

# OPTIONS FOR SYSTEMS TO ELECT THE HOUSE OF THE PEOPLE IN SOMALIA

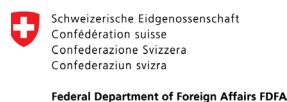
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Discussion Note



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# Executive Summary

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## 1. Introduction

This Discussion Note is designed to assist Somali people and leaders as they make decisions about the type of electoral system Somalia should adopt for its elections to the House of the People. It presents a series of five options that could be used in Somalia; elements from different options could be combined to achieve the most suitable system.

The Discussion Note uses the political accommodation methodology developed by Conflict Dynamics, which provides an approach to exploring options to achieve conciliation of political interests and perspectives. Especially in societies where political views or interests are strongly divergent, it is essential to develop arrangements and processes that bring in and take fair account of people's political interests in order to help reconcile them.

The electoral system can promote inclusion and equity of representation by ensuring that all groups in society obtain representation, giving them a stake in governance structures and providing a peaceful means to express their political interests and perspectives. It can provide incentives for conciliation by encouraging parties or candidates to appeal for electoral support outside their core base.

## 2. Challenges and requirements ahead of elections in 2016

*Section 2* deals with the tasks Somalia needs to accomplish, and the challenges to be overcome, in order to prepare for credible nationwide elections in 2016. Reclaiming areas controlled by armed opposition groups is central as it will be extremely difficult to conduct elections in many areas unless this is achieved.

Administrative capacity, internal divisions, and financial constraints present challenges for the conduct of elections. The electoral system will need to be compliant with revisions to the constitution, and the establishment of the Boundaries and Federation Commission is necessary to confirm the boundaries of electoral units should these be drawn using administrative districts as building blocks. If the process of federal member state formation is further delayed it could complicate, delay, or derail elections.

Legislation is required to establish the National Independent Electoral Commission to determine the electoral system, and to govern political parties. Ideally, Somalia's election process would incorporate a census and voter registration. Voters will also need information to make informed choices and understand their rights and duties.

## 3. Options for electoral systems in Somalia

The options presented are designed to illustrate how different electoral systems could work in Somalia. They can be adjusted to meet different requirements (e.g. to have closer links to candidates or to parties).

### ■ Option 1: National Proportional Representation (PR) – closed list

In this option all of Somalia forms a single constituency, electing 275 MPs. Every voter will choose one party from the parties on the ballot. It is up to parties to decide where candidates are placed on their list (determining the chance of a candidate being elected); voters can view the list separately but not alter the ranking of candidates. This system can easily accommodate special measures to support greater inclusion of underrepresented and marginalized groups.

PR electoral models for the legislative branch are generally considered accommodating of interests because even non-majoritarian interest groups can win seats in the legislature in proportion to their support. Special measures can encourage parties to ensure that members of multiple interest groups (e.g. women, unions, religious groups, minorities, etc.) are ranked highly on the party list.

However, parties could become excessively powerful in determining a nation's political direction, and politicians may become more beholden to the party and its agenda than to the interests of their constituents. Though in many settings national PR can encourage accommodation and diverse but solid coalitions, in others it can lead to a fractious political scene. If the system adopted allowed for numerous parties this could be conducive to the formation of parties based on narrow interests, including clan or sectarian loyalties.

### ■ Option 2: First Past the Post (FPTP)

In this option Somalia will be divided into 275 constituencies of roughly equal population size, each returning one MP. On election day all candidates who have met the requirements will be listed on the ballot paper. Voters will mark one candidate. The candidate who receives the most votes in each constituency will be elected. Candidates will represent their constituencies in parliament and may sit with a particular party. Independent candidates could also run.

By tying representatives to specific geographic areas and the citizens of that area this system of choosing representatives can ensure solid links between constituents and their representatives. This can help ensure that MPs are held accountable for their actions between elections. FPTP systems often produce stable majorities in parliament, although this is not guaranteed and depends on how constituencies are drawn.

FPTP models for the legislative branch have a tendency to give disproportionate power to larger interest groups (since they can often dominate by gaining the most votes, even when short of a majority). The system may not encourage candidates to reach out to other clans, parties, or voters. A FPTP system can encourage a focus on core voters since there is no need to secure a majority of votes. In general FPTP systems return fewer women.

### ■ Option 3: Mixed

In this option the voter will have two ballots on election day. The first ballot is for the PR component of the system using one national constituency to elect 185 MPs. In addition, a second separate FPTP ballot is held for the 90 pre-1991 districts to elect one MP each.

The degree of accommodation of a mixed model is variable and will depend on the interaction of the PR component and the FPTP component. In the case of Somalia, where many people will be first time voters, the increased complexity of this type of model may result in confusion and impact negatively on its ability to accommodate all Somali interests.

#### ■ **Option 4: Regional Proportional Representation (PR) – open list**

In this option each administrative region is one electoral unit electing a number of MPs (based on population). On election day voters choose one candidate from within the lists presented by parties. Once a candidate is on the party list the party has no control over who is elected. Ballots are first counted to determine how many votes each party has received. Parties are then assigned a proportional number of seats. Candidates within each party are subsequently ranked and seats assigned to the top vote-winning candidates.

A large electoral unit—in this case administrative regions but it could also work at the federal member state level—creates the possibility for constituencies to elect representatives with a mix of genders, ethnic backgrounds, and political views. This system will allow clan diversity within regions to be reflected in terms of seat allocations as parties will need to broaden their membership and appeal to gain more seats. Open party systems give voters more power to determine the formulation of the new parliament.

This system requires a more complicated counting process as votes have to be first allocated to the party and later to the candidates. Open lists also require large ballot papers; in a five party system the ballot for each region could list up to 75 candidates. Open party lists reduce a party's ability to ensure a balanced delegation in parliament that reflects the diversity of backgrounds and interests within the electoral region. It is also harder for a party to apply temporary special measures, such as empowering women candidates.

#### ■ **Option 5: Single Non-Transferable Vote (SNTV)**

In this option under this option each administrative district is treated as one electoral unit, returning a number of MPs based on population size. On election day candidates who have met the requirements will be listed and constituents vote for one candidate. The candidates who receive the most votes are elected. Parties may run as many candidates as they wish in each district. Independent candidates may also run.

This electoral system can allow multiple groups within a constituency to be represented in parliament. For example, in a district with a roughly even split between two or more clans this system would allow at least the largest communities to ensure they have a representative in parliament.

This system requires accurate (or at least accepted) population figures to fairly determine the number of MPs allocated to each district, which may be difficult to acquire in time. The system may not encourage politicians to reach out to other clans or parties; a plurality system can encourage a focus on core voters since there is no need to secure a majority of votes. It is also difficult under this system to introduce special measures that ensure representation of women and other marginalized groups in parliament. Seats would need to be set aside and elected under a different system to ensure their representation.

## 4. Considerations

*Section 4* examines considerations for the most accommodating system, beyond those choices set out in the five options. Under some options, strategies—such as quotas, ‘set-aside’ seats, or appointed seats—may be considered to ensure otherwise under-represented groups are represented. Nationwide voter registration would be ideal to prevent multiple voting, ensure fair weighting of each vote, and ease the work of election administrators. Where this is not possible other methods could be used to avoid fraud and to prevent people voting multiple times, such as marking fingers with ink. It will also be vital to ensure sufficient and adequate security on election day.

In addition to Somalia’s national electoral system, systems for selecting representatives at the regional, state, or local levels can have important implications for inclusion and equity of representation. The selection process for the executive, president, or Upper House offers further opportunities to balance deficiencies in the legislative selection process. Candidate-based electoral systems may encourage politicians and citizens to interact to a greater extent than party-list electoral systems.

In Somalia it is likely that securing support from clan leaders will be an important tactic for politicians. Traditional leaders could also be incorporated formally in various ways, including the advisory model of Puntland or the legislative model of Somaliland.

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# 1. Introduction

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In August 2012, the mandate of the Transitional Federal Government ended and a new Provisional Constitution was passed for Somalia. Members of a new House of the People of the Federal Parliament were nominated by traditional leaders and screened by a Technical Selection Committee. When the current parliament's term of office expires in 2016, the Provisional Constitution stipulates that two houses, including an Upper House of the Federal Parliament, will be constituted through "direct, secret, and free" multiparty elections (Article 64).

Somalia has not undertaken credible elections in almost half a century. It faced a 22-year military dictatorship followed by state collapse in 1991 and subsequently more than 20 years of civil conflict. Given ongoing insecurity in Somalia, the fact that neither the electorate nor political actors have experience with elections, the lack of established electoral institutions, and the risk that badly designed electoral systems or mismanaged elections may result in increased conflict, it is imperative to design a realistic and accommodating electoral system.

This Discussion Note highlights issues and options for consideration in designing electoral systems for Somalia that can contribute to the effective accommodation of political interests. It uses the political accommodation methodology developed by Conflict Dynamics, which provides an approach to exploring options to achieve conciliation of political interests and perspectives. Especially in societies where political views or interests are strongly divergent, it is essential to develop arrangements and processes that bring in and take fair account of people's political interests in order to help reconcile them.

