



DPU Consultancy Report

Limited International Election Observation Mission

**Somaliland House of
Representatives and local
council elections,
31 May 2021**

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Sarah Fradgley and Dominic Howell

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Final Report on the Somaliland House of
Representatives and local council elections,
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Sarah Fradgley and Dominic Howell

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However, while the mission could not have proceeded without such generous support, the findings of the LIEOM are entirely independent and do not represent the views of the UK Government or any other individual or organisation. The analysis, conclusions and recommendations are ours alone.

Note regarding photographs: Faces have been blurred apart from those of senior officials and members of the LIEOM team. This is in compliance with international GDPR policies, and cannot be taken to reflect any judgement, whether implicit or explicit, on the roles or actions of those photographed. Photographers have been credited where known.

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Executive summary

The combined House of Representatives and local council elections held on 31 May 2021 were peaceful and accepted as credible by stakeholders. These elections demonstrated progress along Somaliland's democratic path, despite being held under challenging circumstances caused by the Covid-19 pandemic and infrastructure limitations. A much-improved voter register was used compared to the previous parliamentary and council elections. The outcome of these elections, in which the two opposition parties gained seats at the expense of the governing party at both national and local levels were accepted with political maturity by the parties and other stakeholders. However, these elections also highlighted numerous important areas for legislative reforms and enhanced technical measures. These include two profound changes. First, reform should be considered of the restrictive political system in which only three political parties are permitted to contest elections. Second, uniquely in Africa, not a single woman was elected to Parliament, which constitutes a serious democratic deficit. This necessitates Somaliland-led legislative measures to ensure female political representation, as efforts so far, including voluntary measures taken by political parties, civil society and international donors, have not produced the breakthrough many in Somaliland hoped for. Additionally, there should be a political re-commitment to the pre-existing constitutional electoral timetable so that future elections are held on time. Technical measures which could help to improve the electoral process include: streamlining voter registration, significantly enhancing voter education, encouraging secrecy of voting, better training of polling staff, providing clear counting instructions, and enhancing technical measures for the tabulation of the votes.

The overall findings of the LIEOM are that the voter registration process, although much improved since the previous local and parliamentary elections, is burdensome on the National Electoral Commission (NEC) and, more importantly, complicated for the potential voters themselves. In the absence of accurate data or a census, it is not possible to say with precision what proportion of the possible electorate is registered to vote. Nevertheless, the limited opportunities to register and collect voter cards diminish the participation of a significant proportion of eligible citizens. Positively, biometric data used in voter registration appears to have had a beneficial effect in eliminating multiple registration of voters.

While these elections represent democratic progress, they were held 11 years beyond the originally envisaged expiration of the parliamentary term. The council elections were also held three and half years later than due. While there were some technical reasons for some of these delays, ultimately, they were the result of decisions taken by politicians to extend their terms of office. This undermines both the legitimacy of the previous Parliament and the rule of law in Somaliland.

The Constitution explicitly limits the national electoral system to only three parties, which is a clear breach of democratic principles. While the supposed need for this as a tool for nation-building was put to the LIEOM, serious consideration should be given as to its effectiveness in reducing the political importance of clan-based

politics, building national political parties or indeed in representing the will of the people. The outcome of this system is to constrain opportunities for candidates to contest and voters to choose. This results in a managed political process in which the choice of voters appears in many cases influenced by clan fidelity rather than the programmes of political parties.

The legal environment has been improved with a consolidated electoral law, including some limited provisions on the reporting of campaign expenditure, though this still permits many issues to be decided at the discretion of NEC and/or the political parties. This led in some cases to late, inconsistent, or opaque decision-making, including restrictive measures on campaigning which may have had the effect of disadvantaging less established candidates, particularly women and young people.

Female candidates were not given equal opportunities to contest during candidate nominations. Two of the parties even reneged on their voluntary commitment to nominate just 7% female parliamentary candidates. Consequently, Somaliland's parliament and councils lack a diversity of voices which is to the detriment of all. The LIEOM strongly recommends the need for temporary special measures to bring about greater equality in elected positions.

NEC faced considerable challenges in mounting these elections during the Covid-19 pandemic, which resulted in additional logistical hurdles. NEC by and large navigated these well, with (in the limited number of polling stations observed) the necessary materials provided. However, attempts by NEC to facilitate voters to cast their own ballots through an effective voter education programme were too late and of insufficient quality. The majority of voters observed requested the assistance of polling station chairpersons to vote. Although this was accepted by voters and political parties, this is not optimal because it eliminates the secrecy of the vote.

Many voters were forced to wait for a long time to cast their ballots, which could have been alleviated by better information and queue management by local officials. The voting itself was calm and orderly. Counting procedures were not sufficiently described in NEC instructions to polling staff; nevertheless, the political parties and the polling staff had confidence in the integrity of the counting. Tabulation preparations and procedures should be revisited, particularly when holding two polls on a single day. NEC should communicate more clearly with stakeholders. Civil society has an important role to play in monitoring the electoral preparations, and the campaign, election and tabulation processes. However, NEC should be more open to scrutiny in this respect, allowing and encouraging diversity of national observers.

With regard to final results, the party of the president did not win a majority of seats; an outcome that was accepted by the government. The milestone in which a member of a 'minority' clan succeeded in winning a seat in the House of Representatives was also significant, although the fact that no woman won a parliamentary seat and a reduced number both contested and won local council seats demonstrates the extent of the gender deficit.



3

Mission background

The Limited International Election Observation Mission (LIEOM) was formed to observe Somaliland's combined parliamentary and local council elections on 31 May 2021 at the invitation of Somaliland's National Electoral Commission (NEC).

The LIEOM was led by the Bartlett Development Planning Unit of University College London (UCL) with support from Westminster Foundation for Democracy, and was organised by UCL Consultants Ltd, a wholly owned consultancy company of UCL. It was funded by the UK's Foreign, Commonwealth and Development Office. The LIEOM is independent of Somaliland's authorities and the UK Government.

As a result of the late establishment of the mission, the restrictions of the Covid-19 pandemic and an unusually short election campaign, the mission was limited in scope and duration, so the title Limited International Election Observation Mission (LIEOM) was adopted. Bearing in mind that the LIEOM was not a full Election Observation Mission, it conducted its activities in the spirit of the Declaration of Principles for International Election Observation, signed at the United Nations in 2005. The mission was led by Chief Observer, Professor Michael Walls, and Deputy Chief Observer, Dominic Howell, both of whom initially worked remotely before deploying to Somaliland. A team of 12 international short-term observers (STOs) also deployed to Somaliland a week before election day. The mission also comprised three international analysts (election/legal, gender/minorities, media) and a media relations officer, who worked remotely and who were advised and assisted by Somalilanders colleagues in Hargeisa.

Observation of the elections took place in three phases. In the weeks leading up to election day, the legal framework, campaign and electoral preparations were assessed. This included holding meetings with all political parties, NEC, the media and civil society. The second phase involved the mission leadership and STOs from Denmark, Egypt, Ethiopia, France, Germany, New Zealand, South Africa, UK, USA and Zambia observing the campaign and electoral preparations in the week around the election day. This included observing the opening of polling stations, voting, and the counting and tabulation of results. The final phase, after election day, was observed both remotely and by Somalilanders colleagues in Hargeisa. STO teams observed four of Somaliland's six regions: Maroodi-Jeeh (Hargeisa), Saahil (Berbera), Togdheer (Burao) and Awdal (Borama) and visited 80 polling stations on election day.



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Political background

Somaliland is a presidential republic with a directly elected executive presidency, a bicameral Parliament and lower-level councils. The Parliament comprises the House of Elders known as Guurti in Somali, and the House of Representatives. Both chambers have 82 members. Although the Constitution speaks of elections to the Guurti,¹ there are currently no provisions for this to occur.²

Somaliland's political system has been fundamentally shaped by the twin aims of winning international recognition of sovereign status and a desire to avoid a return to a conflictual clan-based politics that, in the eyes of many, reached a nadir in the 1969 Somali election.³

The case for sovereignty rests on the unilateral declaration in May 1991 in which Somaliland revoked its 1960 union with Somalia, which it entered into as the sovereign successor state of the British Protectorate of Somaliland. The view that holding successful elections enhances Somaliland's status internationally and thus supports the case for sovereign recognition has since provided a potent motivation for pulling back from open conflict when elections become heated or results are disputed, including in the most recent presidential election in 2017. The mission does not take a view on the recognition of sovereignty by the international community as it is beyond its mandate.

The 1969 Somali election saw many smaller parties formed just prior to the election, drawing support from narrow, localised constituencies. Most of these joined the largest party immediately after the vote in order to secure a place in government. That was seen by many Somalis as a blatant politicisation of clan and provides the context for Somaliland's constitutional limit of only three parties permitted to contest elections (see section 5.4).

Somaliland's contemporary electoral journey effectively started with a constitutional referendum held in May 2001. While that poll was technically a vote on the adoption of a new constitution, it was widely seen by voters as a referendum on independence. While voting patterns were uneven across regions, the overall result was overwhelmingly in favour. The Constitution itself confirmed a

FOOTNOTE 01

Article 58.1, Constitution. "The members of the House of Elders shall be elected in a manner to be determined by law." No such law has yet been passed. Article 62 speaks of the selection of the inaugural Guurti.

FOOTNOTE 02

The inaugural Guurti was selected in 1997 and its original mandate was due to expire in 2003. It has repeatedly been extended periodically, and controversially, to the present day. There are no clear provisions for the replacement of retiring or deceased members, but in practice they are selected by the families of the original members.

FOOTNOTE 03

For further detail on political background, see Walls, M. A Somali Nation-State: History, culture and Somaliland's political transition (2nd Edition). Pisa: Ponte Invisibile/redsea-online (2014).



system of government based on a strong executive in the form of a president alongside a two-chamber parliament in which the lower chamber, the House of Representatives, served as the primary legislative body and held the power to accept, reject or demand amendment of the annual budget. The same Constitution also affirmed the three-party limit and established terms of office for President, MPs and local councillors of five years each, with the President limited to two consecutive terms.⁴

Local council elections followed in 2002, determining the parties permitted to stand candidates in further elections for the next ten years. The political group Ururka Dimuqraadiga Ummadda Bahawday (UDUB or, in English, United People's Democratic Association), formed by the incumbent President Muhammad Haji Ibrahim Egal, won the most votes. Xisbiga Kulmiye Nabad, Midniimo iyo Horumarka (Solidarity: Peace, Unity and Development Party, normally known simply as Kulmiye), formed by Ahmed Mohamed Mohamoud 'Siilaanyo', came second and Ururka Caddaalada iyo Daryeelka (UCID or Justice and Welfare Association), led by Faysal Ali 'Waraabe', was third.

President Egal died in 2002 and was replaced by his Vice-President Dahir Rayaale Kaahin in line with the Constitution. A presidential election was held in April 2003; UDUB's incumbent President Rayaale was declared the victor with a wafer-thin margin of 80 votes out of a total of 488,543 cast. The narrowness of that margin caused considerable tension, but Ahmed Mohamed 'Siilaanyo' eventually accepted the outcome.

Each of these polls occurred without a voter register, which was increasingly seen in Somaliland as an urgent next step. However, the political and logistical challenges involved in registering the electorate in a situation in which there was no census and therefore no reliable population data were significant. Although it had been agreed that voters would be registered before the next election, the House of Representatives was elected in 2005, again without a voter register on condition that it would be the last election run in such a manner. In the absence of a voter register or census, seats were allocated on a formula based on the regional representation that had been agreed for use in the 1960 elections at the point of independence. The outcome was that the two opposition parties took most of the 82 seats contested, but with no single party holding a majority.⁵

The challenge of registering voters again came to the fore in the years following the 2005 parliamentary election. A voter register was prepared and used in the 2010 presidential election but had become so politically discredited that it was abandoned immediately afterwards.⁶ Nevertheless, the 2010 election saw victory for the opposition Kulmiye ticket led by Ahmed Mohamed Mohamoud 'Siilaanyo', with the incumbent, Dahir Rayaale Kaahin, conceding the loss and attending the ceremony to mark the transition.⁷

FOOTNOTE 04

See "Constitution of the Republic of Somaliland." Presidential Decree: 129/72001. Hargeisa (2000).

FOOTNOTE 05

The governing party, UDUB, took 33 seats; Kulmiye won 28 seats and UCID 21 seats – for further detail see A.Y. Abokor, et al., 2006, 'Further Steps to Democracy: The Somaliland Parliamentary Elections, September 2005', *Report by International Election Observers on the September 2005 parliamentary elections in Somaliland*. London: Progressio (2006): 19.

FOOTNOTE 06

For further details see Walls, M. "Somaliland: Democracy Threatened - Constitutional Impasse as Presidential Elections are Postponed." *Briefing Note*. London: Chatham House (2009).

FOOTNOTE 07

Walls, M, and S. Kibble. "Somaliland: Change and continuity." *Report by International Election Observers on the June 2010 presidential elections in Somaliland*. London: Progressio (2011).



Fresh local council elections were held in 2012, with the UDUB party unexpectedly failing to organise a challenge and instead disbanding, with members joining other parties. The 2012 elections were open to new political associations, with the two established parties of Kulmiye and UCID securing their places in the top three, joined by a new entrant in the form of Xisbiga Waddani (in English, National Party, and known popularly simply as Waddani), led by Abdirahman Mohamed Abdullahi 'Irro'.

The 2012 council elections were again run without a voter register and were significantly affected by multiple voting.⁸ This gave renewed impetus to efforts to conduct a comprehensive registration process that could gain the support of stakeholders. In 2016, registration using iris scan technology designed to exclude multiple registrations was undertaken. In contrast to the fraught experiences of 2008 and 2009, this process was widely accepted⁹ and generated a voter register that was used for the 2017 presidential election and was updated for use in the 2021 combined local council and House of Representatives elections.

The 2017 presidential election was won by the Kulmiye candidate, Muse Bihi Abdi. While the election itself was largely peaceful, the period afterwards saw rising political tensions and, for a period, renewed violence seemed possible before Waddani leader, Abdirahman 'Irro', announced that he accepted the result 'for the good of the country'.¹⁰

FOOTNOTE 08

Kibble, S. and M. Walls. "Swerves on the Road." *Report by International Election Observers on the 2012 Local Elections in Somaliland*. London: Progressio (2013).

