

20160225: SPECIAL REPORT #3: SOMALIA ELECTION 2016 – The Road to Villa Somalia

With less than six months before elections, critical political events are underway with the High Level Partnership Forum in Turkey held on Feb 23-24, and review of the Provisional Federal Constitution. SRSG Michael Keating left Puntland without agreement on the decided election model, based on the 4.5 clan-based system for appointment to the Lower House, and a regional allocation basis for nominations to the Upper House. Keating proceeded with a tour of interim federal administrations to sure up support, with Galmudug Interim Administration (GIA), Interim South West Administration (ISWA) and Jubaland (IJA), each publicly endorsing the process, with some noting concerns. The period has witnessed political manoeuvring, international lobbying, boycotts, and heightened risk of conflict amid the prevailing security paradigm; factors that have the potential to influence the prospect of elections in 2016.

High Level Partnership Forum (HLPF) communique issued on Feb 24, committed “to undertake all efforts to deliver an electoral process in Aug 2016”,¹ and, as expected, reinforced that there should be no extension to the mandated term of the Federal Parliament and the executive (point 4) and that 2020 elections should be held on the basis of universal suffrage (point 6). The communique also called for the need to complete the Hiraan Middle Shabelle state formation, an agreement to be reached on the status of Mogadishu (point 7), and urged finalisation of the priority chapters of the federal constitution (point 8). It commented that 2016 was the final year of the Somali Compact and plans for the next phase of international engagement to be developed. Turkey President Erdogan said, “The reason behind the success of the Turkish Model in Somalia is that we act in this understanding. We expect the international partners to support Somalia in the same understanding.” The absence of Puntland was noted, with a call to the Federal Government to ensure Puntland come on board with the election process. President Abdiweli Mohamed Ali Gaas may have intended to send a message that it is prepared to take drastic measures that could undermine the election process. However skipping the event that would have provided sideline meetings with potential donors may prove to be a political miscalculation, given the economic and security challenges facing Puntland that continue to undermine Gaas’ political standing in the north east.

Provisional Federal Constitution (PFC) five day review meeting concluded with significant challenges emerging, even after certain ‘controversial’ chapters were set aside for discussion at a later date in an attempt to speed up resolution on the ‘priority chapters’. After missing the Dec 2015 deadline for a finalised and ratified constitution,² the FGS has been urged to advance discussions with regional administrations.³

A constitutional referendum? Parliament Secretariat Abdi Karim Haji Abdi Buuh asserted that a ‘referendum’ would be held on the amended constitutional clauses to allow citizen participation. The ability to undertake wide consultation appears unlikely given the timeframe and the fact that premise of the ‘best scenario’ election model would be brought into question if the federal government is now suggesting that a public referendum is possible for the constitution but not for direct elections. In addition, Puntland did not participate, while other potential key players were not invited to the meeting, including Ahlu Sunna Wal Jama'a (ASWJ) in Galgadud and Khatumo. With ongoing wrangles over representation of regional state assemblies, it appears unrealistic that a permanent constitution formed on the basis of popular consensus will be achieved.

Constitutional rush job? Pressure to push forward with a constitution before the elections has raised concerns about the quality of its content, the possibility that its founding principles will be undermined and the interests of its

¹ HLPF Communique Ministerial High-Level Partnership Forum, Istanbul Feb 24 2016: Point 4.

² In accordance with the Somali Compact, a finalised and ratified constitution based on ‘inclusive political dialogue between the federal government and regional administrations’ was to provide the basis on which 2016 elections would be held: Somali Compact PSG1, Priority 2, by Dec 2015.

³ On Feb 15, EU statement following a review of the status of the New Deal and Compact for Somalia “urges the Federal Government of Somalia to revitalise the constitutional review process, with a view to adopting a Constitution that is widely consulted and supports cooperation and coordination among the various Regional Administrations”.

citizens will be ignored, as well as play to the perception that it is being driven by the international community and not Somali-led.⁴ Puntland described the proposals as seeking to revert Somalia back to a ‘unitary system’ of government.

