

Options To End Somalia's Current Political Stalemate

Somalia has entered a dangerous political stalemate that could unravel the significant progress made on peace-building and state-building since the end of the transition in 2012. The announcement on 8 September 2018 by the leaders of five federal member states to suspend cooperation with the Federal Government is alarming on many levels, not least because such a coordinated action by the states is unprecedented. The response – or lack of it – by the Federal Government of Somalia (FGS) on a crisis of this magnitude is a further cause for serious concern. More than ever before, it is essential that the two sides engage in serious dialogue, in order to reach viable and sustainable compromises.

The current crisis has been brewing beneath the surface for a long-time, since well before the recent Kismaayo Communiqué. Mistrust between the Federal Government and federal member states has grown steadily since the election of President Mohamed Abdullahi Mohamed 'Farmaajo'. Amongst a range of complex factors driving the tension, the two sides have built increasingly negative perceptions of the other, making any resolution to the crisis difficult to achieve. The Federal Government believes that during the previous Hassan Sheikh Administration member states have, expanded their interpretation of the powers allocated to them under the Provisional Constitution. In particular FGS is concerned that states have acted autonomously in all policy matters, including in areas exclusively allocated to the Federal Government in the Provisional Constitution.

On the other hand, the member states suspect the Farmaajo Administration is gradually attempting to centralize powers in Mogadishu. In particular, the states claim that FGS has sought to directly interfere in their internal politics, by attempting to unseat the current leadership of the states and replace them with more pliable individuals.

Neither side is totally mistaken in their perception. Each side has used the ambiguity in the Provisional Constitution to its advantage to carve more ground for itself. Member states have systemically expanded their interpretation of the constitution to engage directly in foreign, defense and monetary policies in contravention of the Provisional Constitution. By their own admission, state leaders have traveled to foreign nations in search of financial assistance and even political and security support. For all practical purposes, states run their affairs as autonomously as Somaliland, which declared unilateral secession in 1991. Despite this fact, they insist on their membership of the federation, an assertion that lacks merit in the eyes of FGS. Mogadishu instead perceives member states as acting aggressively, only invoking federalism opportunistically to justify their expansive and unconstitutional political culture.

On the other hand, over the past 18 months, FGS has taken a more antagonistic posture against member states, and even against federalism itself.

There is plenty of evidence that demonstrates the FGS intent to transform the member states into submissive entities. For example, it is widely believed that the FGS engineered the removal of the former president of Hirshabelle, Ali Abdullahi Ossoble from power. The FGS is also suspected of having a hand in the deepening rift among Galmudug politicians, which has crippled and divided the state since 2017 when the first attempt to remove President Ahmed Haaf failed. The episode has damaged the unity of the state government irreparably. In Jubbaland, the FGS has also been accused of interference in the state in multiple ways. This includes accusations that it has stoked discontent in Gedo region, and appointed security chiefs and other officials without consulting with the state's leadership, in contrast to what was agreed within the framework of the National Security Architecture. In Puntland, the FGS stands accused of empowering the Vice President to openly defy President Abdiweli Gaas.

These actions, actual or perceived, by the FGS have elicited increasing anxiety among leaders of the member states who are already vulnerable because of local elections planned for later this year and next year. To counteract what they see as open hostility from the FGS, the leaders of the member states have taken the extraordinary step of forming the Council of Interstate Cooperation (CIC). Since its formation late last year, the CIC has not only become a support group among the states, but it has also transformed into a high-level political platform designed to collectively co-ordinate action vis-à-vis the FGS. The tenor of the CIC communiqués has become increasingly hostile to the FGS, surfacing a deep resentment against what they view as an anti-federalist administration in Mogadishu.

This stalemate has left the country and its people at the mercy of two increasingly distrustful forces entangled in a political tug of war of unprecedented gamesmanship. Fundamentally it's the people of the country who are paying the ultimate price of continued political instability.

Squabbling begets political instability

The federal member states have repeatedly accused the Farmaajo administration of taking an aggressive stance towards their administrations, creating, according to the regions, greater instability throughout the country.

For some this evokes the negative memories of the first year of President Hassan Sheikh's administration. In 2013, the then newly elected President Hassan Sheikh spent significant political capital trying to undermine the establishment of the nascent Jubbaland State, on the grounds that it was constituted illegitimately and backed by a foreign actor. While the FGS had legitimate concerns relating to the inclusivity of the administration and the formation process, the manner in which it sought to influence the process proved counter-productive. By late 2013, the FGS was forced to negotiate a peace agreement with Jubbaland in Addis Ababa under the patronage of Ethiopia. Not only did the Hassan Sheikh Administration lose the battle over the formation of Jubbaland State, but it also failed to keep external actors out of the peace process. In the final agreement Jubbaland was able to secure many of its key objectives, whilst the FGS had to cede considerable ground, ultimately emerging from the negotiations in a weakened position.

After the failure of their efforts in Jubbaland, Hassan Sheikh and his administration turned to a far more pragmatic, consultative and effective approach to state formation, focusing on co-governance in a manner that reflected the spirit of the constitution. In the subsequent years, that Administration was credited with the establishment of Southwest, Galmudug and Hirshabelle states, despite what at times appeared to be insurmountable challenges. Crucially, Hassan Sheikh is also credited with the establishment of the National Leaders Forum (NLF), which, though imperfect as it usurped some of the responsibilities of the cabinet and parliament, constituted an important platform for dialogue and consensus-building between the FGS and member states. The NLF served as a political platform for member states to discreetly influence national-level decision-making, as well as a reliable forum for co-governance and confidence building.

