

Options for the Status of the Capital City

JULY 2016

Briefing Paper
Discussion Draft

DRAFT

Executive summary

1. Introduction

The future constitutional status of Somalia's capital city is unclear, and contested. Jubbaland, South West, and Galmudug have established new Federal Member State administrations, and the ongoing discussions in Hiraa and Middle Shebelle regions are expected to conclude with the creation of a new state. Somalia's 2012 provisional constitution leaves the question of how the city (Mogadishu) or region (Banadir) is to be governed, and how it should relate to the rest of Somalia, for future resolution. The challenge facing Somalia is to balance the interests of the entire country for a capital city with the legitimate interests of local residents for a city to live in. This challenge has been faced by, and answered in, many countries; this short paper presents some possible options for Somalia.

The options discussed are based on international practice, desk research, and consultations (January to March 2016) in Somalia. The initial findings from this work were presented in May 2016 to focus groups representing: federal and regional government, parliament, traditional elders, civic leaders, academics and local NGOs. Views and evidence from these meetings have been incorporated in this paper. Participants in these initial consultations were keen to focus on issues related to representation, financial management and rights and responsibilities.

The options presented below are offered to support and inform the discussions around which structure or system should be adopted for Banadir / Mogadishu. The ideas presented are meant to enrich that discussion and are in no way recommendations.

2. Current situation

Public and elite level discussions on the future status of Mogadishu (within a federal Somalia), and what that status would mean for Somalia, and Somalis from all corners of the country, have been ongoing for some time. The debate has intensified since plans for the formation of the Upper House were announced, plans that did not initially include members from Banadir. Currently the Banadir Regional Administration (BRA) has a responsibility to manage the region and the municipality of Mogadishu. To this end, the governor is also the mayor of Mogadishu, in charge of 16 districts. At present Mogadishu and Banadir are governed on a similar basis to other regions and cities in Somalia although the political, security and economic importance of Mogadishu bring additional scrutiny and resources.

3. Options for the status of the capital city Mogadishu

The three options presented in this paper reflect the most common models used internationally for capital cities in federal countries. Any model adopted by Somalia could combine elements of different models with other adjustments to meet Somalia's unique needs and history.

Option 1: The Capital City as a Federal District

- If this model were adopted for Somalia: Mogadishu would be a federal capital district with less powers and responsibilities than the federal member states. The local authority and federal government would share control over Banadir. Banadir would not have the same representation as federal member states in the two houses of Parliament.
- Examples of this model include *New Delhi* and *Washington D.C.*
- Internationally federal capital districts typically have fewer powers and responsibilities than the states or regions of the federation. The federal government usually exercises control over the federal district – either directly or through veto powers. Federal districts usually have less or (more rarely) no representation in the two houses of the Federal Parliament.

Option 2: The Capital City as a City-State

- If this model were adopted for Somalia: Banadir would become a city-state with the same powers and responsibilities as other federal member state. It would also have representation in both houses of Parliament. The federal government would be hosted by the City-State.
- Examples of this model include *Berlin* and *Brussels*.
- Typically with model the capital city-state has the same, or very similar, powers and responsibilities as other states of the country, these are set out in its constitution. Citizens of the city-state have the same representation as other citizens.

Option 3: The Capital City as a City within a Federal State

- If this model were adopted for Somalia: Banadir would join or form a federal state comprising of at least two regions, as constitutionally required. Mogadishu would be represented in the federal legislature by the federal state it would join/form. The federal state in which Mogadishu would be located would have the same powers and responsibilities as the other federal member states. The federal government may have limited jurisdiction over Mogadishu's local governance.
- Examples of this model include *Pretoria, Cape Town and Bloemfontein, and Bern*.
- Under this model the capital city is a municipality located within a state which has jurisdiction over that city. The capital city has the same legal status as any other city in the country. The capital city's citizens are represented through the province or state in which the city is located.

4. Conclusion

This Briefing Paper presents a range of options on how Mogadishu/Banadir could manage issues in relation to representation, financial management, legislation and the rights of citizens, borrowing from international examples. Each of these options provides a glimpse into different country contexts and offers insight into how these issues could be managed. These options seek to inform discussions and share knowledge with the aim of assisting Somali leaders and communities craft arrangements that will best accommodate their interests.

Table of Contents

Executive summary	i
1. Introduction	1
1.1 Purpose	
1.2 Research methodology	
1.3 Political Accommodation	
2. Current situation	
2.1 Legal provisions	
2.1.1 Provisional Constitution (2012)	
2.1.2 Local government provisions	
2.1.3 City Charter of Mogadishu (2011)	
2.2 Practice and current political developments	
3. Options for the status of the capital city Mogadishu	
3.1 Option 1: the capital city as a federal district	
3.2 Option 2: the capital city as a city-state	
3.3 Option 3: the capital city as a city within a federal state	
4. Conclusion	
Annex I: Case Studies	

DRAFT

1. Introduction

1.1 Purpose

As of early 2016, the final stages of the federalization of Somalia has sparked an active debate among Somalis around the future status of the capital city, Mogadishu, and the region in which it is situated, Banadir. The debate has illuminated the diverse interests in Somalia’s capital city and region. Somalis will need to make an informed decision that reflects and accommodates diverse political interests so the position of Mogadishu in Somalia’s federal architecture does not become a conflict driver in Somalia’s political transformation.

With three newly established federal member states since 2012 (Jubbaland, South West State, and Galmudug), and only two regions left to either join an existing state or form their own state (Hiraan and Middle Shebelle), the question of what Mogadishu and its larger region, Banadir’s position in the federal structure of Somalia will be remains. With the constitutional review process delayed, the role and status of the capital city and its inhabitants in this framework remains one of the most contentious unsolved issues and a potential conflict driver.

Note on terminology:
This paper uses the names Mogadishu and Banadir. The authors acknowledge that there is some debate around the use of these terms but for the sake of this paper they are used purely to define a geographic area corresponding to Banadir.

Discussions have focused on whether or not Mogadishu should be given special status and belonging to all Somalis, regardless of their region or clan, whether or not it should join other regions to form a federal member state or whether it should become a federal state of its own without joining any other state. Above all these issues, concerns have been on minority rights and representation of all Somalis (including the indigenous Banadiri) within Banadir’s political, social and economic sphere. A majority of Mogadishu inhabitants feel that there is a need to have a fair and proper balance between the interests of the local residents of the capital area and the interests of Somalia as a whole.¹

With the constitutional review process delayed, the role and status of the capital city and its inhabitants in this framework remains one of the most contentious unsolved issues and a potential conflict driver. Whether it will be resolved in the constitutional review process or a legislative process, it is pertinent that the decision on the future status of Mogadishu will be consultative and well-informed in terms of potential implications and conflict risks.

This Briefing Paper aims to provide Somalis with **tools to make an informed decision about the status of the capital city**. Its purpose is to present options based international practice that have been adapted based on focus groups with Somali stakeholders, analysis of the ongoing political developments in a federal Somalia, and Somali history. The Briefing Paper presents “options” for the Somali people to discuss and refine in finding a solution that accommodates Somalis’ diverse political interests.

1.2 Research methodology

Conflict Dynamics International, in partnership with Somali Youth Development Network (SOYDEN), with funding from the European Union and the Embassy of Australia embarked on research to explore options for the future status of Mogadishu and Banadir in the federal structure of Somalia, as well as options for the future local governance structure of Mogadishu (and possibly Banadir). Between 28th and 31st May 2016, discussions and consultations in Mogadishu through interviews and focus group discussions with key stakeholder groups, including federal and regional government representatives (parliamentary oversight committee, members of parliament, Banadir regional government and Ministry of Interior officials), traditional elders, civic leaders, academics and local NGO representatives. Additionally, desk research was undertaken to identify the most common models of federal capital cities and compile the most relevant case studies.

Presentations were made borrowing from international examples, putting forward a number of options that sought to address some questions and pertinent issues, in relation to how Mogadishu and Banadir will be administered. Issues brought up ranged from governance, finances and roles and responsibilities of different levels of government (Federal, State and Local) as well as the rights of Banadir/Mogadishu residents.

A number of key issues were identified during the consultations held in Mogadishu:

Representation: How does Mogadishu/Banadir fit in the federal structure of Somalia and how will it be represented in the federal legislature? Will Mogadishu/Banadir be represented in the assembly for the representation of the federated states (the Upper House)?

Status (federal and local level governance): How can the status of Mogadishu fairly balance federal level and local level leadership interests of Mogadishu as a federal capital city and Mogadishu as a municipality for its residents? How should Mogadishu/Banadir be administered (division of responsibilities between the federal and local government)?

Legislation: Which level of government should draft legislation? Who approves legislation? Can legislation by local government be overturned by Federal government?

Financial Management: What will be the influence of the federal government on Mogadishu's financial management? Who will control of key resources and taxes from the airport, the sea port, market etc.?