FOOTNOTE 09

Schueller, M-L. and M. Walls. *Report by International Observers on the 2016 Voter Registration Process in Somaliland*. London: Progressio/UCL (2017).

FOOTNOTE 10

Walls, M., C. Heine, A. Klingel, C. Goggin, A. Farag and S. Mwape. "The limits of consensus?" *Report on the Somaliland Presidential Election, 13th November 2017*. London: DPU, UCL (2018).

5

Legal framework and electoral system

5.1 Regional and international standards

Somaliland is not able to be a signatory to the range of regional and international instruments relating to elections as it is not internationally recognised as a state. However, Article 10.2 of Somaliland's Constitution states that:

The Republic of Somaliland recognises and shall act in conformity with the United Nations Charter and with international law and shall respect the Universal Declaration of Human Rights.

On this basis it is reasonable to take into consideration the main regional and international instruments for elections across the continent, which implicitly appear to form standards for Somaliland's elections.

These global and regional standards are:

- International Covenant on Civil and Political Rights (1966) (ICCPR)
- General Comment 25 on the ICCPR (1996)
- Convention on the Elimination of All Forms of Discrimination Against Women (1979) (CEDAW)
- Convention on the Rights of Persons with Disability (2006) (CRPD)
- African Charter on Human and Peoples' Rights (1981) (ACHPR)
- Protocol to the ACHPR on the Rights of Women in Africa (2003)
- Protocol to the ACHPR on the Rights of Persons with Disability (2016)
- African Charter on Democracy, Elections and Governance (2007) (ACDEG)
- Arab Charter on Human Rights (1994)

These, in addition to the national legislation and Constitution of Somaliland, form the reference points for the mission's assessments and recommendations.

5.2 Legal framework

Key national legislation and regulation governing the conduct of elections in Somaliland include:¹¹

- The Constitution (2001)
- General Law on National Elections and Voter Registration (2020)
- Regulation of Political Associations and Parties Law (2000, amended 2011)
- Political Parties' Code of Conduct (2021) and other NEC regulations

Additional relevant legislation includes that governing the conduct of media as well as general legislation, such as the Penal Code. Overall, these laws and regulations provide many of the requirements for the conduct of elections.

In particular, the 2020 consolidation of the previous election laws into a single General Law for National Elections, providing some detailed provisions for the conduct of elections, as well as voter registration, the role of NEC and procedures for election dispute resolution, is a positive development.¹² However, a combination of particularities in the law, notably limiting the right to stand for election (see sections 5.4 and 5.5); some vague or weak provisions for voter registration and campaign regulation (see sections 7 and 8); and lack of formal adherence to counting and tabulation procedures (see sections 12.3 and 12.4) means that some key rights and freedoms are weakened or undermined. Additionally, the Law leaves some key aspects of regulating the electoral process at the discretion of NEC and/or to the collective agreement of the parties, which resulted in late decision-making for these elections and a managed political environment.

5.3 Electoral system

The 31 May 2021 polls were to elect the 82-member House of Representatives and 220 seats across 20 local councils throughout Somaliland.¹³ Both sets of elections use the open list proportional representation system. There are no special legislative measures to ensure representation of any groups. For the House of Representatives, the constituencies are the six regions, and parties win seats according to their percentage share of the vote in the region. The determination as to which candidate is declared the victor in each seat is based on the number of direct votes received by each candidate on each party's list. For local councils, the number of seats in the district councils varies depending on the designated 'grade' of the area.¹⁴

The term limit for all elected positions (president, MPs and councillors) is five years.

FOOTNOTE 11

For most laws, www.somalilandlaw.org provides a useful translation, though other sources were also relied upon.

FOOTNOTE 12

However, the consolidated General Law on National Elections and Voter Registration contains some inconsistencies and there are some gaps. See the sections on Candidate Registration and Election Dispute Resolution.

FOOTNOTE 13

On this occasion, elections were not held in the district of Lasqoray due to the contested nature of the area.

FOOTNOTE 14

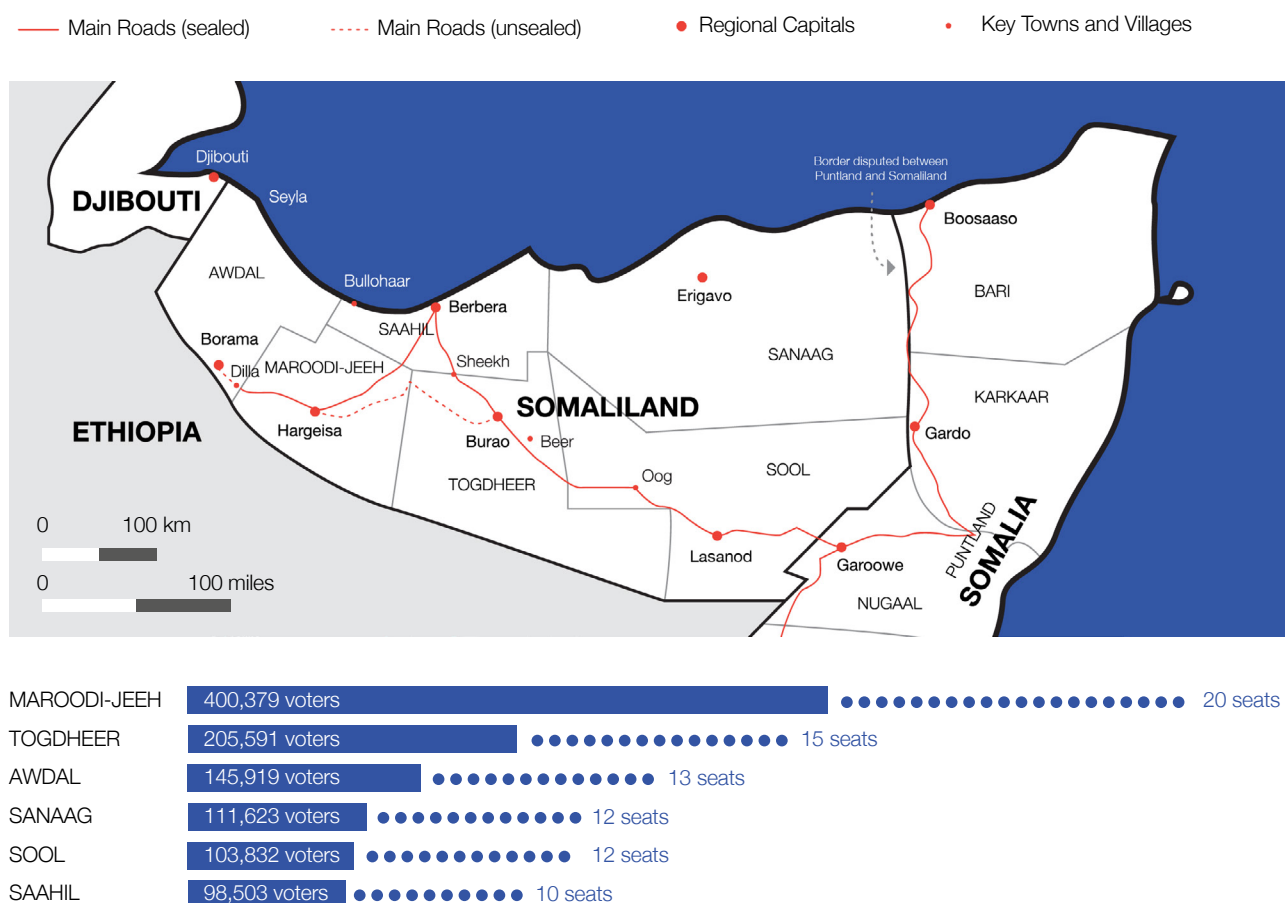
In the capital a council has 25 seats, in Grade A areas 21 seats, Grade B 17, Grade C 13 seats.

Despite this, the House of Representatives sitting up until the 2021 election was elected in 2005. The House of Elders and several presidents extended the originally envisaged mandate by a total of 11 years. For local councils, these polls were the first since 2012, surpassing the councils' originally envisaged mandate by three and half years. In fact, so far, none of the institutions elected since 2002 has been held accountable through timely elections at the expiry of their mandate, which undermines the will of the electorate.¹⁵ While there is provision for the extension of a term, for "dire circumstances", the constitutional conditions for such a delay do not appear to have been met, with the possible exception of part of the period of the Covid-19 pandemic.¹⁶

FIGURE 01

Somaliland regions, showing total registered voters and number of parliamentary seats for each region.
Source: Walls, 2021.

The regions elect different numbers of MPs. Maroodi-Jeeh has 20 seats, Togdheer 15, Awdal 13, Sanaag 12, Sool 12 and Saahil 10. However, this allocation has remained unchanged since the 1960s. As such, the number of voters per elected seat in each of the multi-member regions varies considerably and neither the Law nor the Constitution provide any principle for the need for equal suffrage, although such a requirement is a key international electoral standard.¹⁷



FOOTNOTE 15

Article 25b of the ICCPR identifies "periodic elections" as one of the core principles. Article 9 of General Comment 25 emphasises that "Genuine periodic elections ... are essential to ensure the accountability and representatives".

FOOTNOTE 16

Article 42.3 of the Constitution "If the election of the House of Representatives cannot be conducted because of dire circumstances, the outgoing House shall continue in office until the end of these circumstances and a new House is elected. Dire circumstances are: a wide war, internal instability, serious natural disasters, such as earthquakes, epidemic diseases, (and) serious famines; and shall be determined and resolved by the House of Elders on the proposal of the Council of Government."

FOOTNOTE 17

In particular, Article 25 of the ICCPR.

This has led to serious discrepancies. For example, the average number of voters per seat in Somaliland is 12,998,¹⁸ but the number per seat in the six districts ranges from 9,302 (Sanaag) to 20,019 (Maroodi-Jeeh). This is further illustrated by considering the number of valid votes per seat, based on the results for the House of Representatives. On the basis of valid votes cast, the average number of votes per seat across the country was 8,487. The range between regions was from 5,265 in Sool and 6,271 in Sanaag, to 13,212 in Maroodi-Jeeh.

5.4 Political party registration

The Constitution provides for freedom of association¹⁹ and the right to be elected,²⁰ but in a major limitation on those rights, it also restricts the number of permitted political parties to three.²¹ The Regulation of Political Associations and Parties Law provides for the registration of eligible associations interested in contesting local elections. The three associations (or existing parties)²² which gain the most votes in the local elections across the regions are then recognised as national political parties for a period of ten years.²³ The legislation specifies that the process is to occur every decade²⁴, which implies every second local election – however the failure to hold local elections according to the timetable has distorted the system.

The wider region's political history of clan- and faction-based competition and conflict weighs heavily on political processes in Somaliland. The rationale for the limitation to just three parties is that it helps to promote inter-clan dialogue and alliances by reducing the number of parties, meaning that the likelihood of any given party becoming synonymous with a single clan is also reduced.²⁵ However, despite this stated intention, the influence of clans over parliamentary and local council candidature remains significant.

Candidate selection occurs primarily through clan structures and resource mobilisation using kinship networks underpins electoral competition. The use of an open list system for House of Representatives and council elections does not facilitate inter-clan political cooperation as frequently candidates campaign on a clan, rather than a party, basis. Similarly, voters often follow their clan's leaders' recommendation for a particular

FOOTNOTE 18

Based on NEC figures of the number of persons in each district who had collected their voter card.

FOOTNOTE 19

Article 23 of the Constitution.

FOOTNOTE 20

Article 22 of the Constitution.

FOOTNOTE 21

Article 9 of the Constitution.

FOOTNOTE 22

The legislation appears to give an advantage to the existing parties, who (assuming that their registration has not expired) are not required to pay the registration fee of 150 million Somaliland shillings (US\$17,650) or demonstrate the required 1,000 members in each of the six regions (which based on 2021 registration figures would be around 1% of the electorate for three of the six regions, although only 0.25% in Maroodi-Jeeh).

FOOTNOTE 23

See Articles 4.11 and 6 of the Regulation of Political Associations and Parties Law.

FOOTNOTE 24

Article 6.5 of the Regulation of Political Associations and Parties Law.

FOOTNOTE 25

"The limits of consensus?" *Report on the Somaliland Presidential Election, 13th November 2017.* (2018):16.

candidate rather than voting according to parties' policies. A closed list system would be more likely to promote the emergence of stronger party- and ideology-based democracy as candidates would campaign on a common platform for wider support from the entire community rather than primarily from their own kin. It would also facilitate temporary special measures for gender representation.

Party officials themselves commented to the mission that their ability to organise political platforms other than along clan lines remains limited. Because the limitation to three parties is not seen by some to be achieving the intended aim of generating a party-based rather than clan-based political system, and also because this restriction is contrary to democratic norms, the constitutional limitation to only three parties is increasingly questioned by members of civil society, including potential political candidates who are excluded from candidature by the restrictions.

Deviations from the schedule of elections by failing to hold local elections when due in 2017 has implications for the registration of parties. The registration term of the parties is due to expire in December 2022, early in the 2021-2026 Representatives' and councils' terms of office.²⁶ For these polls, and after much debate, NEC announced that local council and House of Representatives elections would be held concurrently, which saved money and moved the electoral schedule on in the context of the significant delays mentioned. However, in the absence of a solution which at the time of these elections, and writing of this report, had not been made public, this decision potentially compromises the smooth conduct of future elections in at least two respects. First, there is only a narrow window for holding the presidential election due in late 2022 before the expiration of the current registered parties' unambiguous legal status.²⁷ Second, in the absence of other reforms, it would seem that the next local elections will need to be held at least six months early, having been decoupled from the term of the House of Representatives which expires in 2026. Otherwise, if the next parliamentary and council elections are held concurrently, the parliamentary elections would be held between three parties selected at the local elections in 2012, whilst the local elections would be open to the newly-formed political associations seeking to become parties. One or more of these associations might displace one of the parties, questioning the mandate of the MPs elected by the de-registered party or parties.²⁸ An alternative, which would be in keeping with international standards, would be to allow all political associations to take part in the next parliamentary elections.

