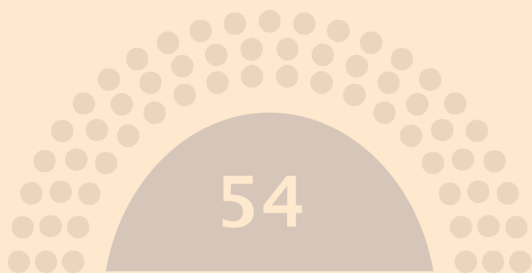
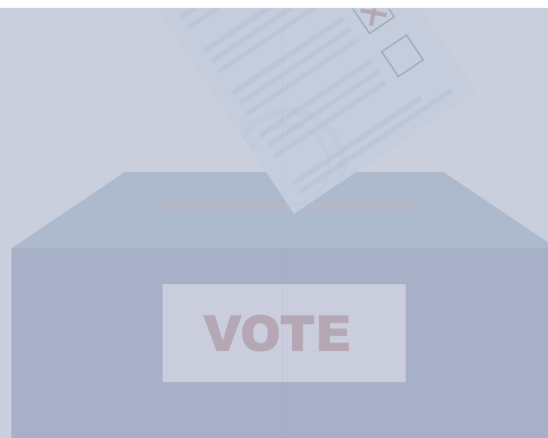
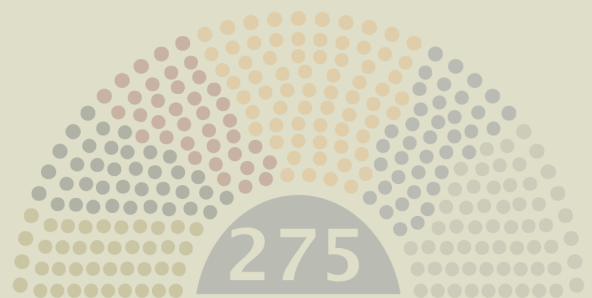


# THE DANGERS OF **RIGGED** INDIRECT ELECTIONS IN SOMALIA



UPPER HOUSE



LOWER HOUSE

## Introduction

Although far from being free and fair, Somalia's indirect elections, in the past two decades, have produced outcomes that were largely acceptable to political stakeholders as well as the majority of the population. This year, the delaying tactics of those leading the process, their arbitrary selection of the senators, and the self-serving agreements they reached might lead to a contested result and political instability in the country. In other words, if the politicians' gerrymandering of the indirect electoral process continues unchecked, Somalia's state-building project might unravel.

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## Brief Background

The genesis of the current problems was the failure of the Federal Government of Somalia (FGS) to organize a one-person, one-vote election (locally, regionally and nationally) during its mandate from 2017-2021.<sup>1</sup> The FGS and Federal Member States (FMS) were therefore forced to negotiate a series of political agreements that culminated in the 17 September 2020 indirect election pact, with Prime Minister Mohamed Hussein Roble charged with leading the implementation process.<sup>2</sup>

The National Consultative Council (NCC) has reached its second indirect election agreement on May 27, 2021 - just months after the legal mandate of the parliament expired on December 2020 and the president's term ended on 8 February 2021. An attempt by President Mohamed Abdullahi Farmaajo and the leadership of the parliament's Lower House to implement a two-year term extension sparked violent clashes in Mogadishu in April and May 2021. Domestic outcry and international pressure forced the president and the Lower House to reverse the extension.

To expedite the process and to protect its already damaged integrity, the NCC began to work to finalize the indirect electoral model. The NCC consists of the five presidents of the FMS (Puntland, Galmudug, Hirshabelle, Southwest and Jubbaland) and Prime Minister Roble who is the chair.

Throughout 2020 and 2021, the leadership of the FGS and Federal Member States have met several times, often in an acrimonious atmosphere. President Farmaajo, two key states (Puntland and Jubbaland) as well as the Senate leadership, the Mogadishu-based opposition groups and presidential candidates were all at loggerheads. After the protracted negotiations, invariably fraught with walkouts and uncompromising stances, the political stakeholders decided to use previous indirect elections experiences as a roadmap and reached an understanding on the key parameters of the indirect electoral arrangements. Subsequently, the prime minister and the leaders of the five member states issued a communiqué on 22 August 2021 detailing the senate and Lower House electoral modalities.