Rights and Responsibilities: How can the status of Mogadishu ensure that leadership positions are accommodative taking into consideration all clans whether majority or minority, and ensure that it will be a place where all the inhabitants of the country can feel at home?² Can the residents be allowed to work, vote, live and own property whether originally from Mogadishu or not?

1.3 Political Accommodation

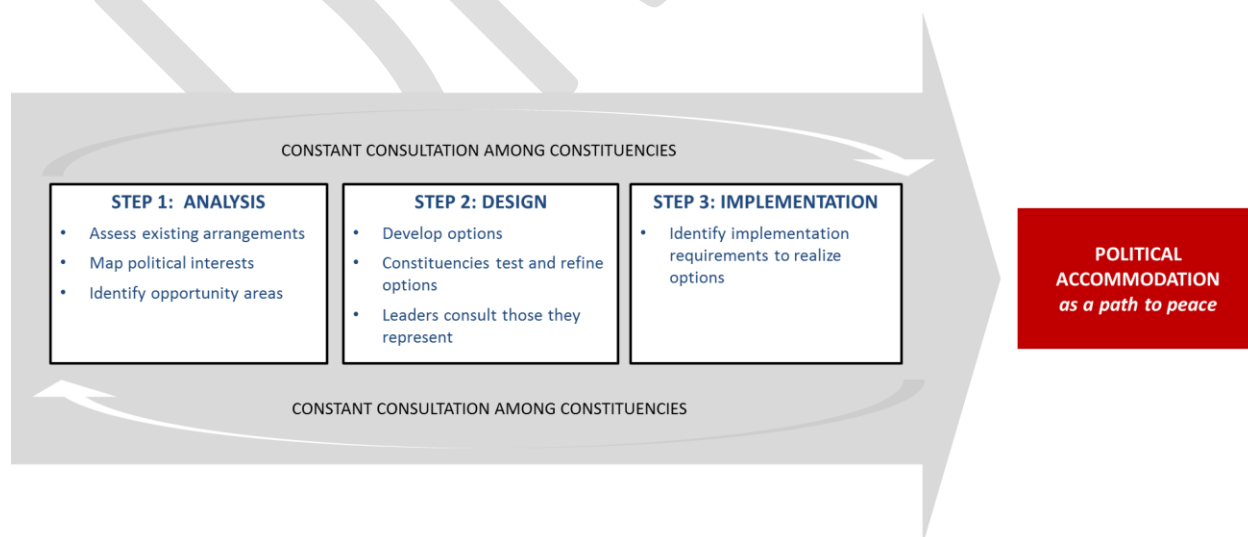
The political accommodation methodology underpins Conflict Dynamics’ work, including this paper which emphasizes a range of options that have the potential for conciliation of Somalis’ diverse interests surrounding the status of the capital city Mogadishu.

The term *political accommodation* encompasses the objectives, arrangements, processes, or outcomes of mutual conciliation of people’s competing political interests and perspectives. The essence of political accommodation is achieving conciliation of interests in situations where there is absence of comprehensive consensus but not a complete lack of consensus.

Political accommodation is a methodology to help people reconcile their political interests and viewpoints in governance arrangements with the aim of managing disputes and preventing violent conflict. By looking at different aspects of governance, the construct of political accommodation allows for a comprehensive approach that offers significant benefits over other approaches that have a more singular focus.

The political accommodation approach includes a typology consisting of six ‘strands’: political structure and decentralization, the electoral system, the executive, the legislative branch, public participation, and traditional and customary arrangements. These strands can be used to assess and develop options for political accommodation at the national and subnational levels. Indicators of effective political accommodation include the effectiveness of mutual conciliation, equity of political representation, equity of political decision-making influence, and degree and effectiveness of public participation.

To apply these tools, Conflict Dynamics has developed a three step methodology to develop options for political accommodation:



This briefing paper is to present the options developed after consultations held in Mogadishu.

DRAFT

2. Current situation: practice, Constitutional provisions and legislative provisions

The following section sets out the current practices, constitutional and other legal provisions related to the federal status and local governance of Mogadishu and Banadir.

Somalia is divided into eighteen regions, including Banadir region which is made up of 16 administrative districts with the main capital being Mogadishu³. In 1960, Mogadishu was established as the capital of the new Somali state and was seen by many as a cosmopolitan city that valued unity and modern culture⁴. During the colonial era, Mogadishu was part of a federal administrative district which extended well beyond the city and had no actual municipal boundary⁵. However in 1960 when Somalia gained independence from Italian control, the first Somali mayor and deputy mayor of Mogadishu were elected and a local government council was established for the city.⁶ In relation to the governance of Mogadishu, in the early 60's and 70's, the local and regional administrations were run separately. Due to the overlap of activities, the positions of mayor and governor were consolidated into one. Currently, Banadir regional administration has a dual responsibility of managing the region as well as the municipality of Mogadishu. To this effect, the governor also doubles up as the mayor of Mogadishu, in charge of 16 districts.

The two primary legal documents on Mogadishu's status are the Provisional Constitution (2012) and the Mogadishu City Charter (2011). The Mogadishu City Charter has not yet been adopted but some of the clauses are being implemented. The Banadir Regional Administration currently calls upon old laws like the City Council Law of 1980 to implement some of their activities.

2.1 Legal Provisions

2.1.1 Provisional Constitution (2012)

Article 48 on the Structure of the State recognizes that the state is composed of two levels of government (a) The Federal Government Level; and (b) The Federal Member States Level, which is comprised of the Federal Member State government, and the local governments⁷. It further stipulates that:

“No single region can stand alone. Until such time as a region merges with another region(s) to form a new Federal Member State, a region shall be directly administered by the Federal Government for a maximum period of two years.”⁸

“Based on a voluntary decision, two or more regions may merge to form a Federal Member State.”⁹

In line with Article 48, Banadir as a region that has not (yet) joined or formed a federal state is being administered by the Federal Government for a maximum period of two years. While the Provisional Constitution states that only two or more regions can form a federal member state, the Constitution also confers a special status to Mogadishu, stating that

“The capital city of the Federal Republic of Somalia is Mogadishu. The status of the capital city of Somalia shall be determined in the constitutional review process, and the two houses of the Somali Federal Parliament shall enact a special law with regards to this issue.”¹⁰

The Provisional Constitution does not include any provisions on the local governance arrangements of Mogadishu or any other city in Somalia, leaving this to the constitutional review process. Neither does the Constitution arrange the representation of regions that have not yet formed or joined a federal member state, as well as a possible federal district, in the two houses of Federal Parliament.

2.1.2 Local government provisions

The Provisional Constitution does not clearly state functions of the local government but recognizes its existence within a federal structure. The Federal Member States consist of the Federal Member State governments and the local governments as stipulated in article 48 of the Provisional Constitution.

In practice, the structure of the Banadir Regional Administration (BRA) comprises of the Governor/Mayor, deputy governors/mayors and other administration staff. The Governor of Banadir, who is appointed by the President, also doubles up as Mayor of Mogadishu in charge of 16 districts. The Banadir regional administration has a dual responsibility of managing the region as well as the municipality of Mogadishu. There are three Deputy Mayors (appointed by the Governor and endorsed by the President) in charge of political and social affairs, security and finance and administration as well as sixteen district commissioners.

In relation to the rights and responsibilities of citizens living in Banadir and Somalia as a whole, every person lawfully residing within the territory of the Federal Republic of Somalia has the right to freedom of movement, freedom to choose their residence, and freedom to leave the country¹¹. Fundamental basic rights are accorded to the citizens living in Mogadishu as per the constitution. To this effect citizens have the right to political participation and right to elect their leaders¹²

2.1.3 Mogadishu City Charter (2011)

The Mogadishu City Charter (2011) provides a run-down of how the City Council would be elected, structured and how they would perform their roles and responsibilities. Some of the clauses in the article are already implemented, despite the fact that the document has not been formally adopted yet. Other clauses, especially relating to the election of councilors, mayors and his/her deputies are not (yet) being implemented. For instance, in practice the mayors and the deputies are appointed by the president and not by the local council as stipulated in the charter.

The City Charter, a joint initiative by the UN Joint Programme on Local Governance and Decentralized Service Delivery (JPLG) and the Federal Government of Somalia (including the Banadir Regional Administration), under Article 5 recognizes that “Mogadishu City shall have special status since it is the capital city and the headquarter of the federal institutions. Mogadishu City shall have the powers and rights as well of the regional autonomous administrations as specific laws shall be established on the distribution of the mineral and water resources”.

On election, structure and term of office, the City Charter stipulates that “the term of office of a Member of the Council shall be five years, beginning from the date of the election and the Council shall consist of 65 Councilors elected democratically by the inhabitants of the 16 Counties”¹³ and that “*the* Council shall have a Mayor and three Deputies who shall be elected separately by the Council from amongst its members, by secret ballot, at the first meeting of the council. They shall hold office for a period of 5 years from the date of election”¹⁴.

