs to be strengthened. Public visibility could also be enhanced through collaboration with civil society organisations.</p>	<p><b>FGS, NIEC- New electoral dispute resolution initiative:</b> Strengthen the public visibility and awareness of the election dispute resolution mechanism through outreach activities and information campaigns targeting candidates, political parties and the electorate.</p>	Ensure equality before the law, right to appeal, to seek remedy and for state to take measures.	Right to an effective remedy. UDHR article 10, and 21 ICCPR article 2 and 25
<b>Media</b>				
24	The law on media was	<b>Parliament- Media law review:</b>	To protect and promote freedom of	Freedom of expression.

	adopted in 2016 and contains serious gaps and provisions counter to international standards.	To review the law on media to bring it in line with the Provisional constitution and international standards with particular emphasis on review of the existing censorship provisions.	information and freedom of expression.	UDHR art 19, ICCPR article 19, General Comment No. 34, paragraph 39. UNESCO, media development indicators.
25	In 2016 process, media played a limited role, given the nature of indirect and limited elections.	<b>Parliament- New media legislation:</b> Media legislation and regulations should be developed to enhance freedom of speech and freedom of information. Measures could include provision for equitable and non-discriminatory media access for diverse political opinions, definition of rules for equitable coverage of different political parties and candidates, equal advertising prices and so on.	Enhance the right of the individual to cast an informed vote through the provision of reliable and impartial information and opinions from a variety of viewpoints. Enhance freedom of expression and of information	Freedom of expression UDHR article19, ICCPR article 19, General Comment No. 34, paragraph 39. UNESCO, media development indicators.
26	Media workers and journalists continue to face physical risk, intimidation, arrest, detention and censorship on a widespread basis with few protections.	<b>Parliament- New media legislation:</b> An independent media monitoring authority should be established to enforce these regulations with the ability to sanction violations.	Enhance the right of the individual to cast an informed vote through the provision of reliable and impartial information and opinions from a variety of viewpoints. Enhance freedom of expression and of information.	Freedom of expression. UDHR article19, ICCPR article 19, General Comment No. 34, paragraph 39. UNESCO, media development indicators.
27	Media organisations and workers may be seen as key electoral stakeholders and with strengthened capacity may be better able to contribute to the visibility of candidates and campaigns, enhance transparency and accountability of elections.	<b>Parliament - New media initiative:</b> To increase the capacity of the media, journalists should be trained in political reporting and investigative journalism.	Enhance freedom of expression and of information and to strengthen transparency in conduct of elections.  Capacity building of the media and will protect the media in a practical way by making them a more effective (non-partisan) participant in the political process.	Freedom of expression UDHR article19, ICCPR article 19, General Comment No. 34, paragraph 39. UNESCO, media development indicators
28	There is no public broadcast service. Radio is the main source of information, but	<b>Parliament - New media legislation:</b> To create a public broadcast service with national wide coverage and	Meet the prevailing public interest and right to know and build support for ongoing political, democratic and government reforms among	Freedom of expression UDHR article 19 ICCPR article 19



	<p>there is no station with national coverage.</p> <p>Significant institutional, infrastructural and financial investment required to implement full array of services.</p>	<p>enhance publicly available information, news and varied viewpoints.</p> <p>Regulatory provisions for political plurality, non-partisanship and enhance the right to information, regulated by an independent authority, should be considered.</p>	<p>the public. Increase transparency, capacity building.</p>	<p>ICCPR article 19, General Comment No. 34, paragraph 18</p>
<b>Participation of Women</b>				
29	<p>In 2016, a 30% quota system of reserved seats delivered a parliament with 25% women MPs. The political participation of women in politics remains, however, low.</p>	<p><b>Parliament – New electoral legislation:</b> To retain affirmative action in the framework for 2020. The increase of female representation must be reflected when designing the new electoral system. This could include electoral quotas, capacity building support to women’s caucus in parliament and leadership roles in committees and cabinet, candidate training tailored to reflect specific challenges facing women.</p>	<p>Enhance the participation of women in public life as voters, members of political parties, candidates and elected representatives, cabinet ministers and leaders of other government bodies.</p>	<p>State to take measures to eliminate discrimination against women. CEDAW article 4.1, General Comment no. 23 of the CEDAW Committee, Beijing Declaration, 1995</p>
30	<p>The overall presence of women in public and political institutions in Somali remains low.</p>	<p><b>Parliament, FGS - Application of new electoral law and new initiatives:</b> In the long term, introduce measures to promote women's overall participation in political processes, including non-elective positions; such as in public institutions and bodies based on appointment.</p>	<p>Enhance the participation of women in public affairs, non-discrimination on the basis of gender.</p>	<p>State to take measures to eliminate discrimination against women. CEDAW article 4.1, General Comment no. 23 of the CEDAW Committee, Beijing Declaration, 1995</p>
<b>Civil Society</b>				