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1. The Heritage Institute for Policy Studies (HIPS) has published two reports on the election. To understand the development of the election debate, please read the following: See Somalia: In Search of Workable 2020 Election Model, available at <https://heritageinstitute.org/somalia-in-search-of-a-workable-2020-electoral-model/>; Also see Expanded Participation Model, available at <https://heritageinstitute.org/expanded-participation-model-alternative-for-somalias-2020-one-person-one-vote-plan>.

2. See Abdi Sheikh, Reuters, Somali president names newcomer Roble premier as elections loom, <https://www.reuters.com/article/us-somalia-politics-idUSKBN2683BD>

## Politicians' Delaying Tactics

The FGS president and the leadership of the federal member states initially agreed to organize an indirect election on 17 September 2020. The election committees have been in place more than one year. Interestingly, the senate selection process has taken the NCC more than four months while the indirect election for the members of the House of the People has just started.

Three reasons are often given for the slow process. First is the power struggle between the president and the prime minister over the control of the security agencies and the case of the missing security officer, Ikran Tahlil. Second, the NCC leaders have not demonstrated political will in implementing the indirect elections. In fact, most of the FMS leaders were delaying the process because they wanted to change two of the articles of the 17-September agreement - that is changing the election locations from two cities to one city and reducing the delegates from 101 to 51 delegates. For many observers, revisiting the 17-September 2020 agreement is not practical at this time – it will create more problems than it solves. Finally, the NCC leaders used the dispensation as a way of securing financial support from the international community.

## Sordid Senate Selection

The provisional constitution provides for a bicameral parliament with 275 members in the Lower House (parliament or the House of the People) and 54 members in the Upper House (the senate). Article 72 of the constitution explicitly states that the “upper house should be elected through direct, secret and free ballot voting by the people of the federal member states, and their number shall be no more than 54 members based on 18 regions that have existed in Somalia before 1991.”<sup>3</sup>

Somalia's government failed to hold direct elections in 2016, so the National Leadership Forum (NLF), at the time, agreed on an electoral model stipulating that the 54 members of the Upper House would be indirectly elected through the state parliaments. The 2016 political agreement distributed senate seats to the FMS by allocating eight seats to each of the four states of Galmudug, Southwest, Hirshabelle and Jubbaland. That agreement also allowed Puntland and Somaliland (Dir Waqooyi) to elect 11 seats each. Since Somaliland seceded in 1991, the NLF agreed that senators representing the Northern Dir clans should be elected by a group of traditional elders and clan delegates in Mogadishu while senators representing Darod sub-clans of Dhulbahante and Warsengeli would be elected in Puntland.<sup>4</sup> The members of the senate were elected in 2016 for the first time.

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3. See the Federal Constitution of Somalia, article 72. Available at [https://www.parliament.gov.so/images/Downloads/Dastuurka\\_ku\\_meelgaarka\\_SOM\\_03092012-1\\_2.pdf](https://www.parliament.gov.so/images/Downloads/Dastuurka_ku_meelgaarka_SOM_03092012-1_2.pdf)

4. See the NLF agreement on senate seats, available here: [https://unsom.unmissions.org/sites/default/files/final\\_communique\\_12\\_april\\_2016.pdf](https://unsom.unmissions.org/sites/default/files/final_communique_12_april_2016.pdf). See most of the 2016 indirect election documents at <http://doorashada2016.so/framework/#>

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Under the 17 September 2020 agreement on a new electoral model,<sup>5</sup> the number and distribution of the Upper House in each member state remained the same as 2016 and the state parliaments would elect senators.<sup>6</sup> As of this writing, senators have already been selected. There has not been any credible competition for most of the senate seats so referring to it as an election may be a misnomer. The FMS leaders have dominated the process and nominated allies, friends and, in some cases, family members. The parliaments of the regions rubber-stamped the individuals that their presidents had arbitrarily pre-selected. Unfortunately, besides a few seats in Hirshabelle and Somaliland, there has not been a competitive senate race.<sup>7</sup>

## Self-Serving Agreements

The 22 August 2021 agreement detailing the senate and Lower House electoral modalities granted unprecedented powers to the NCC members. The agreement stipulated that the 101 delegates from each clan would elect members of parliament (in 2017 there were 51 electors). Voting would take place in two cities in each state rather than one as before. The NCC authorized joint national and regional level electoral management teams, loyalists appointed by the key players, to oversee the implementation of the indirect election. An understanding was reached on contentious issues such as the management of election in Gedo region; who would manage the selection of voters electing MPs representing ‘Somaliland’ (the election would take place in Mogadishu); and who these voters would be. Election security arrangements were made and routine practices used in past elections were agreed on again.<sup>8</sup>

However, the 22 August agreement is also filled with problematic clauses designed to serve the interests of the NCC.