The City Charter also gives power to the city council to “make laws not inconsistent with the constitution or any other law by the legislature which power shall be exercised by the passing of local bills into ordinance by the Council and approved by the Council of Ministers as well as the National Assembly”¹⁵.

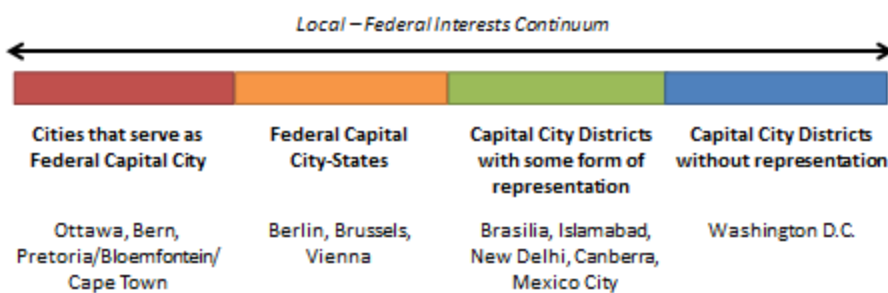
Is there more legislation out there that is related to the status of Mogadishu?

2.2 Practice and recent political developments

During the National Leaders Forum held in January 2016 to discuss the electoral process and its implementation plan, discussions also took place on the formation of the Upper House. It was mentioned that the Upper House of Parliament would consist of 54 members; 48 of whom would be divided equally among Somalia’s existing, emerging and prospective Federal member states (Somaliland, Puntland, Galmudug, Hiraaan/Middle Shabelle, South-West, and Jubbaland). The remaining 6 positions would be divided equally between Somaliland and Puntland, reason being they had been established long before the other federal member states, thus indicating their “political maturity and the fact that they encompass the largest numbers of regions”.¹⁶ These discussions left out the question surrounding the representation of the capital city.

3. Options for the Status of the Capital City

The following section describes and evaluates the most common models for federal capital cities. The options presented range from models in which the capital city has the same legal status as any other municipality in the country (local interests), including full lower and upper house representation at the federal level through the federal state to which it belongs, to a capital federal district that is first and foremost serving the federal country and acts as a symbol of unity, but has less or no representation at the federal level of its own; its role as a municipality in which people live their lives (local interests) usually comes secondary to that of a symbol of unity for the federated country as a whole (federal interests). The models presented therefore all fall on a scale visualized below:



It is important to note that **each of the models presented can be adjusted and combined** with features of the other models, and therefore shift on the above continuum.

The options present a range of ideas from different federal countries in relation to how they handle issues of representation, financial management, local governance and legislation. The options provided do not give definite answers to ongoing processes, but rather opens up and guides discussion to achieving consensus. These options were presented during consultative meetings and helped open up discussions on various themes and assisted the participants compare the different models suitable to their needs.

A number of cross cutting issues stood out and were brought up with regards to the future status of Mogadishu/Banadir. The question went above the status and focused on the modalities of engagement; how Mogadishu/Banadir should be administered (division of responsibilities between the federal and local government), control of resources, rights of all residents including minorities and representation in government (both at national and local level). Major concerns have however been more focused on minority rights and representation of all Somalis (including the indigenous Banadiri) within Mogadishu/Banadir’s political, social and economic sphere.

Detailed discussions touched on the subject of representation, federal and local governance and rights and responsibilities, while giving individual thoughts on the current context. The need for reconciliation was also brought up, with many participants stating that deep rooted clan conflicts in Mogadishu/Banadir required intervention.

The consultations held with stakeholders in Mogadishu raised a number of key issues that can be divided over three categories; national representation, federal and local governance and rights and responsibilities:

1. National representation

- A need for a fair national representation was one of the most important concerns brought up in the discussions, especially with the ongoing debate on Banadir's representation (or lack thereof) in the clan-based election process of 2016. During the National Leaders Forum held in January 2016, there was no mention of Banadir in the electoral process implementation plan, and upper house seats were divided among all existing and emerging federal member states as well as Somaliland. Banadir was left without any representation in the upper house, which caused a big public debate.
- Participants living in Mogadishu felt that the Banadir region should be given the same number of representatives in the Upper House of the Federal Parliament as the other regions of Somalia. .
- Participants were generally of the opinion that decision-making process to determine the status of Mogadishu in the federal structure should be inclusive of the people of Banadir.

2. Federal and Local governance

- A majority of participants felt that people's right to be directly represented through local governance was important, and all districts should be allowed to elect their own city council members, including mayor, deputy and other local government officials.
- Mogadishu's special status among the cities in Somalia was both seen as a source of pride and as a limitation. The latter referred to people's right to decide on their own matters on one hand, and extra security threats brought about by the presence of the federal government. Some participants felt that some issues like security should be controlled or at least overseen by the federal government.
- There were different opinions in regard to Mogadishu's character as a city belonging to all Somalis vs. Mogadishu belonging to the people of Mogadishu. Most of the participants of the stakeholder group meetings stressed the importance of Mogadishu being a national symbol of unity for all Somalis, but some also pointed out that even though all Somalis view Mogadishu as the capital city, the right to Banadir belongs to the people of Banadir. Banadir is unique for Somalia in the sense that other regions mainly constitute one majority clan as compared to Banadir's's diverse clan composition.

3. Rights and Responsibilities

- The issue on rights of the clans indigenous to Banadir has been a long-standing debate within Mogadishu. The Banadiri people have for a long time felt marginalized and excluded from major political positions and decision making processes. Banadiri clans felt their representation should be secured, for example through quotas.

- At the same time, participants acknowledged that all rights of all the people living in Mogadishu/Banadir should be respected regardless of their clan, and that everyone should be given the right to live anywhere, work and vote; whether Hawiye, Banadiri or others.
- Some of the participants emphasized the importance of ensuring women's rights and participation in politics and their representation in Mogadishu's future governance structure.
- Apart from minority clan rights, political rights and more specifically representation issues were brought up as one of the most important rights issues in the status discussions. E.g. national representation of Banadir in the federal parliament was consistently referred to as the right of the people living in Mogadishu/Banadir.
- Some of the participants felt that it is unclear who are or should be considered the citizens of Mogadishu (who gets to vote in the local elections, or run as a candidate for Mogadishu representation in the parliament?). It was also noted that capital cities often have more movement of people, with those moving from other member states to the capital and the diaspora, and vice versa. This should be taken into account when determining Mogadishu's lawful residents.

The participants were also taken through the presentations on the three options which they found to be very interesting and beneficial. Other than the three main options, participants were interested in the Netherlands model where the capital city was Amsterdam (symbolic but not the seat of government) with parliament, government and Supreme Court being hosted in The Hague.

3.1 Option 1: The Capital City as a Federal District

Option 1 presents a system where the capital city is a part of a federal district or territory that differs from that of the federal states that surround it. The federal district is typically under the control of the federal government institutions. The federal legislature passes the legislation for the city and may overturn local laws passed by the city council. Major matters are handled directly by the federal government (e.g. police, administration).

3.1.1 Mogadishu as a Federal City/Region

Applied to Mogadishu and the Somali context, this option could have the following features:

Representation: Under this model Mogadishu residents would have no representation in the upper house but could have a representative in parliament with no voting power.¹⁷ Mogadishu would be part of a federal district or territory that differs from that of the federal states that surround it. Mogadishu/Banadir residents would have voting rights with respect to electing their own local government, including the mayor and city council members. The residents of Mogadishu can also vote for president and members of parliament.

Federal and Local Governance: Mogadishu would have a City Council, which enacts city regulations and responsible for the running of local business. The Federal Government, when it deems necessary, can dissolve the City Council and the entire administration and replace it by a temporary administration until

elections take place next. Mogadishu/Banadir would have power to pass laws on a wide range of topics, but would be under the delegated authority of the Federal Parliament, and the laws passed by the Mayor and elected city council could be overturned. The Federal government would control any major matters (e.g. security, policing, infrastructure, courts, prisons and administration) but working in collaboration with the federal region/capital.

Financial Management: The city/region would manage its finances day to day but budgets approved by federal government. Any legislative actions taken by the Mogadishu/Banadir are subject to approval by parliament/federal government e.g. the city/region’s budget drafted by mayor and the city council must be approved by the federal parliament and President. The city/region’s finances are subject to specific federal constraints that, if violated, would institute a long period of federal fiscal control.

Legislation: The Somali Federal government would have some control over Mogadishu/Banadir and would be able to overturn its legislation. Parliament retains the ultimate authority to review the laws, local budget and taxes.