The design and implementation of the electoral system can help achieve inclusion and equitable participation. It will also provide significant incentives for all political actors, civil society constituencies, and the people of Somalia to actively support and participate in elections, to support the governments that result from those elections, and to work together to resolve the challenges that the country faces. If, however, the design of the electoral systems does not contribute to the accommodation of political interests and perspectives of different groups, it could also heighten feelings of exclusion among some sectors of Somali society, causing the level of conflict to rise, and affecting the nation's prospects for stability and prosperity.

Both the president and the prime minister have expressed their commitment to holding credible elections by the 2016 deadline. International community funding and support for the Federal Government of Somalia (FGS) is likely to be linked, in part, to how effectively the government establishes democratic institutions. In order to undertake successful elections within the timeline, however, important choices will need to be made and substantial challenges will need to be overcome.

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## Electoral system

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The term *electoral system* is usually understood to include three features:

1. The process of translating votes into seats (the main focus of this Discussion Note)
  2. The administration of the electoral process, including the timing of the process, institutions responsible for managing the process, boundary delimitation, and election operations
  3. The rules governing political parties and candidates
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Section 3 considers the practical challenges, such as the status of Somaliland, on-going security challenges, and civic education. Sections 3 and 4 highlight issues and options for consideration in designing electoral systems for Somalia that can contribute to the most effective accommodation of political interests. Section 4 explores other considerations that will impact the choice facing Somali people.

## 1.1 Electoral systems and political accommodation

This Discussion Note uses the political accommodation methodology developed by Conflict Dynamics, which provides a structured approach to exploring options to achieve conciliation of political interests and perspectives.

The electoral system is one of six ‘strands’, or avenues for decision making, through which opportunities for conciliation of political interests can be implemented. The other strands include: political structure; the executive; the legislative branch; public participation; and traditional and customary arrangements. The political accommodation framework addresses these strands at both the national and sub-national levels.

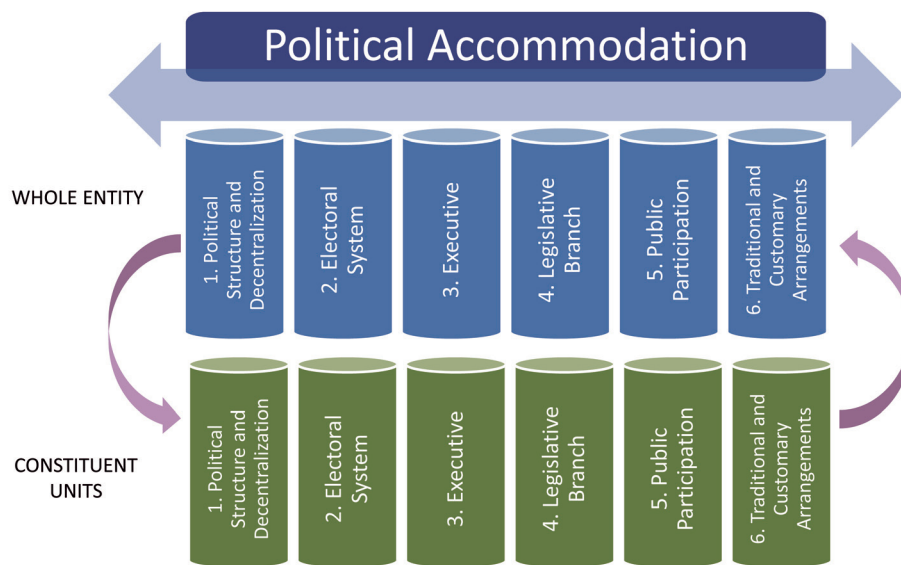


Figure 1: Governance arrangements and political accommodation

In societies emerging from conflict or other crises, especially when political views or interests are strongly divergent, it is important that people develop arrangements and processes that allow them to achieve conciliation of their political interests and perspectives to manage disputes and prevent violent conflict. Political accommodation is about bringing in and taking fair account of people’s interests in order to help them reconcile them.<sup>1</sup>

<sup>1</sup> The definition of political accommodation provided here is adapted from that presented in: Brian Barry, “Political Accommodation and Consociational Democracy,” *British Journal of Political Science* 5, no. 4 (1975): 477–505.

The electoral system strand can play a crucial role in achieving political accommodation and in building peace. Electoral systems can contribute to political accommodation and facilitate the conciliation of the political interests of different groups if they ensure equitable representation of varied groups in governance institutions. In addition, within elected institutions representatives from various groups can express their political interests, and those interests can be equitably taken into account in decisions made by governance bodies. They can also provide incentives for conciliation by encouraging parties or candidates to appeal for electoral support beyond their core base.

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### **Electoral units / districts / constituencies**

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This Discussion Note uses the term *electoral units* to describe any defined area in which all eligible residents are able to vote for common representatives. At one end the electoral unit could be the whole of Somalia as discussed in Option 1 or, at the other end, 275 individual *constituencies* as discussed in *Option 2*.

The Discussion Note avoids using the term *electoral districts* as this is easily confused with the administrative districts of Somalia. Where the term 'district' is used it refers specifically to the administrative districts of Somalia.

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Although this Discussion Note focuses on the electoral system strand of the Conflict Dynamics methodology, choices within this strand are also strongly affected by choices in other strands. In each instance a choice that favors political accommodation in one strand might be undermined or reinforced by a choice in another strand. Similarly, a choice that is weakly accommodating in this strand may be ameliorated or further undermined by choices in other strands. For instance, the choice of an accommodating electoral model will be rendered irrelevant by a legislative structure that places little real power in the legislature since even though fairly elected, representatives will have little authority.

This Discussion Note also addresses briefly how the electoral system could affect the degree of accommodation achieved through the other strands of political accommodation.

## 2. Challenges and requirements ahead of elections in 2016

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In order to be prepared for credible nationwide parliamentary elections which meet the expectations of the Somali people and Somalia's international obligations, the governments and people of Somalia will need to complete the tasks and sufficiently overcome, or mitigate, the challenges described below.<sup>2</sup>

### 2.1 The limits of control and security

At the time of writing (November 2014) a significant portion of the country remains under the control of non-state armed groups, particularly al-Shabaab. Though considerably weakened, al-Shabaab remains capable of carrying out attacks both within and beyond Somalia. Unless major gains are made in security bringing more areas within the control and administration of national authorities by 2016, it will be extremely difficult to prepare for, organize, and conduct an inclusive electoral process. In other countries dealing with widespread insecurity the situation has been mitigated by measures such as creating larger constituencies or allowing voters from insecure areas to vote in other more secure areas as a means to reduce the impact of insecurity.

### 2.2 Somaliland

From the perspective of the FGS, a further challenge will be ensuring fair representation of constituencies within Somaliland, which it still considers part of Somalia. The Government of Somaliland maintains that it is an independent state and, despite the lack of formal recognition, its autonomy is largely respected by the international community. The outcome of the dialogue between Somaliland and the FGS may have implications for electoral system design.

### 2.3 FGS stability and credibility

The challenge of preparing for elections requires the concerted effort of a stable government. Though seen by many as the best chance since 1991 of an effective central government, the FGS still faces many challenges including weak administrative capacity, internal divisions between different branches of government, and financial constraints.

### 2.4 Constitutional review

One of the key tasks of the current government is to lead the process to review the 2012 Provisional Constitution. A new constitution should be adopted through a public referendum prior to the first national elections (Article 136). An independent Review and Implementation Commission was approved by parliament on 19 June 2014. Some argue that decisions on an electoral system

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<sup>2</sup> International obligations include: Chapter 17 of the African Charter on Democracy, Elections and Governance; Article 21 of the Universal Declaration of Human Rights; and Article 25 of the 1976 International Covenant on Civil and Political Rights.

should wait for a final constitution. However, barring radical changes to the constitution it is likely to be relatively simple to proceed with the electoral system design, based on current constitutional parameters, and make adjustments once the shape of the final constitution is approved. Specific provisions on a country's electoral system are often omitted from their constitutions.

## **2.5 Creating federal member states and demarcating their boundaries**

The Provisional Constitution defines Somalia as a federal state. Depending on the electoral system and type of electoral units (single or multi member) chosen, federal member states may affect the drawing of boundaries for electoral units in the House of the People. The establishment of the Boundaries and Federation Commission is necessary both for confirming federal member states as well as potentially confirming the boundaries of electoral units (Article 49). Member states should also, according to the Provisional Constitution, be consulted before the nomination of National Independent Electoral Commission (NIEC) members (Article 110). If the process of federal member state formation is further delayed it could complicate, delay, or derail preparations for the elections in 2016.