- Only elders recognized by each federal member state can help the selection of the 101-clan voters for each lower house seat;
- A State Election Implementation Team (SEAT), handpicked by the regional presidents, will decide on the civil society members who will assist the elders in choosing the 101 delegates;
- No waterproof mechanism was put in place to ensure women seats are protected and or the thirty percent women quota is secured and upheld;
- Candidates and voters must obtain a background check or local police certificate – this can be weaponized;

5. See the 15 points that the Somali leaders agreed on 17 September, 2020. Available at <https://somaliguards.com/news/somalias-federal-and-regional-leaders-strike/>

6. Ibid.

7. We consider that here is a competitive process when candidates are not denied the right to compete in a given seat.

8. Politicians have also reached two more agreements on 27 May 2021, available at [https://www.hiiraan.com/news/2021/May/wararka\\_maanta27-177704.htm](https://www.hiiraan.com/news/2021/May/wararka_maanta27-177704.htm) and 22 August.2022.

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*There are clear causes for concern. These same leaders have already manipulated the election of the senators. They have also intentionally inserted the above clauses into the 22 August agreement to produce skewed and predetermined outcomes.*

- The role of the federal election implementation team was reduced to trivialities such as issuing certificate for new MPs after they are elected at the regional level; and the dispute resolution committee is not empowered to play a verification role when it comes to the elders that the state presents; and
- The NCC also lowered the voter quorum, agreeing that if only 67 voters of the 101 electors are present, the election could proceed. As regional security apparatus will be in charge of the voting venues, Federal Member States could easily ignore or eliminate through procedures any voter they do not want to be in the voting hall.

One could argue that the above is a worst-case scenario and the NCC leaders cannot hijack the process. We disagree. There are clear causes for concern. These same leaders have already manipulated the election of the senators. They have also intentionally inserted the above clauses into the 22 August agreement to produce skewed and predetermined outcomes. If this is not corrected in time, such a blatant manipulation will compromise the credibility of the whole process.

## Analyses and Implications

One of the key components of Somalia's political settlement in the third republic is to organize an election every four years. There were broad agreements on the rules of the indirect elections in 2000, 2004, 2009, 2012 and 2017. For starters, term extension was not allowed. As the country was in a post-conflict environment, if direct elections could not be organized at the end of the mandate, the stakeholders negotiated and agreed on a different dispensation process. During each cycle, efforts were made to improve the process and every attempt was made to make it acceptable to the broadest section of stakeholders. Each election cycle produced a new president and parliamentary leadership.

Clans played a lead role in the selection of their representatives. In 2000, a single traditional clan leader (chief), after consultation with his constituents, appointed each of the then 225 MPs. During the 2012 dispensation, 135 traditional clan elders selected all 275 MPs. In the 2017 indirect election, 51 clan representatives (selected by the traditional elders) elected each parliamentarian. In this 2021 cycle, 101 clan representatives are tasked with electing each MP. National leaders (members of parliament and a president) were also selected/elected in violence-free elections and broadly agreed-upon institutions, however weak, were created.

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The Heritage Institute realized as early as 2019 that the government could not organize a timely one-person, one-vote election. It presented four options and assessed them against seven standards including: ‘do no harm’, a gradual improvement towards universal suffrage, an increase in the number of voters and consensus decision making among stakeholders.<sup>9</sup>

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*It is unfortunate that the political leaders did not learn much from Somalia’s history which teaches that a rigged election or a short-sighted power grab can only lead to conflict and violence. In its previous reports in 2019 and 2020, the Institute warned against the negative consequences of a term extension*

However, the delayed 2021 dispensation is different. Somalia’s national political landscape has been marred by acrimony and polarization. President Farmaajo and most of the FMS leaders were at odds throughout his term (2017 – 2021) in office. President Farmaajo replaced three regional leaders whom he considered to be an obstacle to his vision for Somalia. Much effort and political and financial capital were spent on their removal and the installations of allied replacements. The pushback from holdout regions (Jubbaland and Puntland) as well as the Mogadishu based opposition – including two former presidents vying for a political comeback – culminated in a political and military standoff, punctuated by periodic outbreaks of violence in Mogadishu.