Rights and Responsibilities: Somalis not originally from Mogadishu would have the freedom to reside and settle anywhere within Mogadishu. They would be allowed to own land, gain employment, as well as start businesses. Any registered voter living in Mogadishu would be able to stand for government office.

3.1.2 Comparative case studies

	New Delhi, India	Washington D.C., USA
<i>Representation</i>	The National Capital Territory (NTC) of Delhi has equitable representation in both houses of Parliament based on its population size.	The American capital city is represented by a delegate in the Lower House, but has no voting rights . Washington D.C. is not represented in the Upper House.
<i>Governance</i>	New Delhi has two separate councils ; a <i>Municipal Council</i> managing the three districts where federal government institutions are based, which has a members from the federal government and the Delhi Legislative Assembly, and a separate <i>Municipal Corporation</i> for the other eight districts.	Washington D.C. has a Council of the District of Columbia. Congress has the right to review all legislation passed by the Council. Federal legislation has also limited the powers of the district government.
<i>Financial management</i>	The NTC is allowed to receive taxes, and plan its own budget independently, similar to Indian states. The federal government provides extra funds and takes responsibility for expenditures on security.	The council sets local taxes and the budget for the District. The budget requires approval from Congress and the U.S. President. The federal government compensates losses in taxes from tax-exempt property and other finances.
<i>Legislation</i>	The NTC’s Legislative Assembly is	The Council of the District of

	allowed to legislate on almost all matters that states are allowed to legislate on. In case of conflict, federal legislation takes precedence.	Colombia can be overruled by Federal Congress.
<i>Rights and responsibilities</i>	Voters registered in NTC can vote and stand for office. Indians from other areas of the country can own land and gain employment in New Delhi.	Voters registered in D.C. can vote for the D.C. Council elections and stand for office. Americans not from D.C. can own property and gain employment in D.C.

Please see **Annex I** for case studies on New Delhi and Washington D.C.

3.1.3 Issues identified during consultations

Option 1 was presented and discussed during the consultative meetings in Mogadishu. The participants expressed their interest in following features:

- The capital city being under the jurisdiction of the federal government. This was identified as a good system as it was expected that it helps with clear protocol and management of affairs.
- When power is centralized, there will be good resource sharing, allocation of resources will trickle from the top to the bottom and will be properly managed.
- Residents have a right to vote for their representatives in parliament as well as vote for the President.

However, the participants were concerned about the following features:

- The budget for the Federal government is not specified so its resources will be shared with others including the federal member states with structures of their own.
- This option undermines local government functions, giving the Federal government more power to control affairs.
- There will be representation in parliament but with no voting rights.
- The lack of representation in the upper house limits the decision making powers of the city/region

The participants felt that option 1 would limit their rights to be represented in the upper house and their decision making powers in parliament. They also felt that the fact that the Federal government would have more power to control the local/state government would limit their participation. This model was not popular among the participants.

3.1.4 Key features of this option in the context of Somalia

Reflecting on the consultative meetings, the following features are identified as the key features of this option in the context of Somalia:

- This model would enable all residents to exercise their democratic rights by voting for their national assembly representatives.
- This model would provide the local government with power to pass laws and manage finances in relation to their own specific needs and interests, but with supervision from the federal government to enable transparency.
- This model however would possibly pose a weakness in that Mogadishu/Banadir residents will be able to vote for only one candidate who will not be able to vote in parliament despite participating in debates and sharing of opinions.
- The fact that there is no representation in the upper house, would limit the decision making process of the region, thereby adding no value in the debate to determine their status.

3.2 Option 2: The Capital City as a City-State

In this option, the political boundaries of the capital define a political unit that is both a city and a state. The powers and responsibilities of the city and the federal state are enshrined in the city-state's (separate) institutions. The city-state and its citizens have the same powers and rights as other states. The size of the city-state can vary from a small territory comprising the city only, or may include a larger surrounding area. Depending on the population size the city-state could have a relative representation advantage over other states in the federal legislature.

3.2.1 Mogadishu as a city-state

There have been suggestions that the capital city as a city-state is the most popular option for Somalia. The size of the capital city-state in Mogadishu can be the city itself, or a larger territory which encompasses the whole of Banadir. In the former, Banadir region would join another federal member state, and in the latter, Banadir would be a part of the city-state and would be represented by it. Applied to Mogadishu and the Somali context, this option could have the following features:

Representation: Mogadishu would be a 'federal member state' with the same powers and responsibilities as any other currently existing state. The citizens of Mogadishu/Banadir would have the same representation in the legislature as the citizens of any other federal member state. Geographically Banadir would be the smallest state in Somalia, but population-wise the biggest, with an estimated population of 1.28 million citizens in 2014.¹⁸

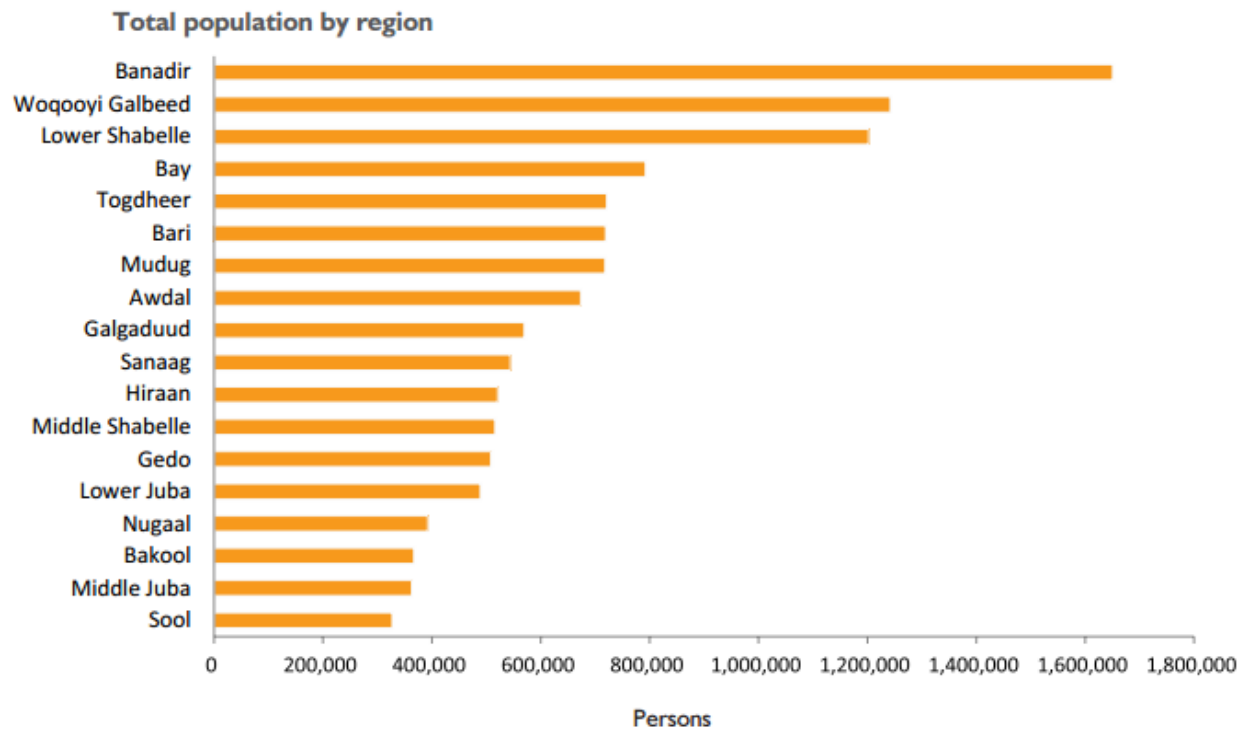


Figure 1 - Estimated total population by region (UNFPA, 2014)

Federal and Local governance: In this model, Mogadishu/Banadir would have control over its governance at both the federal and local levels, but through different, independent governing institutions. The Federal Government of Somalia would have its seat in Mogadishu and would have to negotiate with ‘Banadir state’ over common interests including urban planning and security. A joint committee could be set up to deal with any contentious issues arising out of the overlapping governance structures.

Financial management: This model would allow for Mogadishu to have control over its own finances in terms of budget drafting and the allocation of funds. The Federal Government would typically not pay the State or Local government of Banadir/Mogadishu for their state and local services, but may pay for costs incurred by Mogadishu in its role as the federal government’s seat. Mogadishu would for example benefit from federal payments made for security, urban planning, infrastructure, reimbursements for revenues lost to tax exempt property, and possibly cultural matters.¹⁹

Legislation: Mogadishu/Banadir does not have constitutive autonomy i.e. the right to amend key features like its composition, elections, government operations and procedures. Institutions in Mogadishu/Banadir can only be altered through special constitutional acts voted in the Parliament. Laws passed by Mogadishu/Banadir can be overturned by the federal government.