FOOTNOTE 26

The previous local councils were elected on 28 November 2012. The courts approved the local election results on 16 December 2012 and the Registration and Approval Committee (RAC) formally inducted Kulmiye, Waddani and UCID as national political parties on 26 December 2012, although the International Election Observation Mission for the local elections in 2012 stated "Article 6, which is the relevant legal instrument for the calculation of successful parties, was not widely understood and had been subject to claims it was badly drafted." It did though also note that the RAC was in the end able to follow a formula proposed by an NGO, though this did not have the force of law. "Report by International Election Observers on the 2012 local elections in Somaliland" pp11-12.

FOOTNOTE 27

The most recent presidential election was held on 13 November 2017, with the president inaugurated on 13 December 2017.

FOOTNOTE 28

The Regulation of Political Parties and Associations Law, Article 24.1 says that successful candidates of political groups which fail to be recognised as one of the three national parties "shall" join one of the official registered parties within 30 days. Since in 2012, these candidates, elected on a platform from one of the four "unsuccessful" groups represented 36% of the council members, this is far more than a theoretical democratic deficiency, but has real practical implications, reducing the possibility of programmatic parties evolving. Article 24.2 relating to MPs elected to parties which become de-registered as a result of the local elections "may" change parties. The legislation lacks clarity as to whether this is compulsory; and it appears that the legislation did not foresee that local and national elections would be held concurrently.



5.5 Candidate registration

The 31 May 2021 elections were contested by 246 candidates for the House and 552 candidates for local councils. In numerical terms, this made the polls competitive. However, while the election was contested by 798 candidates in total, some of the conditions for candidate eligibility for both elections impact on political participation rights, particularly for certain groups in society. For instance:

- Candidates for the House are required to have at least a high school diploma and for local council elections must have at least a Bachelor's degree for the largest councils (Grade A areas).²⁹ Such requirements are not only barriers to participation but are also not logical in terms of the respective seniority of the two institutions.³⁰
- Candidates for both the House and local councils must be “physically and mentally fit to perform duties.”³¹ This provision is both vague and an undue obstacle to participation.³²
- The age for voting in Somaliland is 15, but to be a candidate for the House a person must be at least 35 and, for a local council, at least 30.³³ While it may be reasonable to have a higher age for election than for voting,³⁴ the discrepancy in this instance seems high.³⁵
- To be eligible as a candidate a person must be a Muslim³⁶ and be “responsible, moral and ethical”, without any clear way of judging these criteria.³⁷
- Candidates for local council elections must own property³⁸ in the district.³⁹

FOOTNOTE 29

Article 67.4 of the General Law for House of Representatives and 81.7 and 81.8 for local councils.

FOOTNOTE 30

Article 15 of General Comment 25 states persons who are otherwise eligible should not be excluded by, among other things, unreasonable or discriminatory requirements such as education.

FOOTNOTE 31

Article 67.3 of the General Law.

FOOTNOTE 32

Article 29 of the CPRD requires states to guarantee to persons with a disability political rights on an equal basis with others.

FOOTNOTE 33

Article 67.2 of the General Law for House of Representatives and 81.4 for local councils.

FOOTNOTE 34

General Comment 25, Article 4.

FOOTNOTE 35

Article 81.4 of the General Law. After much lobbying, in 2012 youth activists succeeded in having the minimum age for council candidates reduced to 26 years, but that decision was reversed for the 2021 vote, when it was increased to 30.

FOOTNOTE 36

Article 67.1 of the General Law for House of Representatives and Article 81.3 for local councils. However, Article 3 of General Comment 25, states that, among other things, no distinctions are permitted between citizens in the enjoyment of their political rights on the basis of religion.

FOOTNOTE 37

Article 5.2 of the Constitution states that “The laws of the nation shall be grounded on and shall not be contrary to Islamic Sharia.”

FOOTNOTE 38

Article 81.10 of the General Law.

FOOTNOTE 39

Article 3 of General Comment 25 states that among other things, no distinctions are permitted between citizens in the enjoyment of their political rights on the basis of property.

In contravention of international standards, independent candidates are not permitted to stand for election. Candidates must be nominated by one of the three nationally-registered parties; however, since parties are not ideology-based, in reality some prospective candidates run an unofficial ‘pre-campaign’ as independents seeking the support of their clan or sub-clan. If they gain this, they seek to be adopted by a party once they have demonstrated their support and ability to raise funds.

The requirement for a non-refundable candidacy fee⁴⁰ may be reasonable, but the amount required could be an undue obstacle for many.⁴¹ For instance, a candidate for the House has to pay US\$4,700; for councils, the fee ranges from US\$473 to US\$1,775 depending on the grade of the area.⁴² Despite these representing significant burdens in the context of the low-pay economy,⁴³ no interlocutors raised specific concerns with the mission as to the level of the statutory fees.

Candidates also face additional ‘entrance fees’ from political parties to obtain the party endorsement, the amounts of which are not a matter of public record. While it is not unreasonable for political parties to ask candidates to contribute to the party’s electoral costs, when independent candidatures are prohibited, such party fees act as a significant barrier to candidacies of those less well-off and/or those unable to fundraise in family or clan networks.

In other electoral systems with a large number of parties and the possibility of independent candidates, non-refundable fees or refundable deposits if a candidate reaches a threshold of support serve as a legitimate disincentive to frivolous candidates crowding the ballot paper. In Somaliland in these elections, where the choice is limited by the Constitution to three parties, the electoral purpose of statutory fees is less clear. The fact that the fees are non-refundable also means that debts may be incurred by candidates without a clear legitimate mechanism for repaying them, whether the candidate is successful or not. Nevertheless, it should also be recognised that the statutory and party fees represent only a small part of the amount candidates will directly spend on their campaigns.

On 1 March 2021, the Government announced that statutory nomination fees would be waived for women candidates and candidates from minority communities. While this is a useful strategy to help level the playing field for such under-represented groups, it came relatively late in the election and very close to the candidacy deadline of 17 March. To be more effective, it should be in place well before nominations close, so that intending candidates who are blocked from candidacy only by the amount of the fee are able to benefit. Announcing such a waiver early (or, preferably, embedding it in the legal framework) also removes any suggestion of partisan advantage in such a waiver.

Nomination fees are directed under the General Law to be placed in an account controlled by NEC.⁴⁴ As this was the first election this provision was in force, NEC could

FOOTNOTE 40

It is positive that, for these polls, the requirement for a deposit for women and minorities was waived. Nevertheless, neither the authorities, nor the parties had effective policies to encourage women and minorities to stand as candidates within the parties.

FOOTNOTE 41

General Comment 25, Article 16 states that any deposit must be “reasonable and not discriminatory.”

FOOTNOTE 42

Article 68 of the General Law for the House of Representatives (SLS40 million) and Article 83 for local councils (between SLS 4 million and SLS 15million).

FOOTNOTE 43

The mission was informed that the minimum public sector wage is around US\$80 per month, and some in the private sector may earn as little as US\$50 per month. Many Somalilanders who are pastoralists may have their wealth measured in non-financial terms.

FOOTNOTE 44

General Law Article 19.3.



set a good precedent by publicising the amount collected, which in the case of parliamentary candidates alone exceeded US\$1 million.

NEC has regulatory oversight for the political parties' selection of their parliamentary candidates.⁴⁵ A range of steps for parties to take are stipulated, including setting up committees, lodging nomination process rules with NEC and establishing internal party dispute resolution mechanisms. NEC is required to verify that the submitted rules are in accordance with the General Law and to require parties to amend any rules that are found not to be.

While NEC announced that it had met the three parties on 24 February to discuss these legal provisions,⁴⁶ the mission is not aware if the parties complied with these provisions, or if NEC actively sought to enforce them. No party rules or procedural documents have been published. Interlocutors made it clear to the mission that the real contest for both parliamentary and local council nominations happen within clans rather than in political parties.

While formal procedures or guidance for the registration of parliamentary and council candidates were consequently unavailable, it is clear from both NEC and party interlocutors that in order to be satisfied as to the qualification of candidates, both NEC, and the party or candidate concerned, entered into a complicated bureaucratic process of obtaining and verifying the documentation required by both the Constitution and the General Law. At the same time, some of the criteria, such as being a responsible person with good character or being financially self-sufficient, are not objectively verifiable, which places both the party – who must under the General Law be satisfied that their candidates meet the criteria – and NEC, who must independently verify the same, in potentially difficult situations.

There were also reports that questions were raised about the documentation submitted in support of more objective criteria, such as educational certificates. Advocates of women's representation suggest that some documentation – especially those relating to financial status and property ownership – place a barrier to female candidature due to socio-economic inequalities in Somaliland society. All this placed a significant administrative burden on NEC which has only 30 days to publish the final list of parliamentary candidates from the deadline for parties to submit their lists (and 35 days for local council candidates). This time period also comes at a point in the electoral calendar when NEC is engaged in many other preparatory tasks for the election.

In the absence of legislated measures for increasing the number of women candidates or candidates from minority clans, the three political parties responded to public pressure by agreeing informal quotas. On 3 September 2020, they announced that each of the parties would nominate six female candidates and at least one candidate from a minority clan for parliamentary seats. This represents a mere 7% and 1.2% respectively. Despite being a voluntary agreement that the parties were pleased to make public, only one (UCID) met the quota for women and another (Waddani) for minority candidates. Indeed, the mission was informed that the three political parties had reached a separate agreement that two would not nominate candidates from minority clans in order to avoid weakening the chances of the Waddani candidate. While this could be seen as an act of solidarity, it also underlines the fragility in the political status of minority candidates.

FOOTNOTE 45
General Law Article 71.

FOOTNOTE 46
See SLNEC (24 Feb 2021): twitter.com/SLNECHQ/status/1364463772610486273?s=20

The use of special measures to ensure better parity of gender representation is discussed in section 9.

5.6 Campaign finance regulations

The General Law has introduced some regulations on campaign finance.⁴⁷ They include a prohibition on financial contributions from non-Somaliland citizens; prohibition on use of public funds for campaigning; a requirement for parties to open a designated campaign account; and a reporting requirement on campaigning revenue and expenses. However, this does not ensure full disclosure on campaign funding, notably in terms of contributors, and expenditure. At the time of writing this report, party financial reports were not publicly available. The extreme brevity of the 2021 campaign exacerbates the potential for significant spending to occur outside the regulated campaign period, further reducing scrutiny of compliance with the limited campaign finance regulations that are in place. There are no spending limits. The amounts spent on elections in Somaliland are a significant impediment to broadening the range of political candidates. Further, as with the party selection and candidate fees, high levels of campaign expenditure by contestants have been reported to the mission as creating potential incentives to recover costs and repay debts through unconventional means.

The General Law⁴⁸ and Code⁴⁹ prohibit the use of public property/state resources for the campaign of any party or candidate, and also provide for a Presidential Decree to reinforce the prohibition. There is also a Civil Service Code of Conduct, which regulates behaviour of public officials. However, there were still some complaints in this regard about alleged misuse of government vehicles and some ministries promoting the ruling party.

FOOTNOTE 47

Articles 93-99 of the General Law.

FOOTNOTE 48

Article 94 of the General Law.

FOOTNOTE 49

Article 17 of the Political Parties Code of Conduct.



5.7 Recommendations

- Candidate eligibility criteria should be brought into line with international standards so that political rights are not limited. Notably, requirements for candidates to meet educational criteria, be “physically and mentally fit to perform duties” and for local council candidates to be property owners should be reconsidered.
- The Constitution provides for freedom of association but restricts the “plural” system to just three political parties. This undermines freedom of association and political participation rights and should be reconsidered in favour of allowing those political groups and independent candidates meeting reasonable criteria to contest elections.
- Consideration should be given to a closed list electoral system in order to facilitate inter-clan cooperation and greater gender parity.
- If the Constitution is not amended, there should at least be a redrafting of the Regulation of Political Associations and Parties Law to cover the eventualities of combined elections, and clarification on the expiration of political parties’ ten-year registration period.
- The Law should also be amended to provide clarity and legal certainty for how the Registration and Accreditation Committee should determine the three national parties.
- The General Law should be reviewed and revised, as required, to ensure it is consistent and coherent throughout, including a mechanism for ensuring a more equal correlation between the size of the electorate and number of MPs per constituency.
- In the context of a restricted party political system, the statutory candidature fees should be reconsidered.
- Campaign finance regulations should be further developed, to require full disclosure of political party funding and campaign expenditure.
- The Constitution and General Law both clearly provide for five-year term limits for all elected institutions and these must be respected to ensure the will of the people is renewed and respected.
- Legislation should be enacted to formalise the electoral processes of the House of Elders.

6

National Electoral Commission

6.1 Structure and role

The National Electoral Commission (NEC) is constituted under the General Law⁵⁰ with a four-tier structure: National Electoral Commission, Regional Electoral Offices, District Electoral Offices and Polling Stations.

The Commission is a seven-member body and elects its Chair and Deputy Chair from among its own members.⁵¹ NEC is supported by a National Office, led by a Director-General, which comprises nine departments and is responsible for the operational, technical and administrative aspects of election management.

NEC is responsible for all aspects of the process, including determining the date of elections,⁵² voter registration, candidate registration, voter education, management of the campaign environment and the creation of mechanisms for the resolution of pre-election and election day disputes. The six Regional Offices are responsible for operations in their respective areas and announce results for House of Representatives elections. The 23 District Offices manage distribution of materials to polling stations and also tabulate and announce results for council elections in their respective areas.

6.2 Appointment and tenure of NEC

The seven members of NEC are appointed by the President following two nominations from the House of Elders, two from registered opposition parties and three from the President.⁵³ The House of Representatives votes to approve the commissioners.⁵⁴

There is a contradiction that despite being politically appointed, and generally regarded as representing parties, commissioners are not according to the law

FOOTNOTE 50

Chapter 2, General Law.

FOOTNOTE 51

Article 13.1b, General Law.

FOOTNOTE 52

Within the parameters of the term of office established by the Constitution – though all previous terms of office have been extended by the House of Elders, delaying elections.

FOOTNOTE 53

Article 13.2, General Law.

FOOTNOTE 54

Article 13.3, General Law.



allowed to be members of parties and must be independent of them.⁵⁵ However, the appointment process provides no certainty that the Commission would necessarily be politically balanced, as such a formulation appears to provide a strong hand for the President in the composition of NEC.

The term of office for a Commission is five years. The General Law states that the term “may be renewed”.⁵⁶ Such a formulation is vague and undermines the security of tenure, and arguably also the independence of the Commission - notably in the context for the leading role of the President in appointment of members - as it lacks clear criteria on what basis a term would be renewed or not.