## **2.6 Creation of the National Independent Electoral Commission (NIEC)**

Concurrent to the constitutional review and border demarcation processes, a National Independent Electoral Commission (NIEC) should also be established. The NIEC should represent a wide range of stakeholders (including clans, regions, and federal member states) and be independent in order to generate confidence in its impartiality (Article 111G). The law will need to detail the requirements for membership, including age and academic qualifications. Its relation with federal members states and current and future federal member state election commissions will also need to be determined. The law may seek to include provisions for the representation of women on the NIEC in line with the constitution (Article 3:5).

## **2.7 Election law**

Well in advance of 2016, the Somali parliament will need to pass legislation to determine what type of electoral system Somalia will adopt, and how parliamentary elections will be conducted. Decisions must be made for both houses of parliament on a range of issues, as will be discussed in greater depth later in this Discussion Note. Also important to consider is how national government and federal member states will reconcile legislation relating to electoral systems.

## **2.8 Political party formation and regulation**

The constitution calls for multi-party democracy; political parties will therefore need time to establish themselves before an election can be contested. At present there are no established, formal, national political parties. Parliament will need to pass legislation governing political parties long enough before the 2016 elections to allow for political parties to be established and prepare to compete for office. Also important to consider is how national and federal member state governments will reconcile legislation relating to political parties.

## 2.9 Census and voter registration

A list of those qualified to vote, especially if assigned to certain polling stations and informed in advance where to go, can reduce the danger of multiple voting, voting by illegitimate persons, or the denial of voting rights, and facilitate election administration. Ideally, Somalia's election process would incorporate a census, followed by nationwide voter registration. In some places, including Somaliland, elections have been held without a census or registration. For South Africa's first post-apartheid elections in 1994, no voter registration exercise took place; voters only needed to present an official ID card or a temporary voter card. It is uncommon for voter registration to be dispensed with, and there are abundant examples where absent, incomplete, or inaccurate voter registries led to serious problems.<sup>3</sup> Depending on the electoral system chosen, a census may be extremely useful for demarcating electoral boundaries to ensure that votes deposited anywhere in Somalia have the same weight. In the absence of a census, voter registration exercises can be used to establish the ratio between voters and elected representatives.<sup>4</sup>

## 2.10 Demarcation of electoral units

Most electoral systems worldwide try to ensure equality of the vote, meaning that each MP represents roughly the same number of citizens. This requires either boundaries to be drawn for new electoral units of roughly equal population size, or assigning different numbers of MPs to existing units based on their populations size (i.e. federal member states, regions, or districts). This process is ideally conducted when recent census data is available; should no census be available the exercise could be conducted using voter registration figures. This tends to be a complicated and often politically charged exercise which can take many months to accomplish.

## 2.11 Civic education, voter education, and voter information

Almost 95 percent of Somalia's current population was born after 1958 so only a tiny fraction of people have experience of voting.<sup>5</sup> The UNDP has estimated that 64.2 percent of adult males and 73.1 percent of adult females are illiterate. A comprehensive civic education program encouraging reconciliation and active public participation is necessary to strengthen Somalia's electoral process. Civic education can help prepare voters to make informed choices before they cast their ballots. Voter education is normally conducted before the start of voter registration; this should inform voters about their rights and duties. In addition, voter information campaigns should take

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<sup>3</sup> For example, during the voter registration exercises in Haiti in 1994 the time between the closure of the voters' register and the poll was so close that in some areas insufficient ballots had been printed. In Afghanistan, also, voter registration exercises had to be repeated various times because of missing data.

<sup>4</sup> The International Covenant of Civil and Political Rights (ICCPR), Paragraph 21 of General comment to article 25 states that: "Although the Covenant does not impose any particular electoral system, any system operating in a State party must be compatible with the rights protected by article 25 and must guarantee and give effect to the free expression of the will of the electors. The principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely".

<sup>5</sup> Demographic figures are drawn from "Somalia," CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/so.html>.

place to inform voters about rules and procedures of all aspects of the electoral process. These efforts will need to be carried out in a way that accounts for the high level of illiteracy in Somalia. Campaign materials, and even ballot papers, should also be designed in a way that is understandable by those who cannot read.

## **2.12 Timeframe**

According to the constitution, and multiple communications from government officials, Somalia should complete the process of electing a new parliament by mid to late 2016. This provides approximately two years in which to complete all of these tasks. In addition a referendum to confirm the adoption of a new constitution should be conducted before elections are held.

### 3. Options for electoral systems in Somalia

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This section presents some possible electoral systems for choosing the House of the People as options for Somali people and leaders to consider; the text box outlines the major types of electoral systems before presenting illustrations of how some of these could work in practice in Somalia.

This Discussion Note focuses on systems to elect the House of the People of the Federal Parliament. Another avenue for accommodation will arise when the electoral system of the Upper House of the Federal Parliament is determined. As required by the Provisional Constitution, it will be necessary to conclude legislation on the composition, powers, and election of the Upper House ahead of elections in 2016. The Upper House is to have no more than 54 members (Art. 72), representing federal member states, and shall be elected through a direct, secret, and free ballot. Somalia could use different electoral systems for each house to help make parliament more accommodating of different groups and interests. For example, if the House of the People is elected through national proportional representation then the Upper House could use a system tied to specific geographical areas. This would reduce the pressure on the electoral system for the House of the People to accommodate multiple interests by accommodating some interests in the Upper House.

The options presented in this section are designed to illustrate how different systems would work in Somalia. The options represent a merging of several elements, including size of electoral unit and the means by which a candidate wins an election; these could be adjusted to meet different requirements (i.e. if it is more desirable to have closer links to candidates or to parties).

The options are first presented in isolation; the impact of different political party frameworks or of special measures to ensure gender, regional, or minority representation are not considered. These issues are reflected in the next section on considerations. In deciding the type of electoral system to adopt it is important to consider that the political party system and other factors can have an equally significant impact on the way electoral politics works and the results it produces as the basic electoral system chosen.

Article 64 (2) of the Provisional Constitution sets the number of members of the House of the People at 275. Under some options (a national PR vote or single member FPTP) this number is easily accommodated. However, in some systems based on districts, regions, or federal member states there would be a need either to adjust the number of MPs, or to introduce a mechanism to assign the small remainder of seats in another manner (see considerations section).

Under each option the mechanics of the electoral process are presented along with a hypothetical example before it is assessed against various criteria. Finally, some possible variations to the option are discussed.



## Electoral systems

Electoral systems can be broadly divided into three families plurality/majority;<sup>6</sup> proportional representation; and mixed. Each family has several possible variations.

The most common variations of the **plurality/majority** system are the following:

- **First Past the Post (FPTP):** The winner is the candidate with most votes; the voter has one vote.
- **Two Round System (TRS):** The winner is the candidate who obtains a certain threshold of the total votes (often 50% but it could be lower). If no candidate obtains more than the threshold in the first round, a second round is called between the two candidates who obtained most votes. The voter has one vote in each round.
- **Block Vote (BV):** Similar to FPTP but constituencies elect multiple representatives. The voter has as many votes as available seats in the constituencies. The winners are the candidates with most votes.
- **Single Non-Transferable Vote (SNTV):** Similar to FPTP but constituencies elect multiple representatives. The voter has one vote. The winners are the candidates with most votes.

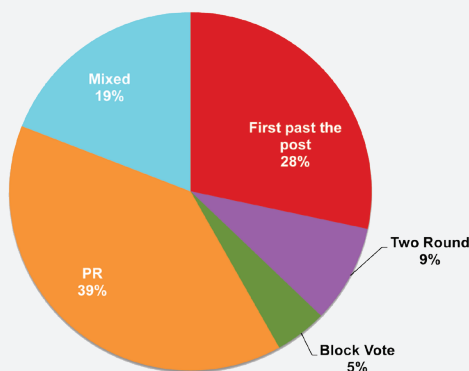
The most used variations of the **proportional representation (PR)** system are the following:

- **Closed-list:** The voter is presented with a choice of parties (each with a list of candidates) and has one vote for their favored party; seats are (1) allocated to the party depending on their overall share of votes and (2) the candidates are selected according to their position in the party list.
- **Open-list:** The voter has one (or more) vote(s) and chooses preferred candidate(s) from within a party list; winning candidates are selected on (1) the number of votes obtained by the party list against the overall number of votes to determine a proportional allocation of seats for each party and (2) the number of votes obtained by each candidate within the party list.

There are two variations of the **mixed** system:

- **Parallel (PS):** Two different electoral systems are used to allocate seats; voters chose a local representative by a plurality/majority vote, and a party preference through a PR system; no link exists between the numbers of seats allocated under each system; the voter has two votes.
- **Mixed Member Proportional (MMP):** The voter has two votes, one plurality/majority, and one proportional representation; once the plurality votes have been allocated the PR votes are used to ensure proportionality, taking the candidates from closed party lists.

Figure 2: The use of the various systems worldwide<sup>7</sup>



<sup>6</sup> Plurality occurs when a candidate or party wins more votes than any others but does not receive an absolute majority.