Proposed changes on the principle of governance On content, if the constitution were to enshrine universal suffrage elections, it could lead to legal challenges to the 2016 polls; if it does not reference an election process, it may open the door for 2020 and future elections also falling short of promised inclusive, democratic standards. Puntland claims that the revisions to the PFC propose to fundamentally alter the system of governance from federalism to devolution and consolidate the power into a unitary authority ruled by a political elite.⁵ Puntland has most to lose from this as the only recognised federal member state (FMS), but it is likely that other interim states would be opposed a reduction of their constitutional authority. This, in turn, has a potential knock on effect for negotiations on revenue sharing and benefits from businesses operating in regions.

Proposed changes regarding federal states Two other proposed changes affect federal state borders; one removes the requirement that regional borders are based on 1991 boundaries,⁶ and another removes the condition for a federal state to comprise of two or more regions.⁷ Puntland is likely to perceive these as efforts to support the status of GIA, and remove the challenge that Galmudug does not fulfil the requirement to become a FMS. It would also open the possibility to challenge the 1991 Mudug Peace Agreement that divided the administration between Puntland and South Central, and possibly for GIA to challenge for authority over the entire Mudug region. These proposals, if true and if agreed, have the potential to trigger conflict centred on Galkayo. The ramifications regarding the dynamics of the so-called ‘major clans’ does not only affect Mudug. Banadir is reportedly seeking status as a FMS, which has already led to small demonstrations in Mogadishu this week. Many consider this a controversial move based on the contention that the politically dominant Hawiye are seeking to claim legal rights to land through the back door in order to solidify power and control over all of the districts and assets in the capital.

Other prevailing issues

Reconciliation at regional level is critical to ensure a stable approach towards the elections and mitigate against factors that could affect an administration’s ability to participate. Jubaland officially opened a reconciliation conference with Gedo region clans in an effort to resolve long standing tensions over the leadership of President Mohamed Ahmed Islam (Madobe). In response, some Federal MPs and politicians from Gedo accused Madobe of not being serious about reconciliation. Opponents have accused the regional assembly of being dominated by Madobe’s clan and Ras Kamboni militia to the exclusion of the Marehan and Gedo regional interests, even after the allocations of additional assembly seats to Gedo.⁸ While Galmudug President Abdi Karin Hussein Guled has given its support to the elections, there has been little progress towards negotiation with pro-government ASWJ who have stated they do not recognise the legitimacy of GIA. The prospect of an escalation in the dispute with Puntland over GIA jurisdiction⁹ risks complicating the situation. ISWA has affirmed support for the FGS 2016 election process, however political challenges remain with different clan interest groups’ complaints about exclusion from the administration and ongoing conflict over land disputes. The situation with the Hiraan/Middle Shabelle remains less certain, with little progress made to bringing together different clans under a unified administration. In addition, al-Shabaab continues to prove its resilience, particularly in Lower Shabelle. Following attacks and occupations in Afgoye and Marka, recent statements by the group promised an upsurge in attacks against Somali government and AMISOM forces.

⁴ A key challenge to the provisional constitutional adopted in Aug 2012 was the broad perception it had been engineered and driven by the international community in order to meet a deadline to end Somalia’s ‘transition period’ and officially establish a permanent Federal Government. This served to undermine the provisional constitution’s legitimacy.

⁵ PFC: Art 3 para 3 it says was changed from “fundamental principles of the Power Sharing of the Federal System” to “the fundamental principles of the Federal Republic of Somalia are based on the devolution of power...” If agreed, this will fundamentally alter the system of governance from the current one that entrenches a division of authority between the central government and regions, to devolution where all constitutional authority belongs to a unitary authority.