6.3 Management of the 2021 combined elections

NEC faced a series of challenges in its management of the polls, which should be considered when assessing these elections. For instance:

- The General Law was only passed in September 2020 and the Code in March 2021, meaning the rules and regulations for the polls were not fully known until relatively late.
- Due to political disagreement between political parties over the timing of elections, one opposition party delayed the nomination of a commissioner. As a result NEC was only fully constituted in mid-2020.
- There was uncertainty over the date of the elections, given the history of postponements of polls in Somaliland.
- A voter registration update to the 2016 registration process was undertaken between November 2020 and January 2021. This was a major administrative and technical undertaking for the Commission.
- This is the first time that two elections have been held at the same time, creating management and stakeholder/voter awareness challenges.
- The elections coincided with Ramadan, Eid al-Fitr and national holidays, which was disruptive to the operations and campaign.
- The Covid-19 pandemic impacted on working practices and staff health and safety, necessitating changes in working methods and the late procurement of Covid-19-related materials for staff and voters.⁵⁷
- An increase in the number of voters, and the need to decrease crowding at polling places due to Covid-19, resulted in an increase in the number of polling stations from 1,642 to 2,709 (a 60% increase) with a commensurate increase in the number of staff needing to be recruited and trained.⁵⁸

FOOTNOTE 55

Article 14.5, General Law.

FOOTNOTE 56

Article 13.1c, General Law.

FOOTNOTE 57

The procurement process was further complicated as, at the time the materials were due in-country, there was a flight ban from Kenya. In the event, special permission was provided, and the materials eventually arrived.

FOOTNOTE 58

Based on five staff per polling station, some 13,545 polling officials would be required. Overall it was estimated that in excess of 30,000 people were on duty for election day, including polling officials at various levels and security.



FIGURE 02 (top left)
Distribution of Covid-19 protection equipment to polling stations from a Regional Office.
Photographer Andrea Klingel.



FIGURE 03 (top right)
LIEOM STO Andrea Klingel observes the pre-election distribution of NEC material in a Regional Office.
Photographer Mohamed Sabbahy.

The provision of timely and comprehensive information by an election management body is critical in order to ensure transparency, confidence and stakeholder awareness. While taking account of the operational challenges facing NEC, there are three pre-election activities that require strengthening prior to the next elections.

First, NEC's voter education was both late in the campaign, and inadequate. NEC had a strategy of leaving voter education and information, including text messages, until very late in the process, intending to ensure it was fresh in the minds of voters. However, observation of election day demonstrated that voters' awareness of the voting process was very weak. The quality and amount of voter education materials seen prior to and on election day was limited (see section 11).

Second, NEC's communication with other stakeholders was reportedly weak. The lack of awareness among political parties of procedures for election disputes, or even the identity of the body responsible, is a further indication of NEC's poor communication and outreach.

The third pre-election activity requiring improvement is the need for greater training of polling staff. Not all staff in the polling stations and streams were trained. A clear and comprehensive manual should be provided to all polling staff that includes a clear flow-chart of how to conduct the counting of ballots and the packing of sensitive materials (see section 12).

FIGURE 04
Delivery of voting materials to polling stations. Photographer Andrea Klingel.



6.4 Recommendations

- Whether NEC commissioners are appointed as independent electoral professionals or political representatives, the formula for their nomination should be an inclusive process which ensures balance and political confidence.
- If political parties are the basis for nomination, consideration should be given to specifying that each legally-sanctioned party and contesting political association should be entitled to a nominee.
- The tenure for NEC members needs to be enhanced. If commissioners can serve more than one term, then the procedure and criteria for the second term should be made explicit in the law. It would be reasonable to make it an assumption that a member may serve a second term assuming that no infringement or misdemeanour has occurred. This would give greater security of tenure and enhance the institutional memory and independence of the election management body.
- NEC should enhance its communications and stakeholder outreach, to ensure timely and effective messaging to political parties, candidates and voters. This includes publicising decisions and regulations, explaining procedures for election disputes, and a more proactive and comprehensive voter education programme.

7

Voter registration

FIGURE 05

LIEOM Logistics Director, Dr Jama Musse Jama, tries the iris voter-registration technology at NEC. Photographer Dominic Howell.



The right to vote is provided to Somaliland adult citizens. The Citizenship Law (2002) defines adulthood as being 15 years of age and over.⁵⁹ However, neither the Constitution nor the General Electoral Law is clear on when a citizen becomes eligible to register to vote in advance of their 15th birthday.⁶⁰ With registration taking

place well in advance of polling (and without a fixed polling day in place), this lack of legal precision can disenfranchise otherwise eligible voters. At the same time, the looseness of the legal framework and the devolution of decision-making on enrolment eligibility to the local level can also see ineligible (i.e. underage) citizens appearing on the voter register. This problem is compounded by the lack of birth records.⁶¹

Somaliland citizenship – the other major qualification for registration as a voter – is also not a straightforward matter for many.⁶² A review of the legal framework for the inheritance of citizenship, and the acquisition of citizenship by naturalisation, should be undertaken to ensure that the law provides a clear and objective process with limited executive discretion. The process for citizenship by descent and for naturalisation by marriage should be gender-neutral in line with international standards.

Somaliland has experimented with a variety of methods for the registration of voters, and elections in the early 2000s were marred by a lack of confidence in the integrity of the register. Since then, different biometric systems have been implemented, in which the Electoral Commission collected identifying biometric data from registrants such as fingerprints, photographs and now an iris scan. These biometrics can be compared through automated processes that are designed to catch possible duplicate registration (a common criticism in the past) as well as flag records that do not have the requisite identifiers on file or in a usable format.

FOOTNOTE 59

The Citizenship Law Article 1 is clear: “Adult means any citizen who is 15 years old or more.”

FOOTNOTE 60

General Law Article 4.3 lacks clarity. “He/she must not be aged less than 15 years during the year the elections are being held.”

FOOTNOTE 61

Although national identification cards do exist (issued from the age of 15), they are not applied for universally, particularly in rural settings.

FOOTNOTE 62

According to the Citizenship Law, Article 2.1, citizenship at birth is only conferred through fathers, (though it can also be acquired through naturalisation). Several, but by no means all, Islamic countries have a similar practice – though this is in breach of CEDAW.

In common with many other electoral commissions around the world, NEC has found advantages and disadvantages in each of these processes. However, NEC stakeholders, including the political parties, declared themselves satisfied with the current system in which an iris scan is collected at registration and then an automated database-matching process is run to flag possible duplicates. The mission was not present either during registration fieldwork updating the register⁶³ or during the processing, but NEC believes both processes were open and transparent. NEC did use an 'enquiry' system where all flagged records were said to be subject to individual interrogation by NEC officials to determine if a duplicate was to be removed. However, this process was not open to the public or observers, and it is not clear how or if NEC informed potential registrants of their removal.

Previous observation missions found that the observed aspects of the 2016 registration process gained the confidence of voters and political parties, although there were many eligible citizens who were not able to be registered and of those who did, a significant proportion did not collect their cards. This mission did not observe registration in 2020/1 so cannot draw independent conclusions on it. However, we note that there has been no independent interrogation of the IT system, which runs proprietary software. We did though observe that there is a widespread view amongst interlocutors that the register used in the 2021 election was credible.

Before the first fieldwork for the iris-scan biometric system in the 2016 registration process, it was the intention of NEC and the Government to conduct an initial registration process that fed into both a civil register as well as creating the initial voter register. Where a civil register exists, voter registers are typically extracts of the parent civil register. Such arrangements allow for significant efficiencies to be realised by conducting one nation-wide exercise that then is subject to regular updating. NEC should continue dialogue with the Government of Somaliland for future registration arrangements. If no civil register is to be pursued, the presence of civil-registration staff and collection of civil-registration information should not continue in NEC voter-registration centres.

During registration, emphasis was placed on the role of local clan leaders to 'vouch' for the identity, age and citizenship of applicants, given that pre-existing full records are lacking. While this reflects the clan-based nature of Somaliland society, it is not an optimal system and could potentially be open to partisan manipulation. If Somaliland had a civil register, there would be no need for such vouching.

While the mission was not able to see and examine NEC procedures for the 2021 update of voter registration, there is concern around the treatment or potential treatment of citizens with disabilities who present for registration. The electoral law describes as ineligible for registration "any citizen who is mentally challenged." Such a blanket prohibition is not compatible with international standards. Even if it was acceptable, any such prohibition needs to be subject to objective and clear criteria, and would usually be accompanied by an expert assessment, such as by a medical practitioner. In Somaliland, we understand the decision as to whether an applicant was eligible under this section was left to registration supervisors, leading to potential inconsistency. In some cases, we were told, persons with physical disabilities were disenfranchised by decisions of registration supervisors based on misinterpretation of this legal provision.

FOOTNOTE 63

As noted above, a previous mission did observe the registration process for the original register. For further detail, see Schueller, M-L. and M. Walls. *Report by International Observers on the 2016 Voter Registration Process in Somaliland*. London: Progressio/UCL (2017).

The electoral law and NEC procedures allow voters to choose where to register, rather than compelling registration in the voters' habitual place of residence. This appears to allow voters to maintain a political link with their 'home area' and encourages clan-affiliated voting. As reported to the mission, this also means that voters sometimes expect candidates to meet the travel and accommodation costs of their return to their place of registration up to three times – to register, to collect the voter card and to vote. Candidates complained to the mission about the financial burden of this, although it also provides them the benefits of 'bussing in' substantial blocks of supporters.

Most stakeholders reported that there was sufficient opportunity to register, either during the main 2016 process or during the 2020/1 'top-up' period. However, there is some concern that the top-up' period was too short, occurring as it did during a busy time of the pastoral calendar. In relation to both registration exercises, the mission did, however, receive numerous reports that the process for collecting voter cards was not well-explained or publicised, and was too short. Registered voters may not vote without a voter card, even if they appear on the printed register and present their national ID card.

More than 200,000 cards remained in NEC's possession after the 2020/1 'top-up' period, suggesting that the collection arrangements were insufficient. Approximately 15% of applicants who registered for the 2021 elections in 2020/1 did not collect their cards, and thus became ineligible to vote. This number is on top of those cards still uncollected after the 2017 election. Of those who were able to register in 2016 or 2020/1, only 82% had collected their cards. There is no effective mechanism for the removal from the register of the unknown number of deceased citizens since 2016, which may in future reduce confidence in the electoral system.

	2016 ⁶⁴	2020/1 ⁶⁵	Total
Number of applicants for registration	907,528	435,371	1,342,899
Number of accepted applicants	873,442	424,691	1,298,133
Number of cards collected	704,087	361,760 ⁶⁶	1,065,847

The electoral law provides for the registration and voting by Somalilanders abroad through Somaliland's diplomatic missions, though without specifying the mechanisms for doing so. However, this did not happen in these elections, or in any elections. Without underestimating the logistical challenges of providing such registration and voting services to an unknown number of diaspora, it is important that NEC and the Government of Somaliland reconsider the appropriateness of having legal provisions that are entirely unimplemented.

FOOTNOTE 64

Data from NEC. "Somaliland Elections." Hargeisa: National Electoral Commission (2020).

FOOTNOTE 65

Data from NEC, through [Somaliland Election Monitoring Office](#) (2021).

FOOTNOTE 66

Unofficial figure derived from extrapolation of the data listed.

There is a significant community of dual-citizens centred around Hargeisa who are frequently outside of Somaliland, but who maintain important roles in Somaliland's businesses and civil society. There are also many pastoralists, who may be outside of Somaliland at various times of the year depending on the weather patterns and grazing opportunities for their animals. In both cases, many from these groups are disenfranchised due to the limited opportunities for them to register to vote and then separately collect their cards either of which may take place when they are outside of Somaliland. This issue was compounded by the Covid-19 travel restrictions during the 15 months prior to these elections. Having a civil register permitting citizens resident abroad to renew their voting rights upon return to Somaliland would be helpful, meaning that at least those in Somaliland during an election could vote.⁶⁷

NEC published a small number of voter registration statistics, which did not include disaggregation by sex or age.⁶⁸ The 2020 Health and Demographic Survey,⁶⁹ a welcome attempt at providing the sort of basic demographic data that is missing in the absence of a census, estimated that 52% of the population are 15 or older. NEC's figure for registered voters was 1,065,847.⁷⁰ However, it is common in Somaliland to refer to a total population of 3.5 to 4 million.⁷¹ Even controlling for under-age Somalilanders, this does not suggest that the voter list is close to complete. While NEC's commitment to the accuracy of the register is admirable, there must be an equal commitment to obtaining a complete register of all eligible voters.

NEC did not deploy technology to check biometrics on polling day itself. While stakeholders told the mission they expected to see biometric authentication in polling stations, no one reported any concerns that this did not occur. Given the known obstacles for deploying and relying upon a technology-based solution for the limited hours of polling, and the existing confidence in the register without it, NEC should consider very carefully any move towards reliance on biometric confirmation on polling day.

FOOTNOTE 67

In order to avoid the risk of proxy impersonation, it might be advisable for non-resident citizens to have voting cards of a different colour or format to ensure that additional safeguards (such as passport or iris checks) could prevent family members from voting for absent relatives.

FOOTNOTE 68

Unofficially, the mission was provided with draft data which although unverified, indicated that 46.6% of the registered voters were female, which likely indicates that some women were disproportionately unable to vote. Registered voters aged 66 and above accounted for 3.1% of the electorate, whereas those listed "16 up to 25" (which presumably also covers eligible 15 year olds) accounted for 53.4%, with a further 18.7% between 26 and 35 years of age.

FOOTNOTE 69

Central Statistics Department, Ministry of Planning and National Development, Somaliland Government (2020), *The Somaliland Health and Demographic Survey 2020*, p16.

FOOTNOTE 70

Which is actually not the number of voters on the register, but is the number of registered voters who have collected voter cards.

FOOTNOTE 71

The official Government [website](#) puts the population as 4.5 million.