<sup>7</sup> Source: [www.aceproject.org/epic-en/CDMap?question=ES005&f=f](http://www.aceproject.org/epic-en/CDMap?question=ES005&f=f)

Table 1: Summary of electoral system options for Somalia

#	Option	Size	Party or Candidate?	System to win
1	National PR: closed list	275 MPs from single national constituency	Party	National PR
2	First Past the Post	275 MPs from single-member constituencies	Candidate	Plurality in single-member constituency
3	Mixed	90 MPs from single-member constituencies 185 MPs from single national constituency	Both	Plurality in single-member constituency and national PR
4	Regional PR: open list	15 MPs per region (or variation per region)	Candidate but party can influence	Regional PR
5	SNTV	Variable MPs per district (based on populations size)	Candidate	Plurality in multi-member constituency

### 3.1 Option 1: National Proportional Representation (PR) – closed list

Under national PR, the whole of Somalia forms one constituency, electing 275 MPs to the House of the People. Every voter will choose from the same list of parties. Elections campaigns would be centered on choosing a party rather than individuals. It would be up to internal party mechanisms to decide where candidates are placed on the party list (and hence the chance of each candidate being elected). Voters would be able to view the list but not alter the ranking of candidates. This system can easily accommodate special measures to support greater inclusion of marginalized groups.

#### 3.1.1 Example

Five parties register and meet the requirements to contest the election. Each party ranks their candidates in order of preference based on internal party rules and considerations. The lists are publically available but voters have no ability to alter the position of candidates on a party list. 2 million votes are cast in the election with the following results:

Figure 3: Proportion of the vote under National PR option

Party	Votes	Share	Seats
Party A	598,000	29.9%	82
Party B	360,000	18.0%	50
Party C	600,000	30.0%	83
Party D	400,000	20.0%	55
Party E	42,000	2.1%	6

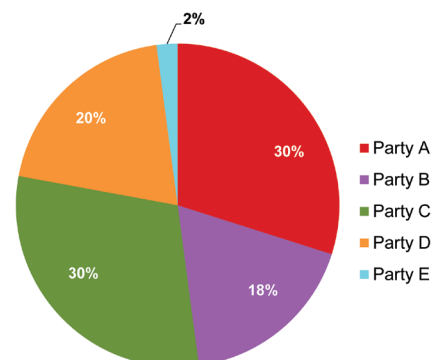
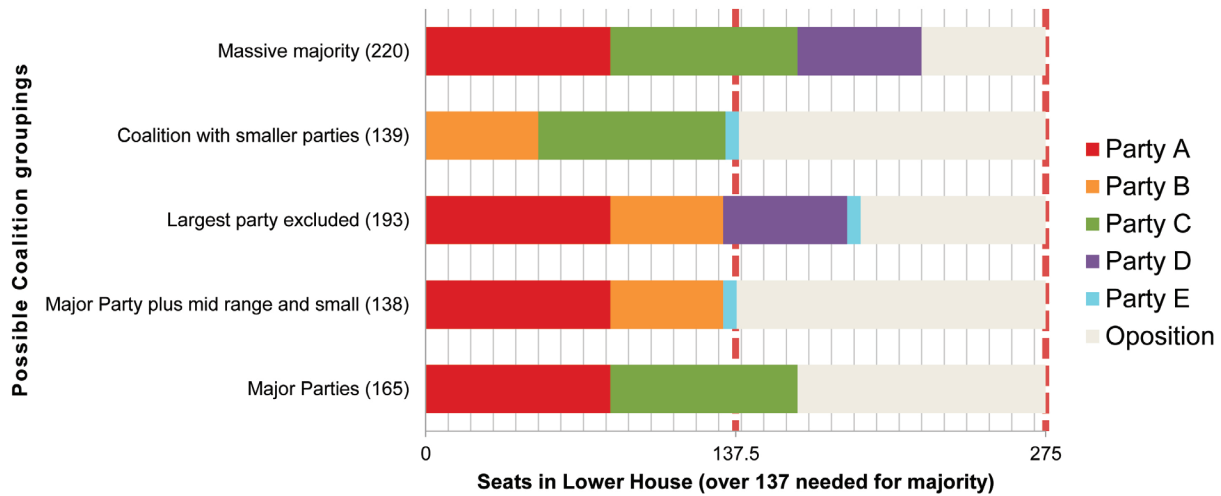


Figure 4: Examples of possible coalition groupings under National PR option



Each party receives a proportion of seats in the House of the People that matches their share of the national vote. The parties would then need to form coalitions to form a functioning government. Some possible coalitions to obtain a majority of seats in the House of the People are represented in Figure 4.

### 3.1.2 Advantages

- National PR allows for many parties of varying sizes to gain a voice in parliament without having to win a plurality of the vote. Where there is no dominant political party this encourages coalition governments in which larger parties have to incorporate the interests of smaller partners in order to build and maintain a majority coalition.
- National PR often produces parliaments that better reflect the diversity of political interests and social groupings within society. While popular parties still receive the largest number of seats, any party that receives a significant proportion of the vote is able to participate in legislative affairs (depending on the rules and procedures of the legislature).
- Voters could potentially vote at polling places anywhere in the country, which could mitigate the logistical and security challenges of organizing elections in areas not under full control of the government. Closed party list systems use simple ballots with a clear choice for the voters. The process of counting votes and awarding seats is also fairly straightforward. This system would also avoid the need for by-elections in the event that an MP dies or resigns, as their party would simply appoint another candidate.
- National PR would simplify logistics and reduce costs by eliminating the need to conduct a census, delimit electoral boundaries, or register voters in specific constituencies. There would be no need to produce multiple versions of ballots making voter education easier, as all voters would be filling out the same ballot.
- There are special measures that can encourage parties to ensure that members of multiple interest groups are ranked highly on the party list. This would allow parties to avoid being identified too closely with narrow demographic or ideological bases.

- In the Somali context, it could help ensure that a party's delegation in parliament is not dominated by any particular clan. This could provide an incentive for bigger parties to include candidates from minority groups. A PR system could therefore help institutionalize a formal political party system in Somalia to a greater extent than a candidate-based system.

### 3.1.3 Disadvantages

- Since seats are allocated based on overall support for political parties rather than individual candidates, parties could become very powerful in determining political direction (depending on how many parties are able to attract support). Accordingly, MPs may become more beholden to the party than to the interests of their constituents.
- Though in many settings national PR can encourage accommodation and diverse but solid coalitions, in others it can lead to a fractious political scene in which parties are continuously leaving coalitions and entering new ones, producing a high level of political instability.
- Without a cap on the number of parties, PR could lead to the formation of parties based on narrow interests, including clan loyalties. This was a serious problem during the first decade of the Somali Republic. Both Somaliland and Puntland have sought to avoid repeating this experience by limiting the number of official parties.
- With closed party lists voters must choose the preset ranking of candidates determined by the party. The order in which candidates are elected from the list is often out of the voters' hands, and determined through processes that are not transparent but based on internal party decision making.
- A PR system at the national level will produce a parliament where MPs are not tied to specific areas of the country. This could lead to greater disconnection between MPs and citizens. A means to balance this issue is to have a different type of representation in the Upper House, or to have strong decentralized governance structures based on geographic areas.
- An important weakness of a national PR model for Somalia in the current context would be that the areas that are not able to vote due to insecurity may not obtain representation. As the entire country is one constituency, the total number of representatives would still be elected by those that are able to access polling places and those groups that did not vote would be disenfranchised.

### 3.1.4 Variations

- A threshold could be set to reduce the number of political parties represented in parliament and reduce the impact of 'kingmakers'. Thresholds are usually at the range of 3 – 5%, with some countries also using lower and higher thresholds. In this example this would mean that party E would be eliminated and the seats allocated to it would go to the other parties.
- A system similar to that used in Puntland and Somaliland could be adopted to limit by law the number of parties allowed to contest national elections (see *Section 4.5*). Under this system political parties are forced to appeal to more than a limited clan constituency

to have any hope of forming a government. The three parties running in Somaliland and Puntland are selected based on the success of political associations at local level elections. As no such elections are to take place in Somalia before the national elections, some other qualifications would need to be developed (such as minimum number of founding members, offices in all regions, party statutes, etc.).

- To ensure the representation of women in parliament a requirement could be introduced that at least every third candidate on a list is a woman. This mitigates the issue of women candidates being rejected at the ballot box. In the example above this would normally ensure at least 25% of MPs are women.
- The same system of PR with a closed party list could be applied across smaller units. For example, each region could elect a number of MPs based on their population size, or each federal member state could elect a number of MPs depending on the number of federal member states and their population size. This could help alleviate the impact of insecurity since it would be clear which geographic areas were not able to elect a representative and alternative strategies could be used to ensure representation until elections can be safely held in those areas.
- To counter the lack of citizen choice in party list composition, in some countries party primaries are conducted in which members, or even citizens in general, are called to vote within the various parties to determine the order of a party list.
- To ensure a more stable parliament, rules could be introduced to force parties to remain in coalitions until the next election takes place.