31	Despite the considerable threats of insecurity, intimidation and censorship, Somali civil society organisations deployed election observers in 2016. However, observers were not free to observe all stages of the process, and had limitations of territorial coverage.	<b>Parliament, NIEC – New electoral legislation:</b> To include in the legal framework for elections the right of domestic and international observers to observe all stages of the electoral process.	Enhance right to participate in public affairs and transparency of the electoral process, build confidence in democratic practice and institutions. Support civil society observer groups – technical, operational and financial considerations.	Right to take part in government. UDHR art. 21 ICCPR General Comment no. 25, paragraph 20 Best practices- political commitments Code of good practices, 2002, II 3.b (Venice Commission).
32	Civic education and publicly available political information were lacking in the limited elections of 2016.	<b>FGS, NIEC - New electoral initiative:</b> To enhance the capacity for public messaging for civil society organisations to contribute to civic and voter education, democratic practices and culture.	To cultivate democratic practices and understandings and to provide basic voter information, a broad set of public information and civic education programs should be considered. Many actions available with well-established practices of civil society participation in delivery of civic education and other forms of democratic educations. Opportunities to partner with NIEC will build state-civil society relationships, as well as with political parties, media and the public.	Right to take part in government. ICCPR General Comment no. 25, paragraph 11.
<b>Election Funding</b>				
33	The 2016 elections were mostly funded by donors. One-person, one-vote elections will be significantly more expensive than the 2016 limited electoral process; it is not likely that FGS will be able to conduct them without substantive donor support.	<b>FGS, NIEC, International Community - Application of new electoral law:</b> Based on NIEC strategic plan and other inputs, FGS, NIEC and international partners to undertake a realistic cost assessment of election funding needs 2017-2020.	In the absence of advance planning and cost analysis, the significant fund raising needs of NIEC and other government bodies that support the electoral process will likely be unmet, jeopardising the goal of universal elections in 2020.	Universal suffrage. Periodic elections. State to adopt necessary measures to ensure effective enjoyment of rights by their citizens. UDHR art 21 ICCPR comment 25 paragraph 1.
34	FGS did not meet its election funding obligations.	<b>FGS - Application of new electoral law:</b> The FGS to commit a dedicated and	With concrete funding support to the electoral process, FGS may demonstrate its commitment to universal suffrage elections	Universal suffrage. Periodic elections. State to adopt necessary measures

		adequately funded line item to NIEC in the federal annual budget and establish clear lines of reporting to the legislative and executive branch of government.	and the effectiveness and independence of NIEC.	to ensure effective enjoyment of rights by their citizens. UDHR art 21;  ICCPR comment 25 paragraph 1
35	The mandate of regional state authorities will expire before the mandate of the elected representatives in 2016/2017. Sub-national elections are to take place before national elections to be held in 2020. Requests for support from regional states will be filed with donors.	<b>International Community - Donor coordination initiative:</b> To avoid duplication and take advantage of lessons learned in 2016, international donors should coordinate their financial efforts through timely consultation with one another, FGS, NIEC and other electoral stakeholders such as judicial and security sectors and civil society organisations.	Coordinate assistance to the 2020 elections to avoid duplication of effort.	n/a
36	Candidate fees produced a significant portion of domestically generated funds for the conduct of the 2016 process.	<b>FGS, NIEC- Application of new electoral law:</b> Reproduce a reasonable candidate fee system as employed in 2016.	To generate a source of domestic funding for the elections in 2020.	Universal suffrage. Periodic elections. State to adopt necessary measures to ensure effective enjoyment of rights by their citizens. UDHR art 21; ICCPR comment 25 paragraph 1
37	Sub-national elections are to take place before national elections to be held in 2020. Requests for support from regional states will be filed with donors.	<b>International Community - Application of new electoral law:</b> In light of ongoing discussion about federalism in Somalia, the international community to carefully consider any request for support of sub-national elections, and the impact that this support may have on the overall institution building of Somalia and the relation between the central government and regional states.	Coordinate assistance to the 2020 elections to avoid duplication of effort.	n/a
<b>Election Security</b>				

<p>38</p>	<p>General insecurity prevails in Somalia, and though linked to overall security sector reform, electoral security deserves special attention. The 2016 Electoral Security Task Force provides a possible model for future consideration.</p> <p>Changing security environment is highly contingent on diverse factors.</p>	<p><b>FGS, International Community - New security sector reform initiative:</b> In the absence of a fully functioning police force, it is recommended that a mechanism such as the ESTF be retained for 2020.</p>	<p>Individuals have a right to security and the state holds special responsibility to meet this right. The right to participate in public affairs and to elect representatives without fear of intimidation are essential components of the right to vote.</p>	<p>Freedom of movement. Right to security. State to take steps to ensure that rights can be fulfilled. UDHR, art. 13, 21 ICCPR, art 9.</p>
<p>39</p>	<p>Widespread continued insecurity in Somali is likely to persist. AMISOM’s planned withdrawal in 2018 poses a major challenge to Somalia’s national security forces and it is difficult to assess the impact of the withdrawal.</p>	<p><b>FGS, Parliament - New security sector reform legislation:</b> Overall security sector reform should remain a priority for Somalia.</p>	<p>Broader security sector reform could define roles for security services during elections and implement appropriate human rights and policing training for security services.</p>	<p>Freedom of movement. Right to security. State to take steps to ensure that rights can be fulfilled. UDHR, art.13, 21 ICCPR, art. 9</p>