7.1 Recommendations

- The Government of Somaliland should conduct a population census.
- The legal framework should provide more clarity on when a person must be 15 years old – at registration, at the calling of the election or by polling day – and should also allow for provisional registration of those who expect to be 15 by the agreed deadline.
- Citizenship, required for voting rights, should be accorded on a gender-neutral basis in line with international standards.
- In line with international standards, legislative restrictions on the right to register and vote of persons with disabilities should be removed. NEC should consider mechanisms for ensuring the ongoing accuracy of the voter register, including appropriate procedures for the removal of deceased persons.
- NEC should examine its model of registration and card collection to ensure more access to these vital services for all potential voters. In particular, voter cards should be available for collection at times much closer to polling.
- NEC should examine what led to the need for a supplementary voters' list and take steps to avoid a repeat of this complication at the next election.
- If NEC is going to adopt an increased use of technology in the electoral process, then careful consideration needs to be given to ensure it is solving a problem that exists, and that whichever technology used is sustainable in terms of cost and usability across multiple elections.



8

Campaigning

8.1 Campaign rules

The Political Parties Code of Conduct provided the framework for the conduct of the campaign, including the rights and limitations for campaigning, and a commitment to avoid inflammatory language, intimidation or destruction of property. The Code also provided guidelines for the fair use of state resources, funds and media, including equal access to public resources, media and public squares and a prohibition on the use of government vehicles, and campaigning by civil servants. The jurisdiction of the Code covers the formal political campaign, which, in this instance, was only six days.

FIGURE 06
Campaigners at a UCID rally.
Photographer Unknown.

The Code outlines a role for a Political Party Task Force Committee as a forum for dialogue between parties and between parties and NEC. It also provides a structure for election-dispute resolution (see section 14).



**FIGURE 07**

Campaigners for a Kulmiye candidate. Photographer Scott Pegg.

Neither the General Law nor the Political Party Code of Conduct contains a minimum period for the conduct of the campaign, which creates uncertainty and, in this instance, meant the official period provided by NEC of two days per party was inadequate for meaningful campaigns. Party interlocutors did not, however, express significant dissatisfaction on that point. The prime rationale for this exceptionally short campaign was the legitimate desire to limit the number of large public gatherings in order to minimise the risk Covid-19 transmission, with the additional justification sometimes being to reduce campaign expenditure.

NEC also issued a series of additional regulations not contained in the Code, including daily curfews for the cessation of campaigning as well as prescriptive guidelines on how parties were meant to use their allocated two days, splitting activities between public rallies (to be held on one of the two days) and smaller-scale local campaigning (intended to occur on the other campaign day). From observations, these guidelines, which in any case could be characterised as micro-management, were not adhered to with much consistency.

FIGURE 08

A Kulmiye lorry in Hargeisa. Photographer Dominic Howell.





FIGURE 09
Campaigners at a Waddani rally. Photographer Scott Pegg.

The electoral calendar was also partially affected by public holidays and Ramadan. The result was an emphasis on an informal campaign, with a concurrent lack of formal regulation and accountability, notably regarding finances and election disputes. As noted, parties' leaderships did not raise significant concerns about the short duration of the official campaign, in part because the informal campaign started long before the officially-sanctioned six-day period. Nevertheless some candidates have expressed the view that they were disadvantaged compared to those candidates supported by traditional networks. A longer formal campaign could provide a more competitive environment for open debate.

Responsibility for education on electoral procedures lies primarily with NEC. It was observed that parties played only a limited role in voter education. What education was undertaken by parties was driven by candidates, who in many cases produced prompt cards for voters to take to polling stations with the names, symbols and candidate numbers of the candidates they were being urged to vote for. Party-driven education on the process of marking ballot papers was, as far as we observed, very limited.

Candidate selection and campaigning activities was reportedly sometimes tense, leading in some instances to arrests and warrants for arrests being issued by traditional authorities rather than the Government. Although the authorities reportedly solved these situations, they nevertheless represented further limitations on political diversity.

A large part of the real, yet unregulated, campaign takes place during the candidate-selection period when clan- and sub-clan-based decisions are taken as to who will receive financial and voting support. The mission was unable to assess this, however, as candidate selection occurred before its deployment. Further, such deliberations would not be open to observation. It was reported to the mission that women candidates were at a disadvantage in the pre-campaign period. Nevertheless, observers in areas with women candidates saw posters for these candidates in proportionate numbers and prominence to those of men.

Groups often referred to as 'minorities' or 'Gabooye'⁷² are similarly disadvantaged by the tendency for socially-dominant clans to extend that dominance into the

FOOTNOTE 72

The appropriateness of the term 'minority' is hard to assess in the absence of census data, and the term 'Gabooye', although widely used, is considered inappropriate by many members of the groups concerned, who in fact come from a number of different lineages – see section 9.3.

political arena. The 2021 elections were notable in this regard for the election of a member of one of these groups. As has been previously noted in this report, there was some coordination between parties that may have been intended to support this outcome. The first electoral victory for such a candidate in a popular vote was seen as a milestone by many in Somaliland and abroad. However, put in perspective, the fact that the election of a single MP from a marginalised group can reasonably be seen as a breakthrough also shows the historical extent of that marginalisation.

The mission was not aware of many instances in which party policies or broader issues regarding the needs and concerns of women, people with disabilities or members of minority clans had a significant bearing on electoral outcomes, although a handful of candidates did individually develop a reputation for policy-centred campaigning. This reflects the long-standing lack of focus on policy, given the strength of kinship in influencing electoral decisions. If Somaliland's political parties develop into more programmatic parties, it will be useful for these groups to advocate for clear and detailed policies to address marginalisation in society.

The legally-mandated 48 hours of campaign silence was both unnecessarily long and was also not widely respected. Having restrictions which are neither essential, nor enforced, undermines more necessary measures and devalues the rule of law.



FIGURE 10
An example of UCID candidates' campaigns in a rural area. Photographer Scott Pegg.

8.2 Recommendations

- The Law should include a longer official campaign period to enable a more competitive election campaign and less reliance on unregulated informal channels.
- All candidates should be free to campaign equally for electoral support, with traditional and state authorities exercising their powers in an apolitical manner.
- Campaign-silence periods should be reduced to 24 hours prior to the opening of polls.

9

Inclusion of women, minorities and persons with disabilities

9.1 Political representation of women

The representation of women in Somaliland political and public life has long been the topic of public debate, spurred on especially by the poor representation of women in the existing elected bodies. Prior to these elections, there was only one female MP and nine incumbent local councillors.⁷³

Members of Somaliland's civil society have for many years advocated for the inclusion of temporary special measures in electoral law to guarantee a base level of representation of women in elected bodies. Their chosen strategy was to push for a gender quota of 30% to be applied to party lists. Repeated advocacy and discussion were insufficient to gain the inclusion of such a quota in the 2020 revision of the electoral law. Parties did however make a voluntary commitment in September 2020 to each have a quota of six female parliamentary candidates. However, this commitment of a mere 7% of MP candidates was in fact only met by one of the three parties. In total, out of 246 MP candidates, only 13 (5%) were female.

FIGURE 10

A woman at a UCiD rally in Hargeisa. Photographer Andrea Klingel.



FOOTNOTE 73

Ten female councillors were elected in 2012.

Poor gender representation extends to the electoral bodies. NEC currently has one female commissioner out of seven; there are no formal rules for the representation of women on NEC. However, women's organisations, through the umbrella Nagaad group, reported to the mission that the female commissioner does provide them with an entry point to raise their issues with NEC.⁷⁴ Further, NEC established an internal gender unit prior to the election to look at how NEC can work in a more gender-sensitive manner, and examine staffing strategies to discern any barriers to women as NEC staff. No data was available to the mission on the staffing breakdown within NEC's permanent-staffing structure.

In the event, these elections, despite some high-profile campaigns by female candidates, demonstrated no electoral progress for women. The number of female councillors elected fell from 10 to three. Some civil society activists⁷⁵ reported disquiet on this issue to the mission, including the observation that the new Parliament would be unique in Africa⁷⁶ in having no female MPs whatsoever.⁷⁷

The most effective path to improving women's political representation must now be considered. While a candidate quota is a relatively common strategy, the use of such a quota in an open-list electoral system will not guarantee female representation, particularly if patriarchal leaderships have influence over voters. Given the barriers to women gaining clan and party nomination, advocates of women's representation should consider changes to the electoral system to a closed-list system with temporary special measures for gender representation as well as a wider examination of society's views of women as political leaders. Several organisations consulted by the mission have committed to such work.

Concerns were raised to the mission that some well-meaning international actors risked unintentionally undermining the role of women in politics by promoting female candidates in a way in which the women became identified with a 'foreign agenda' of social and political interference. Donors should consequently consider building as much as possible on locally-led initiatives.

FIGURE 12
Women at a Waddani rally.
Photographer Scott Pegg.



FOOTNOTE 74

[Nagaad Network](#) is a civil society umbrella organisation which aims to coordinate civil society efforts to advocate for women and children's empowerment.

FOOTNOTE 75

See for instance the CPA Report [A Lighthouse of African Democracy with limited women representation](#).

FOOTNOTE 76

See [Inter-Parliamentary Union](#).

FOOTNOTE 77

The House of Elders also has no women.

9.2 Women voters and polling day

The potential for improving the role of women in political leadership was apparent on polling day itself. While no hard data was available on the gender breakdown of polling staff, observers saw women well-represented as polling station staff, including as heads of polling stations. The mission was told that women were in fact preferred as polling staff due to their experience in running households and their perceived impartiality. No data was available on whether women held similar roles during voter registration exercises.

Civil society reported that women had an equal chance with men to register to vote, and on polling day large numbers of women were seen waiting to vote, especially in the early part of the day. NEC did not publish voter registration statistics by gender, though informally the mission understands that 46.6% of all of the registrants (who had collected their voting cards) are female.

With no reliable population data, it is not possible to assess if women are registered at the same rate as their prevalence in society. It seems unlikely that this was the case, however, given that, in each of the six districts, they account for less than half of registered voters and there were significant regional variations.⁷⁸ This may reflect a range of socio-economic inequalities, as well as the difficulties of having to register and then collect the voting card during two separate time-limited periods.

On voting day, crowds at polling stations were mixed but in most cases the mission observed informally separated queues for men and women. Women advocates did not feel that separate women-only stations were required and that the separate queues, along with the high number of women polling staff, provided women with safe access to polling. NEC does not collect disaggregated turnout statistics and should consider this in the future to assess whether women are equally able to vote.

9.3 'Minority clans'

As with women, the political status of 'minority-clan' groups in Somaliland, whose social status largely derives from their historical occupations, has been an ongoing topic of discussion. Members of these clans - the *Tumal*, the *Yibir*, the *Madhiban* and the *Muse Dhariyo*, often referred to collectively as *Gabooye*⁷⁹ - suffer from low social and economic status, and experience segregation within society and exclusion from political processes.

For this election, interlocutors told the mission there were no particular barriers to voter registration among these groups, or to their participation as voters. As a result of their educational, social and economic exclusion, however, these clans are under-represented in elected office.

While there is no formal special legislative measure in place to ensure the election of representatives from minority clans, and the issue received much less coverage in media and civil society discussion than the representation of women, one member of a minority clan was successful in election to Parliament. Civil society organisations stated to the mission a commitment to increasing representation from minority clans.

FOOTNOTE 78

Ranging from 42.8% in Saahil to 47.7% in Maroodi-Jeeh, which includes Hargeisa.

FOOTNOTE 79

As noted above, this term is considered an unacceptable conflation of a number of distinct groups by some members of those groups. However, given that the alternate term 'minority' is similarly regarded as demeaning, and in the absence of a widely understood alternative, we use the term guardedly in this report.

9.4 Persons with disabilities

According to civil society, the percentage of people in Somaliland living with disabilities ranges from 4% to 18%.⁸⁰ People with disabilities have less access to education and employment, and struggle to participate in public life compared to people without disabilities.

Persons with disabilities faced both physical barriers to registering to vote – many buildings in Somaliland are physically inaccessible to some – as well as discrimination from staff in the registration centres, who were empowered to decide on an applicant's eligibility. The physical barriers were also present during the collection of voter cards.

The legal framework includes an outright ban on candidacy for President and Parliament for anyone with a mental or physical disability. This is clearly incompatible with international standards, especially the Convention on the Rights of Persons with Disabilities and should be removed. For local councils, education requirements, which in some cases are higher than those for parliament, act as a de facto bar to the nomination of persons with disabilities. In general, Somaliland has quite some way to go to provide for equal participation in public life for persons with disabilities.

9.5 Recommendations

- The Government should examine the electoral legal framework and remedy incompatibilities with the rights of all persons to stand for election, paying particular attention to legal provisions in order to enhance participation of women, members of 'minority' groups and persons with disabilities.
- Serious consideration should be given to temporary special measures for greater gender parity. The most effective mechanism for achieving this would be to move to a closed list electoral system with zipped quota.
- NEC's gender unit should conduct a gender assessment of the electoral process to identify actions that NEC and stakeholders can take to improve women's participation in elections.
- NEC should commit to a similar assessment of how electoral procedures could be adjusted to facilitate the electoral participation of members of minority clans and persons with disabilities.

FOOTNOTE 80

See, for example, Tomlinson, S. and O.A. Abdi. "Disability in Somaliland" *Disability & Society* 18(7): 911-920 (2003) and Mills, D. *Review of Save Children's support to promote the rights of children with disabilities: Somaliland Programme*. Oslo: Save the Children Norway (2015).



10

Media

10.1 Media environment

In the 16 years between Somaliland's previous parliamentary election and these elections, the media environment has changed considerably due to the rapid growth of online media and the use of social media platforms.

In terms of 'traditional' media, Somaliland has around 20 television channels, including the state-run Somaliland National TV. Radio is the dominant medium for news and information, yet the radio sector is severely restricted. There is only one Somaliland radio station, state-run Radio Hargeisa. Private radio stations are prohibited.⁸¹

Although private newspapers have a long history in Somaliland, they are now increasingly unviable, with just a few in circulation.⁸² The state-owned DAWAN media group also produces newspapers. There is an increasing number of online publications.⁸³ There is no reliable data for internet penetration in Somaliland, but it is ever more widespread, as is the use of social media platforms.⁸⁴

The Somaliland Journalists Association (SOLJA) is a membership organisation that defends and promotes media freedom and the protection of journalists. In addition, the Women in Journalism Association (WIJA) advocates for female journalists and for media platforms for women. Training on election reporting took place in the run-up to election day, organised by NGOs and media.⁸⁵ LIEOM media interlocutors reported that the media were generally able to freely cover the electoral process without obstruction or interference. Some media, however, complained that NEC's communication with the media was poor, with timely information not always forthcoming.