## 3.2 Option 2: First Past the Post (FPTP) - single member constituencies

In a FPTP system, Somalia will be divided into 275 constituencies of roughly equal population size, each returning one MP to the House of the People. On election day all candidates who have met the legal requirements will be listed on the ballot paper. Voters will then mark the one candidate they wish to elect. The candidate who receives the most votes will be elected.

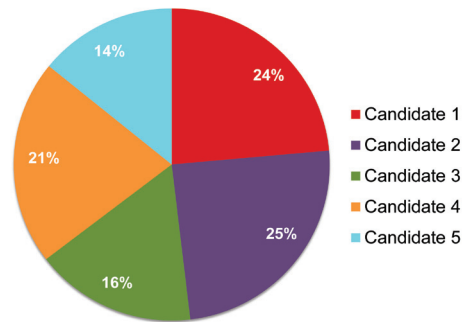
Candidates will represent their constituencies in parliament and may support a particular party. Independent candidates who met the requirements would also be entitled to run.

### 3.2.1 Example

In this example, Constituency P can elect one MP. Five candidates register and meet the requirements to run; some of them may represent parties. 2120 votes are cast in the election with the following results:

Figure 5: Proportion of vote per candidate under FPTP option (candidate 2 wins)

Candidate	Votes
Candidate 1	500
Candidate 2	520
Candidate 3	350
Candidate 4	450
Candidate 5	300



### 3.2.2 Advantages

- By tying representatives to specific geographic areas and the citizens of that area this system of choosing representatives can ensure solid links between constituents and their representatives. This can help ensure that MPs are held accountable for their actions between elections.
- To win a majority, or significant bloc of seats in parliament, political parties would need to campaign across the country and address the specific needs of communities around Somalia. This is not always the case in proportional systems.
- Depending on the boundaries drawn for constituencies, whether they include multiple clans of roughly equal population size or are designed to contain one majority clan, this electoral system can allow multiple groups to be represented in parliament. In each district the groups with most support will win, even if their overall weight in the district is not absolute.
- Vote counting is straightforward and easy to understand; there are no complicated calculations required to decide who has won a seat.
- FPTP systems often produce stable majorities in parliament, although this is not guaranteed and depends on how constituencies are drawn.

### 3.2.3 Disadvantages

- A candidate can win a seat on a small proportion of the vote and by a very small margin over the nearest competitor. In the example the second most popular candidate failed to secure a seat despite having 24% of the vote. The winning candidate does not have the support of 75% of voters.
- The system may not encourage candidates to reach out to other clans, parties, or voters. A FPTP system can encourage a focus on core voters since there is no need to secure a majority of votes. FPTP systems often also return fewer women.
- There could be a danger of violence prior to election day as certain clans are displaced from constituencies to enable one clan to dominate the election.
- Having small constituencies can have a negative effect regarding security; if a constituency is not under the authority of pro-government forces it will not be possible to hold elections there and therefore no elected representative would be sent to parliament. However, it would also be clear which geographic areas are unrepresented and interim solutions could be implemented.
- In FPTP systems it often occurs that a national share of votes as low as 30% can produce a majority in parliament for a single party. There is no need to negotiate a coalition government; a minority can rule. This system may not incentivize the creation of strong political parties.
- The delimitation of 275 electoral units with uncertain population figures is likely to be complicated; it cannot be accomplished accurately without a census which may be hard to conduct before 2016. Voters would have to register in their specific constituency, and the election commission would have to produce 275 different versions of ballots.
- FPTP systems are open to manipulation (gerrymandering) by political leaders to ensure constituencies are structured in a manner that favors their party.

### 3.2.4 Variations

- There could be a requirement to have majority in each constituency by introducing a Two Round system, where the candidate elected has to secure at least 50% of the overall vote either in the first or second round (this could also be achieved with the Alternative Vote system). The Two Round system would, however, be expensive and could increase the likelihood of election violence.
- It would be possible to increase the size of the electoral district to have a multi-member district using either the Block Vote or a Single Non-Transferable Vote. This would reduce the danger of election-related insecurity and may encourage a broader range of representatives to be sent to parliament.
- Some seats could be reserved for particular groups, such as women, minority clans, or other marginalized groups. This may help ensure representation in parliament for those groups but may bring the perceived fairness of the vote in particular constituencies into question.

### 3.3 Option 3: Mixed

In a mixed system, the two above mentioned systems are mixed. Each voter will have two ballots on election day.

The PR component of this system will use the whole of Somalia as one constituency electing 185 MPs. Every voter will choose from the same list of parties. Election campaigns will be centered on choosing a party rather than individuals. It will be up to internal party mechanisms to decide where candidates are placed on the party list, and hence the chance of each candidate being elected. Special temporary measures to support, for example, the participation of women and minorities as candidates could be applied with quotas. The voter will mark one party in the ballot paper.

In addition, 90 constituencies will be demarcated based on pre-1991 districts to elect one representative each. On election day all candidates who have met the legal requirements will be listed on the ballot paper, and voters will mark the candidate they wish to elect. The candidate who receives the most votes will be elected. Parties may support candidates in the constituency, while independent candidates who met the requirements would also be able to run on this ballot.

#### 3.3.1 Example

Somalia has one national constituency to elect 185 MPs to the House of the People. Five parties register and meet the requirements to run. Each party ranks their candidates in order of preference based on internal party rules and considerations. Lists are publically available but voters have no ability to alter the position of candidates. 2 million votes are cast in the election. Each party receives a proportion of seats in parliament that matches their share of the national vote, with the following results:

Party	Votes	Share	Seats
Party A	598,000	29.9%	55
Party B	360,000	18.0%	33
Party C	600,000	30.0%	56
Party D	400,000	20.0%	37
Party E	42,000	2.1%	4

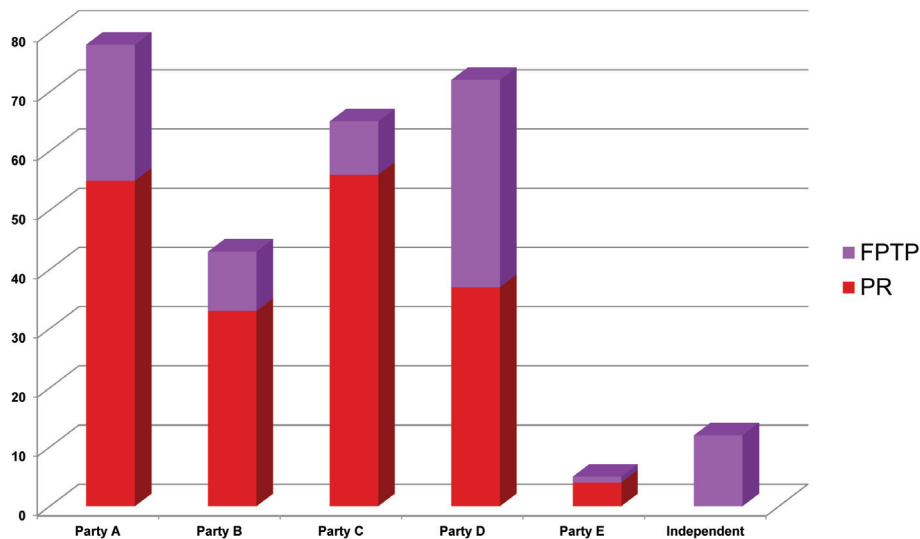
In addition, Somalia has 90 single member constituencies in which seats are allocated according to the FPTP system. In this example Constituency P can elect one MP to the House of the People. Five candidates register and meet the requirements to run; some of them represent parties, some are independent. 770 votes are cast in the election with the following results:

Candidate	Votes
Candidate 1 (Party A)	200
Candidate 2 (independent)	220
Candidate 3 (Party D)	150
Candidate 4 (Party B)	120
Candidate 5 (Party E)	80



Adding the seats obtained by parties (PR system) and candidates (supported by parties and independent - plurality system) through both systems, the House of the People would be composed as follows:

Figure 6: Origin of seats for each party under the mixed option



### 3.3.2 Advantages

- The FPTP component would ensure the close relation between some MPs and their constituencies. Basing constituencies on pre-1991 districts provides a simple means of doing this with relatively well known boundaries.
- The PR component would reduce the advantage of the largest party and make the results more proportional nationally. The mixed system is often a compromise between those in favor of FPTP and PR.
- The PR component could be used to ensure that marginalized groups receive representation in parliament. Any minority groups concentrated in particular districts but without strong national representation could ensure representatives in parliament through the first FPTP component.
- The number of 'wasted' votes (those which do not affect the outcome of the elections), which can be relatively high in FPTP systems is reduced through the introduction of the PR component.
- Although the system is still mainly geared towards political parties, this system will still enable independent voices to reach parliament on occasion.
- For districts that are unable to vote, an alternative selection process could be used to choose an MP which would reduce problems associated with averaging out the PR component of the vote.