It is unfortunate that the political leaders did not learn much from Somalia’s history which teaches that a rigged election or a short-sighted power grab can only lead to conflict and violence. In its previous reports in 2019 and 2020, the Institute warned against the negative consequences of a term extension and a gerrymandered election process.<sup>10</sup> Since the government has failed to complete the necessary tasks for a one-person, one vote election, the Institute provided options and called for an improved indirect election that showed progress towards universal suffrage.<sup>11</sup>

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*As explained above, The NCC leaders have nominated most senators and they set the stage for the appointment of the 275 MPs through proxies disguised as elders, civil society figures and clan delegates*

As explained above, The NCC leaders have nominated most senators and they set the stage for the appointment of the 275 MPs through proxies disguised as elders, civil society figures and clan delegates. The 22 August agreement ignores most of the recognized clan elders. Instead, the state electoral implementation team (SEIT), a body handpicked by NCC would select a group of elders and civil society leaders that states recognize. These elders and members of the civil society would in turn select 101 electoral delegates for each parliamentary seat.

Somalia is too fragile for the insatiable appetite of the politicians. Several key actors have already called for the NCC to revisit its approach. The country’s leading civil society organizations as well as respected traditional elders and many political groups have spoken strongly against the 22 August agreement.

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9. Heritage Institute for Policy Studies, 2019, Somalia: In Search of Workable 2020 Electoral Model. Available at: [http://www.heritageinstitute.org/wp-content/uploads/2019/07/HIPS\\_report\\_english\\_version.pdf](http://www.heritageinstitute.org/wp-content/uploads/2019/07/HIPS_report_english_version.pdf)

10. See the previous Heritage Institute reports on election at Heritage Institute for Policy Studies, 2019, Somalia: In Search of Workable 2020 Electoral Model. Available at: [http://www.heritageinstitute.org/wp-content/uploads/2019/07/HIPS\\_report\\_english\\_version.pdf](http://www.heritageinstitute.org/wp-content/uploads/2019/07/HIPS_report_english_version.pdf); Also see Expanded Participation Model, available at <https://heritageinstitute.org/expanded-participation-model-alternative-for-somalias-2020-one-person-one-vote-plan/>

11. Ibid.

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*For some, donors lost interest in the whole project because of the legitimacy problem that comes with the indirect election, and the political elites' lack of credible commitment to election*

In past dispensations, the international community has often pressured and helped Somali leaders in transitioning from one administration to the next. Interestingly, besides issuing periodical statements, the international community appears to have taken a ‘see no evil, hear no evil’ approach on the matter. For reasons that are not clear, the international community has not used its leverage. For some, donors lost interest in the whole project because of the legitimacy problem that comes with the indirect election, and the political elites’ lack of credible commitment to election. The international community, the argument goes, cannot be expected to keep supporting the no-peace, no-war, no-forward and no-backward situation that the political class has created for the last 20 years.

The arbitrary senate nominations, long delays of the process and the self-serving provisions of the 22 August agreement set the stage for the wholesale rigging of lower house election. We think that will damage Somalia’s long-term stability and the state-building project. In other words, the net outcome of a rigged election will only deepen the social and political splits in Somali society.

This likely turn of events will have four implications.

First, following the violence in April 2021, the NCC, under the leadership of the prime minister, was expected to oversee an electoral process that would be acceptable to all stakeholders. Unfortunately, it has become clear that the prime minister does not have any leverage over the FMS leaders. The way the NCC managed the senate dispensation and the election of the House of the People through the 22-August agreement compromises the legitimacy of the results. If this process continues the way it is going, it will be difficult for the NCC to maintain the trust of different stakeholders. This may lead to a new crisis.

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*By allowing all interested candidates to compete for the senate, the FMS leaders could have rescued the integrity of the process, enhanced the legitimacy of the regional parliaments and raised the funds needed for the dispensation*

Second, even though the members of the state parliaments were not elected by the people of the regions, the senate elections have further made these legislatures irrelevant. Instead of empowering these institutions, the FMS leaders have nominated their own candidates and made the parliaments rubber stamps. A great opportunity was missed. By allowing all interested candidates to compete for the senate, the FMS leaders could have rescued the integrity of the process, enhanced the legitimacy of the regional parliaments and raised the funds needed for the dispensation.