FOOTNOTE 81

[2002 Ministerial Decree](#) banning private radio stations.

FOOTNOTE 82

Geeska Afrika and *Foore* are still printed although, according to interlocutors, not to a regular schedule.

FOOTNOTE 83

The Somaliland Journalists Association estimates around 60.

FOOTNOTE 84

Facebook is the most popular.

FOOTNOTE 85

The Human Rights Centre organised training for over 60 journalists; SOLJA disseminated information to its members about the Media Code of Conduct for the elections; and Horn Cable TV informed the LIEOM it held a training event for its reporters.

10.2 Legal framework and freedom of the media

The Constitution of Somaliland provides for freedom of expression.⁸⁶ It is also guaranteed by the Press Law of 2004, which currently sets the legal framework for the media.⁸⁷ Despite these provisions, however, freedom of expression and the media have not always been respected.

Governments have closed media outlets and blocked websites, and journalists have been arbitrarily arrested and imprisoned.⁸⁸ Authorities have frequently resorted to the Penal Code of 1962 to detain and prosecute journalists, rather than deal with alleged offences under the Press Law and civil law of Somaliland.⁸⁹ This is contrary to the Constitution, as well as international standards on freedom of expression,⁹⁰ and freedom from arbitrary arrest or detention.⁹¹ Some media interlocutors informed the mission that the use of the Penal Code has led to self-censorship and the stifling of media freedom.

There are some noticeable absences in the media legal framework, such as an independent media regulatory body or broadcast authority that deals with licensing. In recent years, discussions to update the Press Law to include the broadcast and online sectors have taken place between SOLJA, other civil society organisations and the Ministry of Information. The result of this dialogue, the draft Somaliland Media Law of 2018,⁹² is yet to be put before the House of Representatives.

FOOTNOTE 86

Constitution, Article 32(1): “Every citizen shall have the freedom, in accordance with the law, to express his opinions orally, visually, artistically or in writing or in any other way.” Article 32(2): “The press and other media are part of the fundamental freedoms of expression and are independent. All acts to subjugate them are prohibited, and a law shall determine their regulation.”

FOOTNOTE 87

The Press Law (2004) Article 3(a): “The freedom of the press is recognized and enshrined in the Constitution of the Republic of Somaliland and is respected and valued in Somaliland.” Article 3(b): “No restraints can be imposed on the Press.” Article 3(c): “Any acts that can be construed as amounting to censorship are prohibited.”

FOOTNOTE 88

In the first half of 2021, SOLJA reported 12 journalists were arbitrarily detained; the Somaliland Human Rights Centre documented seven. In 2020, SOLJA reported on 20 detentions of journalists and the closure of three media outlets - [SOLJA Media Freedom Report](#); in 2019, the figures were respectively 31 and five - [SOLJA Media Freedom Report](#).

FOOTNOTE 89

The Code, which came into force in 1964, contains criminal offences that limit freedom of expression and media, including insulting a public officer or institution, and defamation that has a potential three-year prison sentence.

FOOTNOTE 90

ICCPR, Article 19, [UN Human Rights Committee \(HRC\), General comment no. 34](#), paragraph 47: “States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty.”

FOOTNOTE 91

ICCPR, Article 9(1): “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

FOOTNOTE 92

According to a draft shared with the mission, it proposes, *inter alia*, the establishment of a National Media Council to protect the freedom of the media, to ensure that media abide by the terms of their licences, and to investigate complaints. Article 70(1) states that the Penal Code will not apply to media violations outlined in the Media Law.



As well as the general media framework, media outlets were also regulated by a Media Code of Conduct during the election period.⁹³ It outlined the rights and duties of journalists during the campaign, with the aim of protecting voters' rights to impartial information. A decree from the Ministry of Information obliged government-owned media to give equal space and time to the three parties' campaigns.

10.3 Media monitoring

A Media Monitoring Committee comprising SOLJA, WIJA, NEC and the Ministry of Information was supposed to monitor the media during the six-day campaign period. However, the committee was never established because NEC failed to appoint its members. SOLJA therefore conducted its own monitoring, reporting that, in general, the media covered the campaign responsibly, giving equal coverage to the three parties.⁹⁴

Political parties similarly informed the mission that coverage by state media was balanced. This was particularly notable in coming from one of the opposition parties. The governing party agreed with this assessment but noted their feeling that private media tended to be more critical of government actions.

Much of the private media's coverage of the election was paid-for content by candidates. However, paid-for content was not identified as such, thus undermining the principle of transparency and potentially misleading voters.⁹⁵ One private TV channel informed the mission that free coverage was offered to women and minority candidates.

Disinformation and 'fake news' narratives did not appear to be a feature of these elections, an improvement on the 2017 election. The mission did not observe or learn of candidates or parties using social networks to mount smear campaigns. During the post-election period, media refrained from disseminating results until they were officially announced by NEC. Positively, the authorities did not shut down the internet and social media during the counting and tabulation of results, as was the case following the presidential election in 2017, despite speculation that this might occur.

FOOTNOTE 93

Signed by SOLJA, the Women in Journalism Association (WIJA), NEC and the Ministry of Information on 23 February 2021. It applied from the date of signature to one month after election day.

FOOTNOTE 94

SOLJA [press statement](#) on election campaign media monitoring. SOLJA also monitored the media coverage of the distribution of voters' cards, concluding that TV/radio/newspaper/online coverage was largely positive.

FOOTNOTE 95

This is contrary to the Media Code of Conduct, General Principles, paragraph 4, which says that if a programme is purchased, the public has the right to know who paid.

10.4 Recommendations

- Criminal offences in the Penal Code that affect the media and run contrary to the freedom of expression guaranteed by the Constitution, should be repealed. Defamation should be dealt with as a civil matter.
- State-owned media have a particular responsibility to provide equitable access to candidates and parties during an election campaign. During the next presidential election, they should ensure a continuation of the largely balanced and impartial coverage noted in these elections, particularly given the advantages of incumbency.
- Paid-for political content, particularly on TV, should be properly labelled as such. The absence of information on who pays undermines transparency and citizens' right to information.
- Ensure that all members of the Media Monitoring Committee, or whichever mechanism is foreseen in the Media Code of Conduct, are appointed in a timely manner, so that the committee can fulfil its duties.

11

Voter information and education

Voter information and education are fundamental parts of the electoral process and have been a key focus for various groups and organisations active in Somaliland. For this election, NEC accepted that providing voter information and education was an element of their mandate as an election management body. Civil society interlocutors also pointed to the primacy of NEC in this regard.

Unfortunately, NEC's efforts in this area did not appear to be as detailed or as widespread as could be expected, or as was required by the electorate. This was particularly necessary since this was the first proportional representation election held for nine years and was the first parliamentary election for approximately two-thirds of the electorate.⁹⁶

NEC made some efforts over the whole electoral period to detail their own tasks using social media channels – the public could see on Facebook and Twitter NEC receiving candidate nominations and the arrival of electoral materials. However, there was little effort made to also educate the electorate on how to vote.

In addition to the challenges of a young electorate and inordinate periods since the previous parliamentary and local elections, the 31 May 2021 polls were the first time Somaliland had held combined elections. Accordingly, international practice would have suggested that extra efforts were needed to explain the different contests and the methods for correctly marking ballot papers. This is particularly so as voters faced the daunting prospect of having roughly 100 candidates to choose from across two ballot papers. The decision by NEC to 'split' polling locations into extra streams and stations also warranted a need for specific voter information beyond what was provided.

Positively, NEC did send text messages to some voters informing them of the location of their polling stations/streams. However, this was only partially effective in a society in which many have either no network coverage, phone, or literacy, and since the majority of the electorate were registered in 2016, many phone numbers would have changed.

NEC voter information materials on polling – such as a short video posted to Facebook on 26 May and a printed banner distributed to polling stations – focused instead on the steps that would take place to confirm the voter's eligibility and mark them off the Final Voter List in the station.

FOOTNOTE 96

Any voters who had been eligible to have voted in the previous parliamentary election in 2005, would be at least 31 at the time of these elections. Voters between the ages of 15 and 35 accounted for 72.1% of the registered electorate.

The video did not address the new arrangements voters would face in terms of polling streams or new polling locations. It showed the voter going to a curtained area to mark their ballot papers, but it did not show the way the majority of voters would vote, which was with assistance. It also did not show exactly how the voter should mark their papers to ensure a valid vote.

The video was inclusive in that it showed women as well as men in the queue to vote, and women as polling station staff. However, it is not clear how many Somalilanders were able to view the video spot, as the mission's examination of public Facebook analytics indicated that, as of 1 June, the spot had only 1,309 views, 7 shares and 64 comments.

The NEC website was not working for around seven of the last ten days before the election.

NEC's banner was seen by mission observers at almost all polling locations visited. Despite the long time voters spent in queues, most locations displayed the banner inside the station where voters had no opportunity to examine it. Like the video spot, the banner did not contain instructions on the correct marking of the ballot papers.

NEC did partner with civil society to provide some level of voter information, and also embarked on their own intensive voter -information roadshow in the days immediately before polling day. While mission observers saw some such efforts, in our view NEC's voter information was inadequate in both issues covered and its availability to the electorate.

A key strategy for voter information is for an election management body to be able to respond to public inquiries and provide basic information to voters. While NEC did organise a call centre using a mobile phone short-call number, all reports received by the mission indicated that voters were generally unable to reach NEC through this service. NEC could have anticipated that voters would have questions on the changing arrangements for polling access through new polling streams and polling locations, but did not seem to have capacity to manage the volume of inquiries received. A large amount of these inquiries were instead directed to civil society through their own call centres and situation rooms.

11.1 Recommendations

- NEC should review its voter information and education plans in advance of the next election to ensure both that all necessary topics are covered but also that materials and messages are shared with the electorate in a timely and appropriate fashion.
- NEC should ensure adequate capacity in its own enquiry services to meet voter demand.

12

Election day

Election day was observed by the mission in four major cities, with only very limited coverage of rural areas. This was due to the small number of observers as a result of the Covid-19 pandemic. Nevertheless, a dozen international observers from four continents were deployed, visiting 80 polling stations on election day. In keeping with the methodology of a Limited International Election Observation Mission, statistics collected on voting and counting procedures are not reported as they are from a small sample which might not numerically represent the national picture. Nevertheless, issues raised by the mission's observers reflect some of the good practice of these elections as well as some areas requiring improvement.

12.1 Opening of polling stations

Based on the mission's observation of electoral preparations and the opening of polling stations, as well as media and civil society reports, NEC's operational preparations for the polls were successful. Staff and materials were present at polling places and voting started more or less on time in most areas.

There were however variations in the opening time of polling stations, depending on the time of arrival of the staff, and their confidence in the opening procedures process. Some of the voter education materials produced indicated voting started at 6am, when in fact it was due to be 7am. In some instances, large crowds had gathered prior to dawn, putting pressure on some polling stations to open early, and in fact some polling stations did open early. Nevertheless, this did not appear to have a detrimental effect on the overall conduct of voting.

FIGURE 13

Observing the setting up
a polling station before
opening. Photographer
Mohamed Sabbahy.





FIGURE 14 (top)

A polling staff member tries to make space for the ballot papers in the ballot box, which is unsealed. Photographer Andrea Klingel.

12.2 Voting

Voting was slow due to the complications of two large ballot papers, the confined rooms that polling took place in and the length of time it took to identify the voters. However, despite these obstacles, voting was assessed positively overall. However, there were several observed instances of ballot boxes being inadequately sealed, or not being sealed at all. There were also repeated instances of unused ballot papers being inadequately secured within polling stations. However, no fraudulent intent or practice was detected as a result of these shortfalls in training and procedure.



What voter education materials there were sometimes went unused within polling stations. Where they were used, they were rarely used in the queues outside, where they would have been most effective. On the other hand, there were some instances of ad hoc voter education from local polling station staff (for instance on classroom blackboards) which appeared both neutral, and helpful to voters. It demonstrated the wider need for professionally-produced voter education materials showing how voters could cast their own ballots.

FIGURE 15

An unsealed ballot box in another polling station during election day. Photographer Scott Pegg.



FIGURE 16
Voting. Photographer
Scott Pegg.

There were exceptionally high levels of assisted voting observed, ranging in urban areas from approximately 50% to almost 100% of voters depending on the location. While there is no confirmed data for rates of illiteracy in Somaliland, measures were implemented by NEC which would in theory allow for those who cannot read to cast their own ballots without assistance. For instance, each parliamentary candidate in a constituency was allocated a pictorial symbol which was widely used on their posters (along with the party symbols), and which were printed on the ballot paper. For the local-council ballot paper, each candidate had a number allocated with the first digit representing the party and the second two digits representing the individual candidate. Both of these sensible measures should have allowed voters to cast their own ballots regardless of literacy levels. The demonstrated failure of these measures to encourage the electorate to cast their own ballots in secret leads the mission to note the social context in which secrecy is considered a low priority, but also to conclude that voter education was insufficient. While the mission cannot know what was in the minds of the voters, it is possible that the widespread use of ‘assisted voting’ is in part motivated by the desire to demonstrate public voting for cultural, clan or other reasons. The practice of ‘assisted voting’ as observed is not consistent with international standards. Efforts should be made by NEC to reduce the number of voters needing assistance in future elections, particularly for the presidential election which, under the current restrictions, would have only three choices.

FIGURE 17
The chairperson of a polling station showing the ballot paper of an assisted voter to party observers. Photographer
Andrea Klingel.



While assisted voting was more commonly used by women than men, it was so often used by both sexes that it was neither disapproved of, nor contested, by party observers. The procedures required that the voter informed the chairperson of their vote, who then marked the ballot paper and announced the choice of the voter, while displaying the marked ballot to party observers. This clearly invalidates the secrecy of the ballot, a core and universal principle of international democratic processes. It was observed that, in some places, this process was not followed in a way that allowed party observers to double-check either the intent of the voter, the marked ballot, or both.

Although the mission has serious reservations about this process, which falls well short of procedures used elsewhere that give the voter the right to select their own choice of trusted assistant,⁹⁷ the mission also recognises that in an electoral system in which the majority of voters request assistance (even if they might not require it), the openness of the system employed in Somaliland is considered by many to be helpful in ensuring that voter intention is reflected in the ballot paper, while also being fully-accepted by the electorate.