⁶ PFC: Art 49, para 5 to remove requirement that borders of federal states are based on borders of regions that existing in 1991

⁷ PFC: Art 49, para 6 to remove requirement for a federal state to comprise of two or more regions.

⁸ Madobe’s record to date has shown he continues to channel political appointments and business opportunities to his Ogaden sub-clan.

⁹ Federal State comprising Galgadud and Mudug (south?).

Political manoeuvres Strong, favourable leadership authority at regional level is also important to the presidential election contenders. The longer the Hiraan/Middle Shabelle process stalls and divisions prevail, the more risky it is to Somalia's President Hassan Sheikh Mohamud's re-election, with a likelihood that other contenders will declare their candidacy and seek to influence regions. Many perceive Middle Shabelle/Hiraan as playing an important role given the split towards President Mohamud's re-election among the other regional administrations. In addition to lobbying regional administrations, President Mohamud's recent ambassadorial appointments of Mohamed Haji Mader, who is a brother of ISWA President, as the new ambassador to Turkey, and former Hiran Governor, Abdifatah Hassan Afrah to Ethiopia, highlights the priority attached to securing support among clans in these regional administrations. The political manoeuvring is likely to heighten as other presidential contenders declare.

Khatumo, Sool, Sanaag and Cayn (SSC) and Somaliland Perhaps one of the biggest electoral variables concerns the possibility of Khatumo succeeding in uniting the Warsangeli and Dulbahante across SSC towards forming a FMS and the likelihood of a military reaction by Somaliland, which is also undertaking its unilateral 'national' election process scheduled for March 2017. This variable could not only affect local security and the Federal electoral process, but the lack of clan support in the region for Somaliland could also impact the credibility of their elections and potential chances for international recognition as an independent state.

What next?

While the constitutional review could have been used to help appease relations between the FGS and member states, early indications suggest the opposite effect may be true. While much of the focus has been on Puntland as the obstruction, the constitutional review process has the potential to widen disputes between the FGS and member states, and between member states, with Galkayo a likely flashpoint. The failure of the FGS to enter into resource sharing negotiations with regional administrations that provide de facto authority outside of the capital remains a key impediment to Somalia's development.¹⁰ While Puntland has hinted at withdrawing from the 2016 process, Jubaland voiced support for dialogue at the HPLF, and the final HPLF communique expressly states the need to ensure the government and people of Puntland are fully on board in order to allow for the 2016 electoral process to be as inclusive as possible. Intensified government and diplomatic activities are expected to this end.

With August less than six months away, hard questions need to be asked, beginning with who is driving the current process, and to what end? Somalis see hundreds of millions in donor funding pouring into Mogadishu with little, if any, development, funding and tangible benefits reaching the regional states. This was reportedly discussed with SRSG Keating during Feb 09 meetings in Garowe, as Puntlanders were not only disputing the 4.5 electoral model, but the lack of FGS, and donor investment and development in the regional states. With Mogadishu political elite seen to be benefiting most from this donor funding, and according to some federal states from the chosen election process, the international community is likely to face renewed criticism for its perceived support of the status quo. Many are left wondering if these lacklustre efforts to finalise key issues are attempts by the current administration to set favourable conditions for a possible re-election, or roadblocks intended to frustrate and delay the process. The HPLF communique has reinforced that there will be no extension on the constitutionally mandated term limits of the legislature and executive, but ultimately the election scenario has not gained approval by all, and the constitutional review is at risk of stalling. Both are contingent on a consensus, and the will of the people who these leaders represent. Without a near term consensus, the likelihood of August elections being inclusive and transparent is fraught with challenges, with little to indicate those in power and driving the current process have the will to navigate respective, factional, vested agendas in order to build an election roadmap based on understanding and consensus of the Somali people.

¹⁰ These issues are key to Puntland with Oil & Gas Licensing, and Jubaland, with the support of Kenya, continues to control Kismayo Port and will be even more unlikely to engage on revenue sharing or handing control to the government, if its constitutional authority is at risk.