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*The mentality of burying a political rival by any means necessary will unleash a cycle of revenge among the members of the political elite*

Third, the badly managed selection process perpetuates the destructive political culture that has brought the country where it is today. The mentality of burying a political rival by any means necessary will unleash a cycle of revenge among the members of the political elite. If the status quo changes after the upcoming elections, most FMS leaders will struggle to hold onto power. A similar scenario unfolded after the 2017 presidential election. In 2016, all FMS leaders who oversaw a deeply flawed parliamentary elections at the time were unceremoniously forced out of office by local and national rivals, mainly as the result of how they managed the elections.

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*Given the way things transpired, there is a possibility that the outcome of this year's dispensation will be heavily contested.*

Finally, and most importantly, rigged elections have in the past compromised the legitimacy of the outcome. The parliamentary election in 1969 was a case in point. It was so corrupt and unfair that some communities resorted to violence. That led to the collapse of the nascent democratic system, facilitated the rise of a military dictatorship which led the country into a brutal civil war. Given the way things transpired, there is a possibility that the outcome of this year's dispensation will be heavily contested. The population is armed and there are deep-seated communal grievances. If this is not handled sensitively, it might unleash a wave of post-election communal violence that could permanently damage the state-building process.

## Conclusion

For the last two decades, Somalia has been building nascent democratic institutions. From 2000 to 2017, indirect elections were organized and the transfer of power happened peacefully. This made Somalia's indirect elections semi-democratic and largely acceptable. Following the outbreak of violence in April 2021 precipitated by illegal and unnecessary term-extension, the NCC, under the leadership of the prime minister, was tasked with overseeing a fair indirect electoral process that would be acceptable to all stakeholders.

Unfortunately, the way the NCC managed the senate dispensation and the plan presented for organizing the indirect election of the House of the People, through the August 22 agreement, compromises the legitimacy of the results. If this process is not corrected, the potential for post-election violence is real and frightening. Somalia's leaders must end their self-serving ploys and gerrymandering activities. A fair dispensation serves everybody's interest.



## Recommendations



*The NCC must allow the legitimate traditional elders, business leaders, civil society, youth and women's groups to be members of the 101 delegates that are electing each MP*



*There must be acceptable criteria agreed for the selection of the civil society members who will assist or accompany the clan elders in the selection of the 101 electors*

- The members of NCC failed to allow a fair competition in the election of the 54 senators. They should not be allowed to manipulate the critically-important 275 lower house seats. The 22 August agreement must be revised immediately. The most important and missing dimension of the electoral process is a fair competition. The NCC leaders have denied the basic rights of many eligible candidates who were ready to compete for seats in the senate. The elections for the members of the House of the People are more sensitive because clans perceive that they own such seats. The NCC must allow the legitimate traditional elders, business leaders, civil society, youth and women's groups to be members of the 101 delegates that are electing each MP.
- The 22 August agreement states: for each seat, three elders and two civil society members from each sub-clan will select the 101 electors who will vote for each MP. To avoid inter-communal violence, each community, clan or agreed-upon independent body must identify fair methods to determine who is a member of civil society. There must be acceptable criteria agreed for the selection of the civil society members who will assist or accompany the clan elders in the selection of the 101 electors.
- Clear and enforceable mechanism that ensures women's thirty percent quote must be instituted. The idea of state leaders or their auxiliaries allotting seats for women MPs for purely a gerrymandering purpose will create unnecessary conflicts and should be avoided.
- Civic institutions such as the business community, women's groups, religious scholars and traditional elders should increase the pressure on politicians, continue to voice their concerns and demand a credible process from the NCC leaders.
- The country's main civil society organizations should also establish an advisory integrity commission that produces a report at the end of the dispensation process.
- The international community has a moral responsibility to take a clear stand against self-serving agreements, the delay tactics of the politicians and the manipulation of the dispensation. As the guarantor of security (through AMISOM) and a funder of the Somali government, the international community must use its influence to help protect the integrity of the already-abused process. The key political actors who control the process must be discouraged from using their position to delegitimize Somalia's state institutions and the hard-won past achievements.

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INDIRECT ELECTIONS IN SOMALIA

**HERITAGE**  
I N S T I T U T E