FIGURE 18
A voter's little finger is dipped in ink as one of the measures to prevent double voting.
Photographer Andrea Klingel.

It was noted that in the minority of cases where voters did cast their own ballots, there were many instances in which voters still chose to vote in public, or where the space available or set-up of the polling station made a secret ballot difficult. Formal voting booths were largely absent, apart it seems from the polling stations where the party leaders cast their votes.

The general environment for the polls was peaceful.⁹⁸ Queues were long; many voters waited for hours, often without water or shade. Due to the election-day ban on the use of vehicles, including public transport, some voters also had to walk long distances to vote. There were no exemptions provided for persons with disabilities. These queues were exacerbated by the

inconsistent closure of some polling stations or streams for prayers.⁹⁹ This is not foreseen in the regulations, and there were different practices observed. In some cases, doors were locked with no one on the inside; in others, sensitive materials were guarded by police and party observers; and, in some, it was unclear what the process was. In some polling stations, some streams closed while others did not. This appeared frustrating for some voters. There was, to a greater or lesser extent, some degree of fast-tracking of the elderly, persons with disabilities, pregnant women and those with young children. However, it was inconsistent and at the discretion of queue supervisors who were not present in all locations.

The main challenge facing voters was the lack of clarity and awareness as to which polling "stream" they should attend within a polling station. The decision to sub-divide polling stations into polling streams in some places, to account for the larger

FOOTNOTE 97

A requirement of Article 29a(iii) of the [Convention on the Rights of Persons with Disabilities](#).

FOOTNOTE 98

The mission noted reports of armed groups in Buhoodle district hindering the process in the two sub-districts conducting elections there.

FOOTNOTE 99

A polling station represented a location which may have been sub-divided into multiple streams, each one of which was autonomous with its own separate voters list, staff and observers, even if sometimes they were in the same room as another stream.



FIGURE 19
Voters waiting outside
polling stations.
Photographer Scott Pegg.

number of voters, was a reasonable one, but unfortunately it was not matched with adequate organisation. There was poor, ad hoc signage indicating the alphabetical separation of streams, particularly given the prevalence of illiteracy. Queue controllers, where they were evident, lacked preparation for their role. The security forces should be trained to assist voters to access the correct polling stations and streams, particularly those who are illiterate and persons with disabilities.

The voter cards contain details of each voter's allocated polling station. While superficially this may seem helpful, it meant that when NEC responded to changing population numbers, and the Covid-19 pandemic, by opening new polling streams and polling stations, as well as changing the locations of others, the printed locations on some cards became redundant and misleading. The majority of voter cards were issued in 2017, leading to confusion for voters who had to find and travel to a new location than that printed on their card. Some of the cards issued in 2021 also had out-of-date information due to the late increase in polling stations and streams.

In general, the queues were patient despite the long waiting times to vote. There were instances of security personnel overreacting, including one observed instance of police beating members of a frustrated crowd, as well as a diplomat reporting of hearing gunfire being used (in the air) to disperse a crowd. These examples represent failings of the electoral and security bodies to effectively provide the required level of public service.

Mission observers also saw large numbers of people voting with a 'blue slip', the acknowledgement that a lost voter card has been reported to NEC. NEC should examine its registration process to consider methods of providing voter cards

at the time of registration, rather than require separate attendance. If a card-collection period is to be required, it should be longer and more flexible, including opportunities for card collection in the immediate period before polling, when voters are most likely to be interested in securing their card. NEC should also look at providing replacement voter cards with photos rather than relying on the less secure 'blue slips' for those who lose their original card.

While NEC advised that they removed those voters whose cards were uncollected from the polling day Final Voter Lists, there were reports of voters attending stations with no card or blue slip but appearing on the printed list. Some brought registration receipts to support their claims. While NEC procedures did not allow such people to vote, this was reportedly changed during the day to allow such voters to take part. It is not clear how NEC was able to communicate this change of procedure in the middle of polling day. Similarly, NEC allowed the use of supplementary voters' lists from about halfway through polling day, allowing voters who did not appear on the Final Voter Lists and not holding a voter card or 'blue slip' to vote. Again, this was a late decision that was likely to be inconsistently applied; it was also one that undermined the whole case for strong voter registration procedures.

NEC included Card Verification Values (a three-digit code) on the back of the card, akin to that found on a credit card, to form an extra check on the validity of the card. Observers did not see the Card Verification Values being added to the Final Voter Lists as originally envisaged as an additional security measure. This is an example of where NEC adopted sensible procedure, but where implementation did not follow intention.

Mission observers reported long delays caused by polling staff being very slow to find voters' names on voter lists, even with the production of a voter card. This suggests that polling staff literacy was not sufficient (in at least one observed polling station, staff searched for voters by photo).

Somaliland has the (joint) lowest age of adulthood in the world, set at 15-years-old. Despite this, in many of the polling places visited, the mission observed children voting who seemed considerably younger than 15. Many of these apparently under-age registrants had a voter card and so were, appropriately, allowed to vote. The problem lies at the voter-registration stage and is due to the lack of birth certificates in Somaliland.

FIGURE 20

A young voter has her finger inked after voting. Photographer Andrea Klingel.



Even though voter turnout was not unexpectedly high in most polling stations, ballot boxes were full early in process, but there was no apparent procedure or contingency to deal with the problem. This made it difficult for voters later in the day to get their ballots into the box, although this did not significantly hamper voting.

Measures to reduce the transmission of Covid-19 on election day for voters, NEC staff and national and party observers, such as the use of face masks inside buildings were generally not used, or poorly enforced.

12.3 Counting

Counting was observed in only six polling stations. In each of the six locations, a different method for counting was observed. While officials made an effort to conduct a regular count and do the best job possible, they lacked awareness of how best to do this, indicating a lack of adequate preparation and training. While the approach to counting was inconsistent and somewhat disorganised, it was largely transparent with party agents present. Counting was supposed to begin with the House of Representatives' poll but, in two of the six locations observed, it started with local council elections.



FIGURE 21
Counting ballot papers on
election night. Photographer
Scott Pegg.

No pre-printed draft counting forms were produced to assist the polling staff and party agents keep a clear record of the votes recorded for each candidate. There were around 100 candidates across the two elections for the multi-member constituencies. Such forms with security features were provided to each polling station for the entry of the final polling station count and for signature by officials and agents. It would have been helpful to have had identical copies of these forms, without the security features, for party agents and the polling station secretary to facilitate the count.

While no evidence of deliberate manipulation was observed, the process requires tightening as minor counting errors were observed during counting and further noted during the tabulation process. While there was no reason to suspect that errors were on a scale which could question the overall results, the mission recalls that the victor of the 2003 presidential election won by a mere 80 votes, thus underlining the importance of accurate and credible results.

12.4 Tabulation

It had been the expectation of party representatives that tabulation would start immediately after counting. Observers noted that, following the counting process, none of the tabulation centres visited were set up in preparation for the arrival of ballot boxes. Instead, ballot boxes were stored at regional locations, and tabulation only began later in the day on 1 June or, in some locations, including Maroodi-Jeeh, on 2 June. Because of this, tabulation was only observed in Maroodi-Jeeh.

Uncertainty around tabulation was exacerbated by mixed messaging from NEC about the likely length of the process, and the lack of accurate public information on progress. The tabulation process appeared not to investigate obvious discrepancies, such as differences between the number of thumb prints on the Final Voter Lists and the votes cast. There is no automated full reconciliation of results entered into computers. Party agents accepted mistakes and minor discrepancies in the results due to human error.



FIGURE 22
Polling staff waiting for tabulation to start on the day after the election. Photographer Scott Pegg.

12.5 Recommendations

- Consideration should be given to opening polling stations earlier, at 6am, so as to reduce queues of voters in the later heat of the day.
- If combined elections with large ballot papers are to be held again, consideration should be given as to how to avoid ballot boxes becoming congested. This could include pre-folding of ballot papers and different coloured papers for the different electoral levels.
- In order to further facilitate secret voting, appropriate booths should be used.
- The procedures for correctly sealing ballot boxes should be emphasised in the training process, and serial numbers entered into a polling stream opening protocol form.
- NEC staff should be provided with more guidance and training on how to effectively assist voters to find the correct stream within their polling centre.
- Polling streams should not close for breaks. Staff wishing to pray should coordinate their absences to allow voting to continue.
- Voter education material should be placed within easy sight of those queuing outside so as to give them more time to be acquainted with the process.
- Voter education should concentrate more on the actual process of how to mark ballots.
- Polling staff require additional training in how to find voters on the voter list.
- The counting process needs to be more clearly defined in training manuals, and use clear reconciliation protocols which guide polling staff through the counting process.
- Polling staff and all permitted observers should be provided with a consolidated counting form to enable the accurate recording of votes per candidate.
- Tabulation centres should be set up in advance in order to facilitate the intake of sensitive material.
- Computer inputs of all relevant figures should be automatically reconciled and discrepancies be investigated, with recounts where necessary.

13

Analysis of results

13.1 Results process

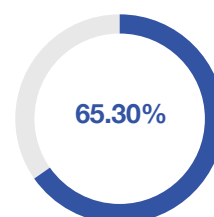
Results were counted and announced at each polling station for both elections. The results were then tabulated and announced at each district for each election. For local council elections, the district office also announced winning candidates. For House of Representatives elections, results were then tabulated and announced at each region.

The overall results were then checked and confirmed by NEC at the national level, and a copy of results provided to the mandated court, which for the House of Representatives is the Supreme Court. The Supreme Court confirmed the result and was responsible for the inauguration of elected members of the House.

13.2 Voter turnout

Region	Voters with Cards	Valid Votes	% Turnout
Sanaag	111,623	75,256	67.42%
Sool	103,832	63,179	60.85%
Awdal	145,919	90,321	61.90%
Togdheer	205,591	137,155	66.71%
Saahil	98,503	65,768	66.77%
Maroodi-Jeeh	400,379	264,236	66.00%

Total	1,065,847	695,915
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13.3 Final results

House of Representatives - votes won by parties¹⁰⁰

PARTY	REGION						Total
	Sool	Sanaag	Togdheer	Awdal	Saahil	Maroodi-Jeeh	
Waddani	19,292	28,517	59,286	33,708	18,705	99,150	258,658
Kulmiye	26,842	24,670	40,962	37,215	26,501	100,334	256,524
UCID	16,946	21,903	36,907	19,130	20,412	64,255	179,553

House of Representatives – seats won by parties

PARTY	REGION						Total
	Sool	Sanaag	Togdheer	Awdal	Saahil	Maroodi-Jeeh	
Waddani	4	5	7	5	3	7	31
Kulmiye	5	4	4	5	4	8	30
UCID	3	3	4	3	4	5	21

Local council seats

PARTY	REGION						Total
	Sool	Sanaag	Togdheer	Awdal	Saahil	Maroodi-Jeeh	
Waddani	12	12	16	16	7	16	79
Kulmiye	22	14	12	17	9	19	93
UCID	6	7	7	9	6	13	48

While the political outcome of the elections does not fall within the scope of the mission, we do note that the parliamentary and local council results, in which the party of the incumbent president achieved a smaller number of seats than the combined total won by the two opposition parties, were accepted by the government. Similarly, while the election of an opposition candidate as Speaker of the House involved some political posturing, that result was also accepted by the incumbent president, with both outcomes showing encouraging political maturity.

FOOTNOTE 100

The mission encountered differing versions of some results, each issued by NEC.

13.4 Recommendations

- Clarify the process for the official announcement of results and what is the role of the court. Ideally the court should not be part of the formal announcement process, which should rest with NEC, but rather is only called upon in case of a legal challenge to the results.
- NEC should provide a detailed breakdown of results by polling station as soon as is practicable, so that parties can verify the copies of results collected by their agents at each stage of the process.
- In providing detailed results, NEC should also provide a clear breakdown of the number of invalid votes, and the number of assisted votes, as well as gender-aggregated data.

14

Electoral dispute resolution

14.1 Pre-election and election day complaints

According to the General Law, NEC has full authority to hear and act upon electoral complaints¹⁰¹ and is also mandated to “create administrative processes to safeguard, investigate and monitor the Code of Conduct”.¹⁰² The Political Parties Code of Conduct provides some detail and provision for the management of pre-election complaints.

According to the Code, NEC should create an Elections Conduct and Conflict Resolution Committee (ECCRC)¹⁰³ to adjudicate on complaints by parties relating to the Code.¹⁰⁴ At the same time, however, the Code also highlights the value of an informal approach, based on dialogue and consensus,¹⁰⁵ using other mechanisms also provided for in the Code, such as a Political Parties Task Force Committee. Otherwise, disputes should be referred to the ECCRC and thereafter to NEC if still not resolved.

However, for these polls there was a lack of clarity regarding election-dispute mechanisms and parties appeared unfamiliar with procedures and often approached NEC directly with a grievance. At some point, a National Election Monitoring and Conflict Resolutions Board was formed, with a seven-man Board in the capital and two officials in each region.¹⁰⁶ Only the three political parties were allowed to take cases to the Board. However, as mentioned, they appeared largely unaware of the institution, procedures or composition of the Board.

The mission was informed that the Board had dealt with only some 10-15 complaints. Up to eight of these were from the six-day campaign period, for instance relating to misuse of state resources and the role of the police for campaign security. However, details on the cases were not publicly available nor provided to the mission. NEC issued a couple of public warnings in the pre-election period regarding alleged malpractices,¹⁰⁷ but it is not clear why NEC chose these instances to provide a public response or what the outcome was. In the absence of Long Term Observers it is difficult to assess if the small number of complaints reflects a lack of confidence in

FOOTNOTE 101

Article 150 of the General Law.

FOOTNOTE 102

Article 16.13 of the General Law.

FOOTNOTE 103

Articles 22-25 of the Code of Conduct.

FOOTNOTE 104

Article 23 of the Code of Conduct.

FOOTNOTE 105

Article 22 of the Code of Conduct.

FOOTNOTE 106

Of the total of 19 members, only one was a woman.