Rights and Responsibilities: This model would typically lead to Mogadishu having the same powers and responsibilities as any other federal member state.

3.2.2 Comparative case studies

	Berlin, Germany	Brussels, Belgium
<i>Representation</i>	Berlin has the same proportional representation as other states in the Upper House and 24 delegates in the Lower House.	Brussels Capital Region has equal representation in the Lower House and a quota for representation in the Upper House
<i>Governance</i>	Berlin has a Land Parliament and a municipal council. The positions of mayor and state prime minister of Berlin are embodied in one person who is elected by the Land Parliament.	Brussels has a municipal council that is directly elected every year. Its municipal executive is also elected. The Mayor is appointed by the Brussels Capital Region.
<i>Financial management</i>	Berlin has the same financial and fiscal control as other states and receives federal government grants and equalization payments from other states.	Brussels has financial and fiscal autonomy but receives additional federal funding for service provision and in lieu of taxes.
<i>Legislation</i>	Berlin has its own Parliament elected every five years.	BCR does not have the right to amend key features of its own composition. Its ordinances can be overturned by the federal government.
<i>Rights and responsibilities</i>	German citizens have the right to move across state boundaries and fully participate in any of the other states.	Belgian citizens are free to move to another region and are obliged to vote in their new region and municipality.

Please see **Annex I** for case studies on Berlin and Brussels.

3.2.3 Issues identified during consultations

Option 2 was presented and discussed during the consultative meetings in Mogadishu. The stakeholders consulted expressed their interest in the following features:

- Representation in the upper and lower houses and delegates with voting rights.
- The lower level districts and local administration will have power to manage their own affairs which is expected to lead to a well-run and functional government system.
- The Governor and Mayor having separate functions. One would play a political role while the other a more administrative role, decreasing tensions over leadership roles.
- The allocation of power and responsibilities is clear between federal and local government, thus decreasing tensions.
- Residents having similar rights as residents of other federal member states in relation to voting, living, working and owning businesses.
- The Somali people having equal representation at federal and local level despite the diversity in religion, clan, and language.

- Hosting the Federal Government, all government institutions, NGO's and embassies, thus playing an important role as capital city.

However, the participants expressed their concern about other features:

- Possible overburdening of the federal government regarding resources/tax, and security
- Overcrowding caused by Somalis from other parts of Somalia moving to Mogadishu, which may force residents to move or compete for jobs and business.

The stakeholders consulted expressed most interest in option 2; the participants expressed their explicit interest in citizens having more representation in both the lower and upper house under this option, something they have been struggling with for years. They liked the fact that residents, despite their clan diversity had equal rights to vote, live and work in that area.

3.2.4 Key features of this option in the context of Somalia

Reflecting on the consultative meetings, the following features are identified as the key features of this option in the context of Somalia:

- This model would give citizens full voting rights in relation to electing both federal and local government officials;
- This model would provide Mogadishu residents the freedom to move from one region to another to live, work, own land and conduct businesses;
- This model provides Mogadishu residents the right to vote in the region and city they live and are registered in;
- This model gives Mogadishu/Banadir a number of seats and the right to representation in the two Houses of Parliament.

3.3 Option 3: The Capital City as a city within a Federal State

Capital cities that are municipalities situated within a province or state fall under the province or state's jurisdiction and generally have the same legal status as any other city in the country. The federal state in which the capital city is located could play a positive or obstructive role in the relationship between capital city and federal government. It might give the state in which the capital city is located an extra, potentially perceived as unfair, advantage. For example, as the official seat of government it may have special funding arrangements with the federal government as well as other financial, commercial or cultural benefits. On the other hand, the state could be seen as an obstructive extra layer of governance between capital city and federal government that might be tempting to overstep for the capital city. In multi-ethnic or otherwise diverse societies the capital city as part of a federal state could fail to reflect this diversity because of its ties to one federal state that might be less diverse than the country as a whole. An example of this is Ottawa, the capital of Canada, which is an English-speaking capital in a deeply bilingual Canadian society.²⁰

3.3.1 Mogadishu as a city in a federal state

For Somalia this option would mean that Mogadishu would become a city in an existing or yet to be created federal state:

- *Existing state option:* Banadir could potentially join South West State which would then comprise of four states (Bay, Bakool, Lower Shabelle and Banadir). A less obvious alternative is for Banadir to join another, non-bordering federal state as there is no provision in the constitution that stipulates that federal member states should only consist of regions that border each other.
- *Emerging state option:* Middle Shabelle, Hiiraan and Banadir could form a new federal state comprising the three regions. Banadir could also join Middle Shabelle in forming a new federal state, while Hiiraan could join Galmudug or South West State.

For either of these two sub-options, the capital city would typically have the following features:

Representation: Mogadishu would be a municipality in the state it would join with rights and responsibilities as any other city in Somalia or with special status, and would be the seat of the federal government. Mogadishu would be represented by the state it chooses to join in Upper House.

Federal and Local governance: Mogadishu would hold its own local council elections. The Federal Government may have limited jurisdiction over Mogadishu's local governance, including planning and urban development.

Financial Management: Funding would primarily come from the state it chooses to join. Mogadishu would be responsible for all municipal services (including roads and sanitation). Mogadishu may benefit from special funding arrangements from the federal government.

Legislation: The federal government has no direct implementing capacity; hence implementation of federal policies is left to the city/region. The Council is responsible for executing the laws decreed by parliament, departmental tasks and coordination measures.

Rights and Responsibilities: If Mogadishu would become a part of another federal state the additional layer of governance between the capital city and the federal government could serve as a buffer between the two levels of government or could be seen as obstructive by either of the two, in which case it could lead to friction. Somalia's diversity might not be as well reflected in Mogadishu if it were to become part of any of the surrounding federal states as Mogadishu could be viewed as a part of that state's politics, identity and culture. The state legislature of the federal state that Mogadishu would be a part of would have the power to pass state laws on citizenship and residency in Mogadishu as the federal capital city. Mogadishu would have the same powers and responsibilities as any other city in the country and its municipal council would therefore probably have a very limited say over issues of citizenship and residency.

3.3.2 Comparative case studies

	Bern, Switzerland	Cape Town, Pretoria and Bloemfontein, South Africa
<i>Representation</i>	Bern Canton has proportional representation in the Lower House (National Council), with 25 seats out of 200. Bern Canton has 2 seats in the Council of States.	The three capital cities are represented through the provinces in which they are located , just like other South African cities. The Upper House comprises of 10 delegates from each of the nine provinces, while the Lower House comprises of 200 members elected through 9 provincial lists, and 200 members elected through a national list.
<i>Governance</i>	Bern has an executive City Council and a legislative City Parliament that are directly elected.	The federal government regulates the exercise of local government.
<i>Financial management</i>	Bern raises revenue through taxes and receives federal and cantonal government grants.	Pretoria, Cape Town, and Bloemfontein derive revenue from a range of sources and receive significant additional funds from the federal government.
<i>Legislation</i>	Unclear from case study.	Unclear from case study
<i>Rights and responsibilities</i>	Swiss citizens have the right to move from one Canton to another while retaining their political rights. Cantons may require a maximum waiting period of three months before a new resident can exercise its right to vote.	South African citizens have the right to move between the states and take up residency, as well as exercise their political rights in any of the states

Please see **Annex I** for case studies on Bern and Cape Town, Pretoria and Bloemfontein.

3.3.3 Issues identified during consultations

Option 3 was presented and discussed during the consultative meetings in Mogadishu. The stakeholders consulted were interested in the following features of this option:

- One region administering its own affairs is a good thing.
- There is clear division of responsibilities; this will ease the burden on the federal government.
- The federal government will have less power and exercise less control on state and local government.
- There will be clear protocol (bottom-up) on the allocation of powers and resources.
- This will increase self-development of the federal state.
- The city will be more economically developed than other cities.
- It will have representation in parliament through the state it joins, just like other states.
- Residents will be able to participate in and hold their own local council (?) elections.

The stakeholders consulted were concerned about the following features of this option:

- Federal government might lose credibility because local and state governments will have more power.
- There will be high insecurity and living costs would be high due to the influx of Somalis from other states.

The stakeholders consulted felt that option 3 was a good model as there would be a clear division of roles and responsibilities between the local and federal government under this option. Many felt that it was a good thing to have a federal government with less power and less control over local affairs.

3.3.4 Key features of this option in the context of Somalia

Reflecting on the consultative meetings, the following features are identified as the key features of this option in the context of Somalia:

- Under this option residents would have the ability to move between states and take up residency in any state they wish to and exercise their political rights there.
- This model would provide for equal representation of residents in all levels of government.
- This model provides for equal representation in the lower house depending on the population size of Mogadishu/Banadir.