### **3.3.3 Disadvantages**

- Voting and counting of votes is more complex as two operations will take place in parallel. Two ballots have to be filled and counted. Voters, parties, candidates, and election administrators will need to be aware of both systems and trained to manage this mixed system.
- Given the electoral inexperience and high level of illiteracy in Somalia a complex system such as this may be open to misunderstanding.
- Since all districts in Somalia are not of equal population size, a district with 5,000 voters would have equal representation in parliament to another district with 100,000 voters. Unless this was an explicitly understood and widely accepted compromise, for the sake of expediency or to ensure regional balance for example, this would likely bring the fairness of results into question.
- This system creates two classes of representatives, one that is primarily responsible to their geographical constituency and another to their political party. This may create tensions between the two groups within a party.

### **3.3.4 Variations**

- Another option under the mixed system is to use a process called Mixed Member Proportional (MMP) Representation in which the process is similar to the option above but the proportional representation component determines the overall number of seats to be allocated to each party. The difference between the members elected under a plurality system and seats allocated under the overall proportional system are filled with party lists nominations. This often produces a more proportional result while a proportion of representatives still have strong links to their constituents. This is a complex system to manage.
- A system similar to this option could be adopted to fill seats in both houses of parliament. For example, the House of the People could be filled by a PR system (national or regional lists) while the country is divided into FPTP constituencies for the Upper House.

### 3.4 Option 4: Regional Proportional Representation (PR) - open list, one preferential vote

Each region is one electoral unit electing a number of representatives, according to either its population or the same number for all regions, to the House of the People. On election day voters choose one candidate from within the lists presented by parties. Candidates will be listed within their parties alphabetically. Once a candidate makes it onto the party list the party leadership has no control over who is elected.

When counting takes place ballots are first counted to determine how many votes each party has received. Based on this number parties are assigned a proportional number of seats (i.e. for a total of 15 seats, 6.6% of valid votes cast = 1 seat). Then candidates within each party are ranked. The seats a party has won are assigned to the candidates who have received the most votes within the list.

#### 3.4.1 Example

Five parties register and meet the requirements to run. Each constituency has 15 seats. Each party has up to 15 candidates listed alphabetically. Each party receives a proportion of seats in parliament that matches their share of the regional vote. Within each party seats are assigned to the candidates who receive the most votes. This can mean that popular candidates can help less popular colleagues win. 20,000 votes are cast in the election with the following results:

Party	Votes	Share	Seats	Party A List:	Votes	Overall Share	Elected?
Party A	3300	16.5%	2	Can. 1	70	0.35%	No
Party B	5000	25%	4	Can. 2	450	2.25%	No
Party C	8500	42.5%	6	Can. 3	2000	10%	Yes
Party D	900	4.5%	1	Can. 4	480	2.4%	Yes
Party E	2300	11.5%	2	Can. 5	300	1.5%	No

#### 3.4.2 Advantages

- A large electoral unit (in this case a region but it could also work at federal member state level) creates the possibility for constituencies to elect representatives with a mix of genders, clan backgrounds, and political views. This can increase the likelihood that voters will feel that their interests are represented in the legislature (though in practice, multi-member district systems are not always successful in reflecting diversity).
- In the case of Somalia, multiple-member districts that do not tie legislators to smaller, more specific constituencies may offer the flexibility needed to deal with the problem of voting in uncontrolled territories, as projecting votes across a region is less likely to exclude whole groups than across the nation.
- This system will allow clan diversity within regions to be reflected in terms of seat allocations as parties will need to broaden their membership and appeal to gain more seats.

- No further constituency delimitation is needed if the regions are taken as electoral units. If an equal distribution of seats per region is chosen there would be less need for a census to determine population to seat ratios (although this would raise concerns as heavily populated regions would have the same number of MPs as lightly populated ones).
- Open party list systems allow voters more power to determine the actual membership of the new parliament. Within a party list, the most popular candidates will win election and the least popular ones will lose. The party still has the power to determine who will be on the list, but it surrenders its power to determine who will fill its seats once they are allocated. As a result, politicians will have a stronger imperative to build public support rather than just the support of powerful party leaders.
- This option could incentivize regions to form administrations and gain control of territory more quickly or could encourage reluctant regions in Somaliland to participate in the election by giving them representation disproportionate to their share of the national population.

### **3.4.3 Disadvantages**

- There is less of a sense that legislators are connected to discrete geographic constituencies than FPTP systems, but their relationships with constituents are closer than with a single national district and closed PR party lists.
- This system requires a more complicated counting process as votes have to be first allocated to the party and later to the candidates. The two sets of counting required by the open party list can also be confusing and vulnerable to error if vote-counters are not properly trained or given clear instructions.
- Open lists also require very large ballot papers; in a five party system used in the example the ballot for each region could list up to 75 candidates.
- As the total number of voters is divided between the regions, proportionality is reduced with more 'wasted votes' than within one nation-wide constituency.
- Open party lists reduce a party's ability to ensure a balanced delegation in parliament that reflects the diversity of backgrounds and interests within the electoral region. It is harder for a party to apply temporary special measures; open lists therefore tend to adversely impact the representation of women. The parliamentary delegation may instead be reflective of the preferences of the majority of voters within the region.
- In some societies, this system merely increases the power of well-organized special interests outside the party and increases the competition inside the party between individual candidates. In Somaliland, the open party list system has led candidates to appeal directly to clan elders rather than voters.

### **3.4.4 Variations**

- The same system can also operate using the federal member state as the constituency. This would reduce the number of different type of ballots from 18 (regions) to the number of federal member states. This would increase the number of representatives to be elected making the candidates list bigger and more complicated to vote and count (from some 15 to almost 40 candidates per party list).

- To ensure that women are equitably represented, women-only lists could be used in addition to general lists. For example, 10 seats would be allocated through general lists and 5 through women only lists. This would complicate the voting and counting operation by introducing an additional ballot paper, but women's representation would be guaranteed.
- Another possible variation is to maintain the size of the electoral unit but apply the closed party list explained in option one. This would counter many of the difficulties Somalia could face from a practical perspective.

### 3.5 Option 5: Single Non-Transferable Vote (SNTV)

Each administrative district is treated as one electoral unit. Each district elects a number of MPs based on its population size. On election day all candidates who have met the legal requirements are listed on the ballot paper. Voters will mark one candidate they wish to elect. The candidates who receive the most votes will be elected.

Parties may run as many candidates as they wish in the district, although running too many could be counterproductive if it splits party support between candidates making it harder for them to be elected. Parties might choose to concentrate their efforts on one candidate. Independent candidates who met the requirements would also be able to run.

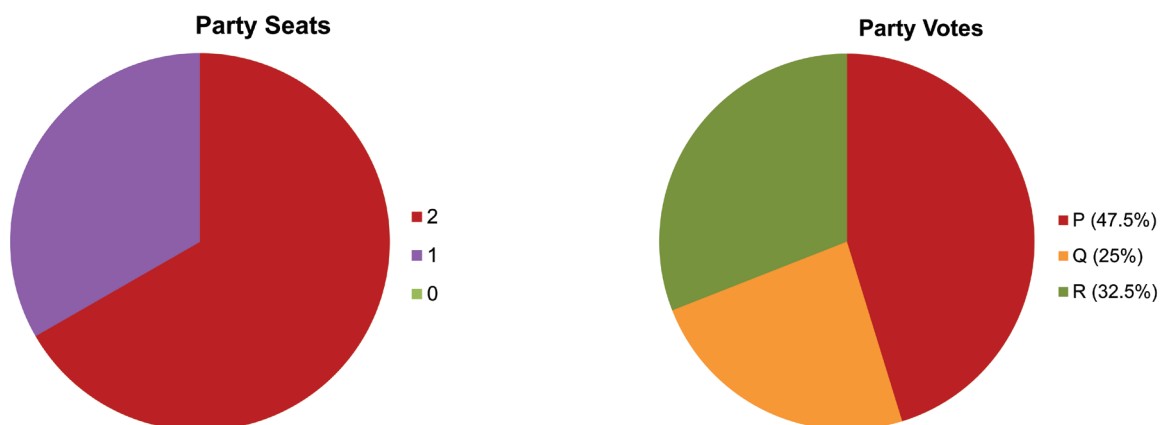
#### 3.5.1 Example

In this example District X can elect three MPs to the House of the People. Five candidates, representing three parties, register and meet the requirements to run. 2100 votes are cast in the election with the following results:

Candidate	Party	Votes
Candidate 1	Party P	500 (25%)
Candidate 2	Independent Q	500 (25%)
Candidate 3	Party R	350 (17.5%)
Candidate 4	Party P	450 (22.5%)
Candidate 5	Party R	300 (15%)

The three candidates with the most votes are declared the winners: Candidate 1, Candidate 2, and Candidate 4. This gives two seats to party P, one seat to independent Q, and no seats to party R.