FOOTNOTE 107

For instance, calling for NGOs not to be involved in the campaign.



the Conflict Resolutions Board or a genuinely unproblematic campaign. However, the fact that only parties, but not candidates (or anyone else, such as civil society organisations), have standing to complain is likely to be a factor. There were also reportedly a number of parallel informal efforts for conflict resolution and addressing problems.¹⁰⁸

Overall, there is a lack of coherence in the architecture for election-dispute resolution and an inclination towards informal processes, which suffices for conflict resolution but not for election disputes, which require transparency and accountability. Disputes arising on election day should be dealt with at the polling station. Unresolved disputes can be escalated to the District Office and thereafter to the Regional Office and ultimately NEC if required.

14.2 Results' petitions

Petitions against the results of elections for the House of Representatives are heard by the Supreme Court, which has the authority to change the allocation of seats or overturn the result in a region/district and order the election to be held there again.¹⁰⁹ A decision of the Supreme Court is final and no appeal can be made against it.¹¹⁰ Such cases relating to local council polls are heard by the relevant Regional Court.¹¹¹ Decisions against a decision of a Regional Court can be made to the Supreme Court.¹¹²

There are inconsistencies in the General Law regarding timelines for cases relating to the House of Representatives compared to local councils. Complaints against results for the House must be filed at the Supreme Court within 14 days of the official result being announced, which is a reasonable formulation. However, Article 152.7 indicates that the Supreme Court has to conclude its decision on lawsuits within 30 days from the day of the official result being announced. This, in effect, provides a period of just 16 days for the hearing and resolution of a case.

Full provisional results were available to the public on 6 June, based on formal announcements at the Regional Offices. The Supreme Court formally received results from NEC on 10 June. According to media reports the Supreme Court received 21 complaints and held a hearing on those complaints on 3 July, after which all were dismissed. The mission does not have information on the number or outcome of complaints received in relation to local council elections. Final House results were declared on 7 July by which time all local council results had also been confirmed. All of these dates fall within the legal framework.

FOOTNOTE 108

For example, NEC did not have an election day situation room, able to bring stakeholders together to respond to problems, but rather this function was fulfilled by civil society.

FOOTNOTE 109

Article 152 of the General Law.

FOOTNOTE 110

Article 152.5 of the General Law.

FOOTNOTE 111

Article 153 of the General Law.

FOOTNOTE 112

Article 153.4 of the General Law.

14.3 Recommendations

- NEC must ensure that the body responsible for election disputes is established in good time, and the formal procedures for election disputes are clearly communicated to all stakeholders.
- Consideration should be given to allow other relevant stakeholders, such as individual candidates and voters, whose electoral rights may have been infringed, to lodge complaints.
- Review Articles 151, 152 and 153 of the General Law to ensure that procedures or election petitions across elections for all election types are coherent and consistent.

15

Role of civil society organisations

Civil society in Somaliland is active and organised. It has coalesced around the Somaliland Non-State Actors' Forum, SONSAF, which acts as a coordination and collaboration mechanism. NEC views SONSAF as a trusted partner and regular interlocutor. It is clear that working as part of and through SONSAF has given individual civil society organisations (CSOs) access to international acknowledgement and financial support.

It is, however, also the case that the institutionalisation of civil society through SONSAF, and the use of SONSAF as a 'gatekeeper' of civil society by the Somaliland Government, NEC and some international donors, can dilute the independence of civil society as observers and monitors of the political process. It can also act as a barrier to the emergence and acceptance of new voices in civil society.

The mission met with a variety of SONSAF members active in the areas of promotion of a free media, women's rights, the rights of people with disabilities and the interests of members of minority clans. We also interacted with SONSAF members who looked at political and electoral developments more broadly. All such interlocutors participate in SONSAF's electoral specific work to some extent.

For these elections, civil society election observation, an important safeguard in any electoral process, was not effective. SONSAF were the sole organisation accredited by NEC for election observation, although others had expressed interest in observing but were not permitted to do so. This included the Centre for Policy Analysis (CPA), who sought and were denied accreditation for 600 observers. The effect of this denial was to limit the diversity of reporting and overall reduce scrutiny on election day.

SONSAF set out, with EU support, to provide 200 voting observers and 700 trained conflict observers, although the distinction between the two was not evident in polling stations amongst those observers encountered by the mission or in discussions prior to election day. Efficacy would be significantly enhanced if each were treated as a distinct and independent project with clear and separate terms of reference and implementation. Two hundred national voting observers, if that is the correct figure, would not provide effective coverage of 2,709 polling stations.

While the CPA's unaccredited observers, who were trained to observe the election, were denied access to polling stations and remained outside them, SONSAF conflict observers, who would have been better deployed observing the general atmosphere and the queues where conflict did occur, were instead inside polling stations where they did not have visibility of outside conditions.

Nevertheless, it was encouraging to see the inclusion of women, people with disabilities and members of minority clans in national observation/conflict monitoring efforts. The mainstreaming of such participation in the largest national observation effort represents good international practice.

Various CSOs engaged in voter information and education efforts, using NEC materials and with financial support from a variety of international donors. When the mission was able to see these efforts on the ground, they appeared to be well-meaning but also insufficient in terms of availability and content.

Various CSOs set up their own election monitoring and data collection efforts, most notably the SONSAF Election Situation Room and the Nagaad Women's Situation Room.¹¹³ In the case of the SONSAF Situation Room, this functioned more as an Elections Operations Room, bringing together the different parts of Government such as the security forces and NEC to receive and respond to incidents. The SONSAF situation room was also used as a media centre and VIP reception centre. This underlines how intermingled CSOs are with institutions in Somaliland. It is more usual practice that such an effort is led by either the election authorities or the relevant Government entities, not by civil society. While on the face of it, the Women's Situation Room appeared a more traditional civil society monitoring effort, it too sought to bring together NEC and Government organs to respond to incidents, rather than focus on impartial observing and providing neutral citizens' advice. The Women's Situation Room's own summary report¹¹⁴ indicates that in most of the calls received by them "callers wanted information on voting procedures and centres", calls that NEC should have handled.

15.1 Recommendations

- Civil society should consider the compatibility of seeking to act as both impartial national electoral observers and as partners and service-delivery agents of the Somaliland authorities.
- Donors should ensure that the programmes they fund are clearly defined.
- NEC should accept accreditation from suitably qualified non-partisan civil society organisations.

FOOTNOTE 113

See 9.1 on Nagaad Network.

FOOTNOTE 114

Nagaad Network. 'Somaliland Local Council and Parliamentary Elections: Women Situation Room (WSR)' Summary Report. Hargeisa/Nairobi: Nagaad/Interpeace (2021): 3.



16

Appendix of recommendations

Legal framework

- Candidate eligibility criteria should be brought into line with international standards so that political rights are not limited. Notably, requirements for candidates to meet educational criteria, be “physically and mentally fit to perform duties” and for local council candidates to be property owners should be reconsidered.
- The Constitution provides for freedom of association but restricts the “plural” system to just three political parties. This undermines freedom of association and political participation rights and should be reconsidered in favour of allowing those political groups and independent candidates meeting reasonable criteria to contest elections.
- Consideration should be given to a closed list electoral system in order to facilitate inter-clan cooperation and greater gender parity.
- If the Constitution is not amended, there should at least be a redrafting of the Regulation of Political Associations and Parties Law to cover the eventualities of combined elections, and clarification on the expiration of political parties’ ten-year registration period.
- The Law should also be amended to provide clarity and legal certainty for how the Registration and Accreditation Committee should determine the three national parties.
- The General Law should be reviewed and revised, as required, to ensure it is consistent and coherent throughout, including a mechanism for ensuring a more equal correlation between the size of the electorate and number of MPs per constituency.
- In the context of a restricted party political system, the statutory candidature fees should be reconsidered.
- Campaign finance regulations should be further developed, to require full disclosure of political party funding and campaign expenditure.
- The Constitution and General Law both clearly provide for five-year term limits for all elected institutions and these must be respected to ensure the will of the people is renewed and respected.
- Legislation should be enacted to formalise the electoral processes of the House of Elders.



The National Electoral Commission

- Whether NEC commissioners are appointed as independent electoral professionals or political representatives, the formula for their nomination should be an inclusive process which ensures balance and political confidence.
- If political parties are the basis for nomination, consideration should be given to specifying that each legally-sanctioned party and contesting political association should be entitled to a nominee.
- The tenure for NEC members needs to be enhanced. If commissioners can serve more than one term, then the procedure and criteria for the second term should be made explicit in the law. It would be reasonable to make it an assumption that a member may serve a second term assuming that no infringement or misdemeanour has occurred. This would give greater security of tenure and enhance the institutional memory and independence of the election management body.
- NEC should enhance its communications and stakeholder outreach, to ensure timely and effective messaging to political parties, candidates and voters. This includes publicising decisions and regulations, explaining procedures for election disputes, and a more proactive and comprehensive voter education programme.

Voter registration

- The Government of Somaliland should conduct a population census.
- The legal framework should provide more clarity on when a person must be 15 years old – at registration, at the calling of the election or by polling day – and should also allow for provisional registration of those who expect to be 15 by the agreed deadline.
- Citizenship, required for voting rights, should be accorded on a gender-neutral basis in line with international standards.
- In line with international standards, legislative restrictions on the right to register and vote of persons with disabilities should be removed. NEC should consider mechanisms for ensuring the ongoing accuracy of the voter register, including appropriate procedures for the removal of deceased persons.
- NEC should examine its model of registration and card collection to ensure more access to these vital services for all potential voters. In particular, voter cards should be available for collection at times much closer to polling.
- NEC should examine what led to the need for a supplementary voters' list and take steps to avoid a repeat of this complication at the next election.
- If NEC is going to adopt an increased use of technology in the electoral process, then careful consideration needs to be given to ensure it is solving a problem that exists, and that whichever technology used is sustainable in terms of cost and usability across multiple elections.

Campaign

- The Law should include a longer official campaign period to enable a more competitive election campaign and less reliance on unregulated informal channels.
- All candidates should be free to campaign equally for electoral support, with traditional and state authorities exercising their powers in an apolitical manner.
- Campaign-silence periods should be reduced to 24 hours prior to the opening of polls.

Gender and minorities

- The Government should examine the electoral legal framework and remedy incompatibilities with the rights of all persons to stand for election, paying particular attention to legal provisions in order to enhance participation of women, members of 'minority' groups and persons with disabilities.
- Serious consideration should be given to temporary special measures for greater gender parity. The most effective mechanism for achieving this would be to move to a closed list electoral system with zipped quota.
- NEC's gender unit should conduct a gender assessment of the electoral process to identify actions that NEC and stakeholders can take to improve women's participation in elections.
- NEC should commit to a similar assessment of how electoral procedures could be adjusted to facilitate the electoral participation of members of minority clans and persons with disabilities.

Media

- Criminal offences in the Penal Code that affect the media and run contrary to the freedom of expression guaranteed by the Constitution, should be repealed. Defamation should be dealt with as a civil matter.
- State-owned media have a particular responsibility to provide equitable access to candidates and parties during an election campaign. During the next presidential election, they should ensure a continuation of the largely balanced and impartial coverage noted in these elections, particularly given the advantages of incumbency.
- Paid-for political content, particularly on TV, should be properly labelled as such. The absence of information on who pays undermines transparency and citizens' right to information.
- Ensure that all members of the Media Monitoring Committee, or whichever mechanism is foreseen in the Media Code of Conduct, are appointed in a timely manner, so that the committee can fulfil its duties.



Voter information

- NEC should review its voter information and education plans in advance of the next election to ensure both that all necessary topics are covered but also that materials and messages are shared with the electorate in a timely and appropriate fashion.
- NEC should ensure adequate capacity in its own enquiry services to meet voter demand.

Election day

- Consideration should be given to opening polling stations earlier, at 6am, so as to reduce queues of voters in the later heat of the day.
- If combined elections with large ballot papers are to be held again, consideration should be given as to how to avoid ballot boxes becoming congested. This could include pre-folding of ballot papers and different coloured papers for the different electoral levels.
- In order to further facilitate secret voting, appropriate booths should be used.
- The procedures for correctly sealing ballot boxes should be emphasised in the training process, and serial numbers entered into a polling stream opening protocol form.
- NEC staff should be provided with more guidance and training on how to effectively assist voters to find the correct stream within their polling centre.
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- Polling staff and all permitted observers should be provided with a consolidated counting form to enable the accurate recording of votes per candidate.
- Tabulation centres should be set up in advance in order to facilitate the intake of sensitive material.
- Computer inputs of all relevant figures should be automatically reconciled and discrepancies be investigated, with recounts where necessary.



Results management

- Clarify the process for the official announcement of results and what is the role of the court. Ideally the court should not be part of the formal announcement process, which should rest with NEC, but rather is only called upon in case of a legal challenge to the results.
- NEC should provide a detailed breakdown of results by polling station as soon as is practicable, so that parties can verify the copies of results collected by their agents at each stage of the process.
- In providing detailed results, NEC should also provide a clear breakdown of the number of invalid votes, and the number of assisted votes, as well as gender-aggregated data.

Election dispute resolution

- NEC must ensure that the body responsible for election disputes is established in good time, and the formal procedures for election disputes are clearly communicated to all stakeholders.
- Consideration should be given to allow other relevant stakeholders, such as individual candidates and voters, whose electoral rights may have been infringed, to lodge complaints.
- Review Articles 151, 152 and 153 of the General Law to ensure that procedures or election petitions across elections for all election types are coherent and consistent.

Civil society participation

- Civil society should consider the compatibility of seeking to act as both impartial national electoral observers and as partners and service-delivery agents of the Somaliland authorities.
- Donors should ensure that the programmes they fund are clearly defined.
- NEC should accept accreditation from suitably qualified non-partisan civil society organisations.

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LIEOM team members



FIGURE 23

Deputy Chief Observer,
Dominic Howell and Research
Coordinator, Tirsit Yetbarek
on election day. Photographer
Unknown.

International team members:

Chief Observer

Professor Michael Walls

Deputy Chief Observer

Dominic Howell

Election & Legal Analyst

Mark Stevens

Voter Registration, Gender & Minorities Analyst

Kate Sullivan

Media Analyst

Sarah Fradgley

Media Relations

Conrad Heine

National team members:

Director of Logistics

Dr Jama Musse Jama

Chief Somaliland Analyst

Dr Amal Ali

Media Analyst

Rooble Mohammed

Research Coordinator

Tirsit Yetbarek

Logistics Manager

Xasan Abokor

Administration and Finance Manager

Nasra Mohamed