4. Conclusion

The balancing act of local and federal interests in the status of the federal capital city is a highly contextual one and has led to different models and characteristics that address the unique make-up and circumstances of these localities. For Somalia one of the above described options might be suitable as a basis to start from, and only after certain adjustments might lead to the creation of a context-tailored option that addresses the unique circumstances of Somalia.

Annex I: Case Studies

New Delhi, India

New Delhi is an interesting case study for model 1 because Delhi was given a unique status of National Capital Territory that conferred additional powers compared to other union territories in India, due to its large population and megacity status, but less than other States because of its capital city status.

Representation: National Capital Territory of Delhi holds 7 seats in the *Lok Sabha* or the lower house and 3 seats in the Upper House of the Parliament²¹. The number of constituency seats per territory is determined based on population of the territories, thus ensuring Delhi receives equal representation in the both the houses of the national parliament. In order to accommodate marginalized populations, 12 seats in the Legislative Assembly are reserved for the Scheduled Castes²².

Federal and Local Governance: Directly elected representatives of Delhi Municipal Corporation manage civic administration for eight of the eleven district of Delhi and do not fall under the NCT administration²³. The Municipal Corporation deals with public health, town planning and sanitation. Similarly, the New Delhi Municipal Council²⁴ manages civic administration for the other three districts that house the federal institutions. The Municipal Council is an eleven member body, with members nominated from the Central government and Delhi legislative assembly, and having at least three women representatives and one representative from schedule castes.

Financial Management: New Delhi receives revenue from sales tax, value added tax, excise duties and trade tax. Budget for the capital territory is planned by the Delhi government independently, similar to other Indian states. The federal government provides grants-in-aid to the Government of National Capital Territory of an assumed share of central taxes, as well as, is responsible for expenditure on police, public order and land department. In practice, the federal assistance to NCT government for various projects is changed depending on the relationship shared between the ruling parties at the national and state level.

Legislation: The National Capital Territory (NCT) is allowed to elect its own Chief Minister, Legislative Assembly and host its High Courts. The Legislative Assembly for Delhi constitutes of 70 seats and is directly elected by the residents of the NCT. A Council of Ministers (not more than 10% of the legislative Assembly) led by the Chief Minister form the state executive body²⁵. Delhi is allowed to legislate on almost all matters listed under the State powers within the constitution. Local governance, education, trade, healthcare and finances fall under the purview of NCT government²⁶; while the federal government through the Lieutenant Governor manages public order, police and land rights²⁷. The Delhi Police, which is responsible for public law and order, is under the national government control and reports to the Union Home Ministry. Land rights in Delhi are under the Union Urban Affairs Ministry's jurisdiction. In case of conflict, Federal legislation takes precedence over the Delhi's Legislative Assembly's law.

Rights and Responsibilities: Freedom to reside and settle anywhere within India is guaranteed by the constitution to all citizens of India. Being a megacity located centrally in India, it attracts large immigrant populations from the neighboring states. Immigrants, like the locals, are allowed to own land, gain employment, as well as, start businesses. Any registered voter from the NCT can stand for government office.

Washington D.C., USA

Washington DC was created by the United States Congress in 1790 to have a capital for the federal government and being responsible for its own security. It represents a federal district without representation at national level or budget autonomy.

Representation: Washington DC is represented by a delegate in the US House of Representatives, but the representative cannot vote on the House floor, however the delegate is allowed to vote on procedural matters and in congressional committees. Since DC is not considered a state, it does not have representation or voting rights in US Senate. Washington DC is entitled to three electoral votes for the election of US President and Vice President.

Federal and Local Governance: Congress reserved the right to review all legislation passed by the council²⁸, before it becomes a law. This has often resulted in delay and interference in local administration. Controversial laws, like abortion laws, gun control, needle exchange programs, that had strong local support were stopped by the federal government²⁹.

The Home Rule Act had some severe stipulations limiting the powers of the district government like its inability to tax people working in DC, prohibition on changing the composition and jurisdiction of the local courts and lending public credit for private projects. The Act also prohibited against gaining any further authority over National Capital Planning Commission, Washington Aqueduct and DC National Guard.

Financial Management: The council sets local taxes and the budget for the District. Property taxes on federal institutions and foreign diplomatic missions are exempted, resulting in a significant revenue loss for the district. While DC residents pay more federal tax per capita compared to all other US states³⁰, the city regularly experiences a budget deficits, which is federal government compensates through grants-in-aid. However this deficit results in inadequate police protection, unmaintained sewer system, deterioration in quality of education and healthcare. The District budget needs to be approved by the Congress and the President of US. If federal constraints are violated then fiscal control would be employed³¹.

Legislation: The Home Rule Act (1973)³² allowed the creation of a council consisting of 13 members: a member representing from each of the 8 wards of DC, 4 members elected at large and a mayor.

Rights and Responsibilities: Washington DC allows legal immigrants to own property and gain employment. During the workday, over half a million people enter DC from the neighboring region for

employment³³. Domiciled voters registered in DC can vote for the DC council elections and stand for government office, similar to other states.

Brussels, Belgium

Belgium Federation is composed of (linguistically determined) Communities and (territorially determined) Regions. The capital of the Belgian Federation is the City of Brussels located within the Brussels Capital Region (BCR). Brussels is also the capital for the French Community, Flemish (Dutch) Community and Flemish Region. The City of Brussels was once the core of Brussels Capital Region, while the other 18 communes were its suburbs. Nowadays the BCR and City of Brussels overlap and function “under a common umbrella government”³⁴ as a result it resembles a city-state model than a capital city within a state.³⁵

Representation: In the House of Representatives Brussels is included as an electoral constituency and has equal representation. Belgian Senate has representation from Communities and not regions. Therefore due to Brussels’ bilingual status it is not represented as a region. However there is quota for six French speaking senators and one Dutch speaking senator from Brussels to be in the Federal Senate.³⁶

Federal and Local Governance: The City of Brussels is one of the 19 municipalities, within the Brussels Capital Region. Its municipal council is directly elected every six years while the mayor is appointed by the crown. Unlike other municipalities in Belgium, the municipal executive the College of Mayor and Aldermen, is also directly elected. On a municipal level it has authority over police, health and social aid, schools, public work and maintenance of roads. The Belgium model is defined as shared competencies but exclusive powers i.e. while the competencies are concurrent between the regional government and municipal government; each tier is responsible only for its part. The federal government can only override the BCR when there is a threat to national or international interests.³⁷

Financial Management: Brussels has financial and fiscal autonomy.³⁸ While the city foregoes its revenue in property taxes from State and international institutions, the federal government makes payments in lieu of property taxes amounting to 72% of the total property taxes³⁹. Regional taxes accounted for 50% of Brussels’ revenue in 2008 while income tax accounts for another 35%. The large number of foreign, European, federal and local institutions located in Brussels results in over 30,000 jobs and their expenditure boosts Brussels economy; however diplomats and EU civil servants do not pay income tax, resulting in loss of revenue. Despite policing being a local service provision, the Belgian federal government provides compensation to Brussels’ local government for policing of EU meetings.⁴⁰

Legislation: Unlike the French and the Flemish regions in Belgium, BCR do not have constitutive autonomy i.e. the right to amend key features like its composition, elections, government operations and procedures⁴¹. Institutions in BCR can only be altered through special constitutional acts voted in the Parliament. BCR also passes ordinances, which can be overturned by the federal government that

prejudices its status or function as a capital city. Also unlike the other two regions, BCR shares its competencies with the federal government in urban development, planning, transport and public works⁴². The Cooperation Agreement signed between the federal government and the BCR, provides grants to finance projects for the above the competencies. BCR has authority over urban planning, public works, transportation, housing, economic, environment and energy policies, as well as, scientific research⁴³. Brussels capital region government is composed of minister-president, senior and junior ministers elected every 5 years.

Rights and Responsibilities: Political participation is seen as not only a right but also a civic duty; hence it is mandatory to vote in the elections⁴⁴. Belgian citizens are free to move from one region to the other, and have the right and obligation to vote in the municipality and region that they live and are registered in⁴⁵.

Berlin, Germany

At the end of the Cold War, reunification of Germany led to discussions for a capital city between Berlin and Bonn. In 1991, Parliament in Bonn declared Berlin would host the *Bundestag* and the federal government, and be the federal capital, while Bonn would be called the federal city. Bonn was granted several privileges to consent to the new arrangement, and some ministries were also left in Bonn. It was decided to make Berlin a federal capital as well as a *Land* (state); Bremen and Hamburg are the only other city-states in Germany.

Representation: Berlin has the same representation in the federal legislature as other states. Upper House (the *Bundesrat*) representatives are not directly elected but delegated by the state governments. Each state receives between three and six representatives, depending on their population size. Berlin has four representatives.⁴⁶ Berlin has 24 members in the seventeenth *Bundestag*, or the lower house of the parliament out of the 620 members.