Figure 7: Comparison of seat allocation to vote proportion under SNTV option



### **3.5.2 Advantages**

- This system of choosing representatives can ensure solid links between constituents and their representatives. To win an election parties would need to campaign in a range of districts. This is not the case in some PR systems.
- A plurality system is a simple system for voters to understand. Counting can also be straightforward.
- This electoral system can allow multiple groups within a constituency to be represented in parliament. For example, in a district with a roughly even split between two or more clans this system would allow at least the largest communities to ensure they have a representative in parliament. This could be valuable where a district has a diverse population.
- In general plurality systems produce more stable majorities in parliament.
- Having larger units can be an effective way to deal with insecurity. If parts of a unit are not under the control of pro-government forces it would still be possible to hold an election in those parts of the unit that are.

### **3.5.3 Disadvantages**

- The second most popular party (Party R) has failed to secure any seats despite having a 7% higher share of the vote than party Q. By splitting their vote between candidates Party R have lost out while party Q, despite being less popular overall, have successfully concentrated all their efforts in one candidate. This system encourages tactical voting, which is confusing for both parties and voters, and favors better organized parties.
- This system requires an accurate, or at least widely accepted, population measure in order to fairly allocate MPs to districts. This may be difficult to achieve in time.
- As the example shows, a candidate can win a seat on a small proportion of the vote and by only a very small margin over the nearest competitor.
- The system may not encourage politicians to reach out to other clans or parties; a plurality system can encourage a focus on core voters since there is no need to secure a majority of votes.
- It is difficult under this system to introduce special measures that ensure representation of women and other marginalized groups in parliament. Seats would need to be set aside and elected under a different system to ensure their representation.
- There are a large number of 'wasted' votes under this system. Winning candidates may, therefore, not have a significant mandate from voters.

### **3.5.4 Variations**

- A Block Vote system could be used for multi-member units. For example, voters could be given three votes; they mark the three candidates they wish to see elected producing a result more reflective of voters overall preference. This could, however, become a complicated result to count.
- The extra seats could be filled through elections of candidates representing Somali citizens living abroad.

- A separate system would need to be designed in order to ensure significant representation of women in parliament, in line with the Provisional Constitution. This could be done either by introducing a separate ballot in which only women would run for office, or by requiring political parties to include at least one woman candidate in order to be listed on the ballot. This would not ensure women are elected but would at least ensure that some women would take part in the election campaign

### 3.6 Comparison of electoral options for Somalia

Table 2: Comparison of electoral options for Somali

	National PR - closed list	FPTP	Mixed	Regional PR - open list	SNTV
Impact of insecurity, and areas that are not able to vote?	Less impact as constituency is larger (unless one group is fully excluded)	Insecure constituencies will not be able to elect representatives	Less than FPTP but more than PR	Less impact as constituency is greater (unless one group is fully excluded)	Less impact than FPTP but greater than regional or national options
How important is a census/voter registration for this model?	Possible to conduct without census or voter registration	Census and/or voter registration necessary to ensure equal suffrage and delimitation of boundaries	Important due to the FPTP component	Possible (though contentious) without census if all regions given equal number of MPs	Possible (though contentious) without census if all districts given equal number of MPs
Complexity of model?	Simple to understand and count; simple to determine electoral units	Simple to understand and count; complex to determine electoral units	Complex to understand; more complex than PR to determine electoral units; less complex than FPTP	Complex to understand ballot paper; complex to count and calculate results; simple to determine electoral units	Simple to vote and count; simple to determine electoral units if each has the same number of MPs; more complex if according to population
Ease of understanding who will represent you?	Unclear to voter who they are electing in national PR system; easier in regional open list PR system	Easy to understand who will be your representative	More complex than the others	Easy for voter to understand who they vote for; understanding who won and why more complex	Easy to understand who will be your representative
How clan relationships are likely to be reflected in result?	Could produce even distribution among clans nationally	Likely to favor dominant local clans	Less representative than FPTP and more than PR	Likely to reflect clan balance in each region	Largest clan in each district could dominate
How minorities and women can be included?	Women and minorities can be included simply through quota systems	No guarantees that women or minorities are represented without specific measures	Easily through the PR component	No guarantees that women or minorities included in parties or elected without specific measures	No guarantees that women or minorities included in parties or elected without specific measures



Table 2: Comparison of electoral options for Somalia cont.

	National PR - closed list	FPTP	Mixed	Regional PR - open list	SNTV
How candidates are held accountable once elected?	Representatives most accountable to party leadership	Representatives must respond to local concerns	Some representatives respond to local concerns, others to party leadership	Mix between party leadership and electorate	Representatives must respond to local concerns
What sort of parliament is likely to be created (coalition or majority)?	Clan based groupings likely; majority in parliament must represent at least 50% of national vote	Geographically concentrated groups favored; governing majority in parliament with less than 50% of national vote possible	Mix of FPTP and PR symptoms	Clan based groupings likely; no guarantee of national average represented in parliament.	Geographically concentrated groups favored; governing majority in parliament with less than 50% of national vote possible
Cost to run the election? <sup>8</sup>	Low	High	Medium	Medium	High
What sort of political party structure is most effective?	Parties that appeal to national concerns	Parties that appeal to local concerns	Parties that appeal to local and national concerns	Parties that appeal to regional concerns	Parties that appeal to local concerns
Are candidates more closely linked to voters or to the party?	Candidates have closer relationship with party	Candidates have closer relationship with voters	Some to voters, others to party	Parties but with local elements	Candidates have closer relationship with voters
Independent candidates?	Difficult for independent candidates	Simple independent candidates	Simple independent candidates	Difficult for independent candidates	Simple independent candidates

<sup>8</sup> To estimate likely cost scenarios have been used that would most increase or decrease costs, but costs can increase or decrease depending on many variables (i.e the use or not of voter registration).

## 4. Considerations

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Beyond the options in the previous section there are some further considerations in choosing the most accommodating system for elections to Somalia’s House of the People.

### 4.1 Representation for women, minorities, and other under-represented groups

Frequently electoral systems favor the majority without ensuring representation for smaller groups. Below are some common strategies to mitigate this.

#### 4.1.1 Quotas

One strategy for increasing diversity in parliament is to introduce quotas that require parties to nominate a certain percentage of women, or other under-represented groups, as candidates. The options are to put a quota for candidatures (e.g. a minimum percentage of women must be listed on a PR list model) or a quota for elected positions (e.g. a percentage of parliamentarians must be women). Quotas may also be used to ensure balance and reduce conflict among major ethnic blocs. For instance, Burundi requires that seats in its National Assembly be divided 60-40 between Hutus and Tutsis, to counterbalance long-standing violence and lack of trust, even though the actual demographic split is closer to 85-15.

#### 4.1.2 Set-Aside/Reserved Seats

A method particularly useful in plurality systems is to set aside elected seats for certain groups, most commonly women. For example, in the Kenyan National Assembly (which is primarily elected through the single member plurality system), each of the country’s 47 counties elects one woman representative. Another method would be to designate a certain number of contests as female-only, youth-only, etc. In other countries, the ‘best loser’ option is often used. Women candidates who did not receive a seat through the ordinary electoral system will get their seats through the set-aside seats (e.g. in Jordan).

### 4.2 What role can traditional institutions play in democratic systems?

In Somalia traditional leaders have played key roles in resolving conflict, sustaining customs, and making policy decisions. Somaliland and Puntland offer two models of how this function can be formally incorporated into legislative and governance structures.

In Puntland the *Isimo*, or titled traditional elders, are recognized in the constitution and, in the event of disputes among clans or sub-clans, are tasked with finding peaceful solutions “using traditional norms and methods.” However, the *Isimo* has no formal role in government, and are forbidden from taking part in political associations or parties in order to protect their “dignity and impartiality” (Article 108). The House of Elders, or *Guurti*, is given legislative powers under the Somaliland Constitution, including the passage of certain laws, the review and approval of bills passed in the lower house, and the approval of states of emergency (Articles 42, 53, 57, and 61).

An option that some countries have pursued is to incorporate traditional leaders into democratically-elected legislatures. For example, Sierra Leone reserves 12 seats within its 124-seat unicameral legislature for traditional leaders known as paramount chiefs, who are indirectly elected from each of Sierra Leone's 12 provincial districts by an electoral college of chiefdom councilors. The Provisional Constitution of Somalia, however, requires that representatives are directly elected by the people (Article 72).

An important issue when considering the role of traditional leaders is ensuring representation for women in what in many countries are normally male-dominated institutions or bodies. In South Africa, this has been addressed through legislation. The *Traditional Leadership and Governance Framework Act 2003* requires that at least one-third of the members of a traditional council must be women (Section 3); a sufficient number of women must be represented in the provincial houses of traditional leaders and be elected as representatives to the National House of Traditional Leaders (Section 16); and a sufficient number of women must be elected to any local houses of traditional leaders (Section 17).

Policy makers in Somalia have pointed out at least three ways in which traditional elders could be involved in the future:

- They could take part in an *ad hoc* National Council of Hereditary Elders called upon to provide advice and to mediate future national conflicts, similar to the *Isimo* in Puntland.
- If the Federal Government is not able to fulfill its constitutional tasks before the end of its term in 2016, elders may be called upon to help negotiate a transfer of power together with other stakeholders.
- A proportion of the Upper House could be set aside for traditional leaders based on the 4.5 equation and selected through traditional mechanisms.

### 4.3 Integrity of the vote

Another consideration relates to how Somalia can ensure the integrity of the vote. No election system can function properly without maintaining the integrity of "one person, one vote." Each eligible voter within an electoral unit needs to have the opportunity to vote without intimidation or manipulation, and to have his or her vote counted on an equal basis with all other voters.

#### 4.3.1 Challenges to the integrity of the vote

- **Misinformation:** information is deliberately withheld from voters, or they are deliberately given false information about when, where, and how to vote
- **Denial of voting rights:** election officials block certain groups of voters from casting ballots or place unfair or unreasonable requirements on them
- **Insecurity:** groups interfere or prevent the establishment of polling stations, or endanger the safety of polling stations on election day
- **Multiple voting:** voters cast multiple ballots
- **Voter intimidation:** voters are threatened into voting a particular way, or not voting
- **Vote buying:** voters are paid to vote a certain way

- **Vote tampering:** already-cast ballots are altered or ballot boxes are ‘stuffed’ with forged ballots
- **Falsification of results:** election officials deliberately miscount or misreport results
- **Nullification:** legitimate election results are not accepted and groups seek to reject them through violence or other illegal means

Election authorities will need to ensure that every step in preparations for the election is conducted openly and transparently, and incorporates input from the full spectrum of political and civil society groups. If this does not occur, it can impair trust among the electorate that the election will be free and fair. Political parties also have an important role to play in training and dispatching party agents to be present at every stage of the voting process, and vigilant for any sign of unfairness or vote-tampering. Having representatives from multiple parties and from non-partisan civil society groups on hand can discourage discrimination, fraud, or irregularities in the registration, polling, counting, and aggregation processes.

Nationwide voter registration can provide a safeguard against voting fraud, but in countries where this is not possible, other fraud prevention methods are used. The most common is marking voters’ fingers with indelible ink after they have voted. It is important to thoroughly test this ink before election day to ensure that it cannot easily be removed from skin.

It is also important to ensure sufficient and adequate security on election day. Large numbers of voters can cause a great deal of disorder, and any perceived unfairness, intimidation, or attempted fraud can quickly lead to unrest. A security plan is usually developed by election administrations and security forces for the duration of the electoral process, with special emphasis on the period surrounding election day. The presence of sufficient security forces to prevent conflict is important. The presence of excessive security forces, however, can also be perceived as a threat in itself. Finding the right balance is difficult.

#### 4.4 Out-of-country voting

Will citizens of Somalia living abroad be able to vote? This would be particularly pertinent for the many hundreds of thousands of Somali citizens who live in refugee camps across East Africa. In considering this issue Somalia will need to balance the rights of Somali citizens living abroad (by choice or by necessity) with the logistical and financial challenges of organizing an election abroad.

#### 4.5 Party limits

Somaliland and Puntland have designed party systems that seek to avoid the clan-based politics. Under both systems the number of political parties is limited to three. In the first local elections (and periodic subsequent ones) many political associations are allowed to compete, but only the highest three vote-winning associations are then certified as legally recognized political parties, and able to compete for parliament and the presidency.

This is an option that is likely to be considered by Somalia. There are a number of considerations to keep in mind:

- Since the first federal elections to be held are for the House of the People it would not be possible to limit parties by evaluating local election results.
- It is also true that particular parties in Somaliland are more strongly identified with specific clans, so while the system can officially prevent clan-based parties, voters often still express a preference for the party they associate most with the interests of their clan.
- It is possible that party limits in this manner could effectively lead to the exclusion of smaller clans from electoral politics. Some also argue that limits on party numbers are contrary to the principle of freedom of association.
- Somaliland and Puntland have chosen to limit parties to three but there is no reason why Somalia could not choose a higher number.
- There are many other methods that can limit party numbers; these include setting a threshold of national vote share before a party can have MPs, or requiring parties to register and have a certain number of members in a percentage of constituencies nationally to be eligible to gain seats in parliament.

#### 4.6 Effect of the electoral system on political structure, executive, legislative branch, public participation, and traditional and customary arrangements

This Discussion Note has focused on options for the system for the election of the House of the People. This section provides some examples of interactions between choices in the electoral system strand and the other strands of the Conflict Dynamics methodology to highlight the importance of taking into account these interactions when choosing options in the electoral system strand.

For example:

- **Interaction with political structures:** The degree of accommodation of the electoral system is strongly affected by the political structure as this will determine how many elections will take place and how frequent they will be. For instance, an electoral system combined with a highly decentralized structure with frequent elections at the local, state, and federal level might prove to be very costly. It might also reinforce electoral divides as when there are frequent elections the political atmosphere can become charged and divisive as each electoral cycle pits parties against each other in a combative model to compete for positions. Alternatively, it might reduce conflict by reassuring the parties that they have another chance to win their election in the near future.
- **Interaction with legislative branch:** The electoral system choices discussed focus on how the legislature will be elected. Evidently a representative legislature will only be accommodating if it has genuine power and influence and is not a disenfranchised body under the dominance of the executive.
- **Interaction with traditional and customary arrangements:** The accommodating impact of an electoral system might be reinforced if the electoral system is applied to the election of traditional and customary arrangements if it helps to ensure that these are representative.

The following table draws out some aspects of how the electoral system choices may impact on other avenues for achieving political accommodation.

Table 3: Interaction with different stands

Electoral system (for House of the People)	Political structure & decentralization	Executive	Legislative branch	Public participation	Traditional & customary arrangements
Proportional Representation (PR)	Although the electoral systems for regional, state, and local levels are not discussed in this Discussion Note, using the same electoral system is likely to be the simplest option and easiest for citizens to learn	Tends to result in coalition governments formed of more than one political party	Tends to result in multiple parties in the legislature and hence requires coalition formation	Politicians tend to be more accountable to party leadership rather than local concerns; explicit public participation provisions could increase accommodation	May be included in the electoral model informally (as candidates) or explicitly (via a specific body or reserved seats)
First-Past-the-Post (FPTP)	As above	Tends to result in governments that consist only of members of the winning political party; in Somalia the winning party would need support of more than one clan	Tends to result in 2 large parties in the legislature with one party holding a clear legislative majority; tends to exclude small parties	Candidate-based electoral systems may encourage politicians and citizens to engage in public participation; explicit public participation provisions could increase accommodation	As above

## 5. Conclusion

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The FGS, the House of the People, and the emerging federal member state administrations have many critical decisions to make as they prepare to design and implement elections, scheduled to be held in 2016. This Discussion Note has laid out a number of options, ranging from the relatively straightforward to the more complex, and explained some of their advantages and disadvantages.

Even if the worst case scenarios play out and preconditions for elections are not achieved prior to 2016, many of the principles and structures that will be established in the preparation process can be utilized effectively to manage an alternative means of selection of representatives. The National Independent Electoral Commission and the establishment of political parties are particularly important in this regard but so are principles laid out in any electoral law about the purpose and type of elections, and resultant representation that Somali people desire.

Despite the imposing challenges that Somalia must face before it is ready to hold elections, it is not too early for Somali policy makers to begin considering the form that Somalia's electoral system will take, and to study the experiences of other countries and regions. Somalia's choice of an election system is not a single event, but rather the commencement of a trial-and-error process of political accommodation, through which the country will craft a system that best fits its unique cultural, historical, economic, and social context, and best channels the desires and preferences of the Somali people. This evolutionary process can take years or even decades. However, the first elections are an extremely important step, one that can set a tone and establish founding principles to guide the democratic process to its eventual success, helping pave the road to durable peace in Somalia.

## About Conflict Dynamics International

Conflict Dynamics is a not-for-profit organization registered in Cambridge, MA, USA. The organization was founded in 2004 to prevent and resolve conflict between and within states, and to alleviate human suffering resulting from conflicts and other crises. Conflict Dynamics works to fulfill its mission through conflict resolution activities, mediation support, and humanitarian policy development, and has a proven track record in providing support to national stakeholders and international supporters in political dialogue processes. Political accommodation in post-conflict societies is a primary focus of this approach.

Conflict Dynamics' approaches to political accommodation have been applied successfully to assist in achieving conciliation of political interests, most recently in the Sudan and in South Sudan.

Since 2009, Conflict Dynamics has established strong working relationships with a broad range of Somali interlocutors (in a neutral and impartial manner), has built up a small but highly effective team, and has developed working partnerships with several other organizations.

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