Federal and Local Governance: The Land Parliament rules autonomously and can decide on matters of transport, health, education, security and social policies. As a city-state, Berlin government is also responsible for local government functions and collecting revenue. Berlin's twelve districts determine its own budget and fulfill functions that are local and are not fulfilled by ministries, in accordance to benchmarks set. The positions of Berlin Mayor and State Prime Minister of Berlin are embodied in one person that is elected by the Berlin State Parliament.⁴⁷ The 1992 Cooperation Agreement, which defines the relationship between the federal government and Berlin, called for the creation of a Joint Committee comprising of 'representatives of Berlin and the Federal Government of Germany' for resolving any contentious issues between the city and the federal government, mostly related to urban planning and land. If no agreement is reached, the federal government could override Berlin.⁴⁸

Financial Management: Berlin has the same financial and fiscal control as other states.⁴⁹ Berlin is able to generate around 60% of its revenue from taxes, sales of assets and administrative revenue. It also receives intergovernmental grants from federal government and equalization payment from states to compensate for the rest of its expenses. The federal government partly reimburses the city of Berlin for

costs incurred for security (38% reimbursed), infrastructure (64% reimbursed), and cultural activities related to its role as the federal capital city.⁵⁰ In addition, there have been agreements between the federal government and Berlin for other projects, including traffic-related projects.⁵¹ The federal government under the “Capital City Financing Treaty” provides transfers for additional security costs during state visits, subway line and cultural facilities. Länders in Germany engage in a horizontal equalization system, to compensate economic disparity between the states during the reunification of Germany.⁵²

Legislation: Similar to other states, Berlin has its own parliament *Abgeordnetenhaus*, elected every five years according to mixed member proportional representation. The parties are entitled to a certain number seats in the parliament based on its share of total votes. If the party wins fewer constituencies, but has a greater vote share, then it is awarded an overhang seat in the Parliament. Berlin Parliament has 78 representatives elected directly from the electoral district and another 52 members elected indirectly from the district lists. The total representatives of the Parliament are at least 130, but can be more in case of overhang seats. The executive body for Berlin is the Senate, constituting of eight ministers and a Governing Mayor.⁵³

Rights and Responsibilities: It is the federal government responsibility that “the nation as a whole” is represented in the capital Berlin.⁵⁴ German citizens have the right to move across state boundaries and become citizens in any of the other states and fully participate. Article 33(1) stipulates that “every German shall have the in every *Land* the same political rights and duties”.⁵⁵ Voters are not required to register; they are registered and notified automatically.⁵⁶

Bern, Switzerland

Since 1848 Bern has been the capital of Switzerland, and currently is the fourth largest city of the country. It is the seat of the Federal government and the National Parliament, while the judiciary has been decentralized. The twenty six Cantons (federal states) are considered as sovereign entities and all the legal competencies lies with them. Any transfer of competencies from Canton level to federal level requires consent from the Cantons, as well as, an amendment of the constitution. The federal competencies are only competencies that have been delegated.

Representation: The city Bern serves as both the capital of the federation, as well as the capital of the Canton Bern. Bern has largely the same powers and responsibilities as any other Swiss city.⁵⁷ All cantons are represented at the National Council or the Lower House in Switzerland. Bern Canton has 25 seats out of 200 in the National Council and enjoys equal representation, which is determined according to the canton’s population⁵⁸. Bern Canton has two seats in the Council of States.

Federal and Local Governance: As a capital city Bern had to bear the costs of maintaining federal buildings. Given financial limitations, Bern was reluctant to bear these costs, as well as, cater to the growing demand of office spaces for federal offices. Eventually in 1875 the federal government signed a convention accepting the responsibility for federal structures within Bern.

While there are no further duties constitutionally imposed on Bern as a capital city, it is responsible for the security of foreign dignitaries, as well as, security during protests. Federal grants are awarded to compensate city's expenses towards security and cultural activities. In 2008 the city's police force was absorbed into the Canton's police force for better control.

The emphasis on canton authority has resulted in lack of any direct communication between the federal government and the commune/city government. Thus there is a *Three Bern Meeting*, held annually between the 3 levels of government to exchange information and have no decision making power. The agenda is determined by the hosting government (on rotational basis). There are also coordination schemes between the levels of government for security. The Federal Office of Culture and the Bern's Cultural Department are also in communication to organize state events. Thus in absence of an official relationship between the federal and commune governments, there are informal arrangements have been created.

Financial Management: Bern raises revenue through taxes, fees, assets and grants. Bern receives more grants from the Federal and Cantonal governments, compared to other cities, accounting for almost a quarter of Bern's revenue.⁵⁹

Legislation: The communes have no original power recognized by the Swiss Constitution; however the local communes enjoy significant autonomy. The extent of autonomy and organization of the commune governance is defined by the cantons. The federal government has no direct implementing capacity; hence implementation of federal policies is left to cantons and communal governments. For Bern the *Gemeinderat* or the City Council is composed of 5 directly elected councilors, each responsible for a directorate (comprising of multiple departments). The Council is responsible for executing the laws decreed by the City Parliament, departmental tasks and coordination measures. The president of the council is the mayor of Bern for four year tenure. The City Parliament is also called *Stadtrat*, and elects its 80 members through proportional representation every 4 years. The members of the Parliament are not necessarily politicians, but residents of Bern and are paid a fee for participation.

Rights and Responsibilities: Article 24 of the Swiss Constitution stipulates that Swiss citizens have the right to choose to live anywhere in the country. The Constitution states that "political rights are exercised in the commune in which a citizen resides, although the Confederation and the Cantons may provide for exceptions".⁶⁰ The canton may provide that a newly registered resident may only exercise the right to vote after a maximum waiting period of three months.⁶¹

Cape Town, Pretoria, Bloemfontein, South Africa

The Anglo- Boer Wars of 1899-1902 concluded with British annexing the two provinces, Transvaal and Orange Free State, and creating Union of South Africa in 1910. However, the seat of the unified government was strongly contested in the negotiations, ultimately resulting in government authority dispersed across multiple cities. The capital of Transvaal, Pretoria was declared the seat of the Government of the Union, while Cape Town shall be the seat of legislature of the Union, and the Appellate courts were based in Orange Free State's capital, Bloemfontein.⁶²

Spreading the capital functions over three cities meant that there would be no one center of power in South Africa, thereby South Africa avoided a contentious issue at the state's unification in 1909 that ended almost 30 years of war: "this potentially precarious path was selected in the context of many being reluctant to merge into a single state, federal or not."⁶³ After apartheid, neither of the capitals was found suitable to serve as the federal capital city; Cape Town having a minority African population made it unacceptable as the only capital, but Pretoria was not found to be of the same cosmopolitan class as Cape Town and was therefore also unsuitable.⁶⁴ The divided capital does mean that government officials and members of parliaments have to frequently travel between the three cities, which has led to discussions over whether South Africa should move to a one-capital system.⁶⁵

Representation: The National Council of Provinces (NCOP) is the Upper House of Parliament and receives 10 nominated delegates from each of the nine provinces in South Africa. The National Assembly hosts 400 members for tenure of five years. Half the members are elected proportionally from nine provincial lists and the rest from national list. While no special provision has been added in the constitution to limit or favor representation from the three cities. Furthermore local government representatives are allowed to debate in the NCOP, however they aren't allowed to vote.

Federal and Local Governance: Competencies of the local government are enshrined in the South African Constitution, however the federal government regulates the exercise of local power. Metropolitan municipalities are responsible for local level governance and responsible for security, water, sanitation, electricity, transport and health. The importance of security in context of 'capital city' has resulted in committees (staffed by federal and local officials) that grant permission for protests and manage the security.

Financial Management: Pretoria, Cape Town, and Bloemfontein are largely self-reliant and derive revenue from service charges, government transfer and property taxes on state institutions, foreign missions and international organizations located in their territory. The provinces have limited discretionary funds to spend on the capital cities in their territories, thus provide oversight but exert minimal influence over their policies. Mostly the cities receive significant federal grants (some provincial grants), thus subjecting them to federal control.

Legislation: The agreement to have multiple capital cities accommodated the demands of the provinces in 1909, however made the official communication cumbersome given more than a day's travel. The distribution of the government across cities avoided concentration of power in a single state or city. And each of the cities contributed a unique ethos, result of its distinctive character, thus representing the diversity of the rainbow nation. The rationale of creating Cape Town into legislative capital was also to introduce diversity in a predominantly white majority city. Different capital cities have also resulted in economic development of multiple cities.

The 1996 Constitution of South Africa does not specify any capital for the country. It states that Cape Town to be the seat of the Legislature, but can be changed by an amendment. To further emphasize this point; in 1996 the Constitutional Court was placed in Johannesburg. Despite no capital cities have been stated, the three cities over the last century have become *de facto* capitals.

Rights and Responsibilities: There is no special status awarded to the cities hosting federal institutions in South Africa. The cities are governed by the local governments and the citizens enjoy equal representation at all levels of government. According to the Constitution, the citizens have a right to move between the states and take up residency, as well as exercise the political rights in any of the states.⁶⁶

DRAFT

Endnotes

- ¹ Consultations conducted in Mogadishu by Conflict Dynamics International and Interpeace in May 2016.
- ² Caroline van Wynsberghe, "How do you govern a federal capital?", *Federations* 5 (2005): 19.
- ³ (Jama pg 30)
- ⁴ (kapteijns pg 34)
- ⁵ Puzo William Daniel. "Mogadishu, Somalia; Geographic aspects of it's evolution, population, functions and morphology." University of California. 1972.
http://tobiashagmann.freeflux.net/files/media/horn/docs/puzo_phd_1972_mogadishu-somalia.pdf
- ⁶ Rick Davies. "The village, the market and the street: a study of disadvantaged areas and groups in Mogadishu, Somalia." British Organisation for Community Development. September 1987.
<http://www.mande.co.uk/docs/Mogadishu%20finalRDformatB.pdf>
- ⁷ Provisional Constitution (2012), Art. 48
- ⁸ Article 48, *Provisional Constitution of the Federal Republic of Somalia*, 1 August 2012, accessed 12 July 2016.
http://www.wipo.int/wipolex/en/text.jsp?file_id=324354.
- ⁹ Provisional Constitution (2012), Art. 49(6).
- ¹⁰ Provisional Constitution (2012), Art. 9.
- ¹¹ Provisional Constitution (2012), Art 21 (1)
- ¹² Provisional Constitution (2012). Art 22(1) (2)
- ¹³ Mogadishu City Charter (2011), Art. 6
- ¹⁴ Mogadishu City Charter (2011), Art 14
- ¹⁵ Mogadishu City Charter (2011), Art 7
- ¹⁶ Communique on the Electoral Model for 2016, National Leaders Forum 2016, see:
<http://www.raxanreeb.com/2016/01/breaking-news-somali-leaders-agree-election-in-2016/>.
- ¹⁷ Garry Young, "The District of Columbia and Its Lack of Representation in Congress: What Difference Does It Make?" (Center for Washington area studies, July 2009): 5.
- ¹⁸ United Nations Population Fund, *Population estimation survey 2014 for the 18 pre-war regions of Somalia* (Nairobi: United Nations Office in Nairobi Publishing Services Section, 2014), 31. Available from:
<http://somalia.unfpa.org/sites/arabstates/files/pub-pdf/Population-Estimation-Survey-of-Somalia-PESS-2013-2014.pdf>. The figure of 1.28 million is exclusive of internally displaced persons (IDPs) residing in Banadir. Including IDP's the Banadir population was estimated to be 1.65 million in 2014.
- ¹⁹ "How do you govern a federal capital?", 20.
- ²⁰ Klaus-Jürgen Nagel, "Capital cities of federations. On the way to analyzing the normative base of their asymmetrical status", Political Theory Working Paper 11 (Grup de Recerca en Teoria Política, 2011), 9.
<https://repositori.upf.edu/handle/10230/16014?show=full>.
- ²¹ <http://parliamentofindia.nic.in/ls/intro/p1.htm>
- ²² http://eci.nic.in/eci_main1/seat_in_legislativeassemblies.aspx
- ²³ Constitution of India, 73rd -74th Amendment (1992)
- ²⁴ New Delhi Municipal Council Act (1994)
- ²⁵ Constitution of India, Art. 239
- ²⁶ Constitution of India, Schedule VII, Art. 245-255
- ²⁷ Constitution of India, Art 239AA
- ²⁸ United States Constitution, Art. 1, Sec.8
- ²⁹ <http://www.vox.com/2014/11/12/7173895/dc-statehood-new-columbia>
- ³⁰ <http://taxfoundation.org/article/federal-estate-tax-collections-state-and-capita-2007>
- ³¹ Wolman, Hal, Jan Chadwick, Ana Karruz, Julia Friedman, and Garry Young. "Capital cities and their National governments: Washington, DC in comparative perspective." (2007).
- ³² District of Columbia Home Rule Act, 1973.
- ³³ http://wamu.org/news/13/05/31/dcs_population_grows_79_percent_every_workday_outpacing_other_cities
- ³⁴ "Capital cities and their national governments", 11.

-
- ³⁵ Caroline van Wynsberghe, "Brussels and Washington: two federal capital cities with two similar metropolitan experiences?," *Brussels Studies* 66 (2013): 4.
- ³⁶ Slack, Enid, and Chattopadhyay Rupak, eds. *Finance and Governance of Capital Cities in Federal Systems*. Brussels. McGill-Queen's University Press, 2009. pp39.
- ³⁷ "Capital cities and their national governments", 11-20.
- ³⁸ Gary Young, "The fiscal relationships between capital cities and their national governments", in *Building the Best Capital City in the World*, ed. Jon Bouker et al., (Washington D.C.: DC Applesseed and Our Nation's Capital, 2008), 78.
- ³⁹ "Capital cities and their national governments", 17.
- ⁴⁰ "Capital cities and their national governments", 25.
- ⁴¹ Slack, Enid, and Chattopadhyay Rupak, eds. *Finance and Governance of Capital Cities in Federal Systems*. Brussels. McGill-Queen's University Press, 2009.
- ⁴² <http://be.brussels/about-the-region/the-regional-competences/>
- ⁴³ <http://be.brussels/about-the-region/the-regional-competences>
- ⁴⁴ Article 62(2), *The Belgian Constitution*, Belgian House of Representatives, 1831 (amended 2014), accessed 15 June 2016. http://www.const-court.be/en/basic_text/belgian_constitution.pdf.
- ⁴⁵ Article 3, *Electoral Code of Belgium*, 31 January 2014, accessed 15 June 2016. <http://www.parliament.am/library/norelectoral%20law/Belgia.pdf>.
- ⁴⁶ Article 51: composition – weighted voting, *Basic Law of the Federal Republic of Germany*, Deutscher Bundestag, 23 May 1949, accessed 15 June 2016. https://www.bundestag.de/blob/284870/ce0d03414872b427e57fccb703634dcd/basic_law-data.pdf.
- ⁴⁷ "Politics & Administration", Website of Berlin, accessed 15 June 2016. <http://www.berlin.de/en/politics-administration/>.
- ⁴⁸ "Capital cities and their national governments", 12.
- ⁴⁹ "The fiscal relationships between capital cities and their national governments", 78.
- ⁵⁰ "Capital cities and their national governments", 16. Berlin is reimbursed 64 million EUR for its security expenses (totaling 100 million EUR), 64% of its 20 million EUR on infrastructure, 10 million EUR for cultural activities and full funding for several cultural institutions in the city.
- ⁵¹ "Capital cities and their national governments", 16
- ⁵² Slack, Enid, and Chattopadhyay Rupak, eds. *Finance and Governance of Capital Cities in Federal Systems*. Berlin. McGill-Queen's University Press, 2009.
- ⁵³ <http://www.parlament-berlin.de/en/English>
- ⁵⁴ Article 22(1): federal capital – federal flag, *Basic Law of the Federal Republic of Germany*.
- ⁵⁵ Article 33(1): equal citizenship – public service, *Basic Law of the Federal Republic of Germany*
- ⁵⁶ Kristina Kuhne and Oscar W. Gabriel, "Mapping Political Participation", in *Political Participation in France and Germany*, ed. Oscar W. Gabriel, Silke I. Kiel and Eric Kerrouche, (Colchester: ECPR Press, 2012), 49
- ⁵⁷ "How do you govern a federal capital?", 19-20.
- ⁵⁸ <https://www.parlament.ch/en/organe/national-council/members-national-council-by-canton>
- ⁵⁹ Finanzverwaltung, Eidgenössische. "Öffentliche Finanzen der Schweiz 2000." Eidgenössische Finanzverwaltung, Bern (2006). Harvard
- ⁶⁰ Article 24: Freedom of domicile, *Federal Constitution of the Swiss Confederation*, 18 April 1999, accessed 15 June 2016. <https://www.admin.ch/opc/en/classified-compilation/19995395/index.html>
- ⁶¹ Article 39: Exercise of political rights, *Federal Constitution of the Swiss Confederation*, 18 April 1999, accessed 15 June 2016. <https://www.admin.ch/opc/en/classified-compilation/19995395/index.html>.
- ⁶² Article 18,23 and 109, *South Africa Act of 1909*
- ⁶³ "South African capital cities", 168-170.
- ⁶⁴ "South African capital cities", 175.
- ⁶⁵ "South African capital cities", 173.
- ⁶⁶ Article 19 and 21(3), *Constitution of the Republic of South Africa Act, Statutes of the Republic of South Africa*