This pragmatic approach is missing from the actions of the FGS today. The FGS appears intent on subduing and subordinating member states (and all other rival political forces), despite the fact that this is not an achievable goal, and is provoking increasing resistance and instability. Member states are now even turning to external actors for leverage against Mogadishu. The fate of Ali Ossoble in Hirshabelle has led other leaders to take a defensive stance against possible ambitions of FGS.

Their concerns are compounded by fears of internal dissent, particular in Galmudug, Hirshabelle, Jubbaland and, to a lesser extent, in Puntland. Moreover, the state leadership is disoriented from the fight against their enemy, Al-Shabaab, and neglecting to provide basic services and tending to the transitional state-building tasks. Galmudug, especially, is in free fall and urgently needs rescuing, before irreparable damage is wrought to this fragile state. Galmudug's current institutional arrangements are untenable, including: a president, a vice president, and a prime minister, as well as a parliament and a cabinet who are all squabbling and who sit between two different cities.

Hirshabelle is another nascent state that is struggling as a result of fragility and ostensibly interference from the FGS. Although President Waare has recently announced a thaw in the relationship with the FGS, he emphasized the need for Villa Somalia to seriously engage with other member states. This is not the first time President Waare has reconciled with the FGS only for the agreement to fall apart. Time will tell how long this one will last. In Puntland, the situation is less dramatic although it remains concerning. The Vice President's recent challenge to the President is a record sign of instability. Previously, Puntland vice presidents have functioned as loyal deputies of the state leaders. Vice President Abdihakim Amey on the other hand has consistently opposed the outcomes of the CIC meetings, including the most recent, in which the communiqué declared the suspension of ties with FGS. His dissent, has had a limited impact to date, but with the Puntland presidential election planned for January 2019, President Gaas, who chairs the CIC, may be increasingly vulnerable should he seek reelection.

Southwest and Jubbaland leaders also face presidential elections in this November and mid next year, respectively. Both insist that the FGS leadership is aiding their rivals with the intention to unseat them. Whether true or not, both are digging in. The situation in Jubbaland is particularly tense in political and security terms. President Ahmed Madoobe has alleged that the FGS is destabilizing his state by fomenting rift between him and politicians in the Gedo region who hail from the same clan as that of President Farmaajo. The destabilizing effect of Somalia's clan dynamic is particularly salient in the Jubaland context, where Kismaayo, the capital port-city, has been contested for decades inter alia by Farmaajo and Madoobe's clans.

Even Somaliland has not escaped from efforts of the FGS to assert itself. On 9 June 2018, the FGS instructed donors not to directly provide assistance to Somaliland authorities without its knowledge and consent. In doing so, the FGS reversed a standing policy, active since 2000, to never question humanitarian and development aid going to Somaliland territories. Successive governments in Mogadishu have rightfully delinked humanitarian and development aid from the broader political standoff with Somaliland. And that policy had worked for both sides. The new policy by the FGS, however, will surely complicate the now stalled dialogue with Somaliland.

Infighting leads to stagnation and backsliding on state-building gains

Since the forcible removal of former Parliament Speaker Mohamed Jawaari in early April 2018, the FGS has been in perpetual internal disarray, with senior officials and ministers being replaced at a whim. About less than a quarter of the original cabinet that was approved by the Parliament in March 2017 remains in office. The security chiefs of the Somali National Army (SNA), Police and NISA (National Intelligence and Security Agency) have each been changed three times over the past 18 months. A significant number of the major embassies have remained without an ambassador since President Farmaajo came to power. Prime Minister Hassan Khaire's public commitment to transform the upper echelon of the civil service through a transparent recruitment process has yet to be implemented. Instead, prominent civil servants at key ministries have been replaced haphazardly.

The FGS has also become more intolerant of its critics. In December 2017, NISA officers stormed the residence of a former minister and the leader of Wadajir Party, Abdirahman Abdishakur. The midnight raid resulted in the killing of five of his security officers, an episode that was unprecedented in both its brutality and daring. Since then, MPs have been intimidated with immunity removal processes and critical media and civil society organizations were systemically muzzled. The FGS's intent seems to be to create a climate of fear in a culture where criticism of governments is part and parcel of daily life.

The Upper House's (Senate) boycott of President Farmaajo's opening of the parliamentary session in September is another sign of the increasing political temperature.

At the same time, a burgeoning number of MPs, including some who until recently were closely aligned with Villa Somalia, are publically expressing their frustration with the government's failure to address persistent insecurity and political instability. Many MPs are also wary of what they see as a deliberate attempt by the FGS to replace the leadership of their states. Unchecked consolidation of power by aggrandizing politicians signals uncertainty and is unsettling for most MPs. They do not want any one political grouping to monopolize national politics and by extension, the 2020 elections.

As well as the increasing disillusionment with the FGS amongst a significant segment of the legislature many in the public are dispirited by the current leaders' authoritarianism and unmet promises. Traditional media and social media have become a battleground, whilst the tone and tenor of political propaganda has become increasingly tense and polarized.

This political instability has disoriented the FGS from essential state-building efforts. Insecurity has worsened over the past year in Mogadishu and elsewhere. The majority of the capital's roads routinely become impassable due to regular closures, impacting negatively on the economy. As the World Bank's most recent Somalia Economic Update (SEU) states, economic growth almost halved in 2017 compared with 2016, down from 4.4 percent to 2.3 percent. The economy is also suffering from the impasse between FGS and member states. The World Bank has noted in its September 2018 SEU report that "The challenge of revenue mobilization in Somalia is closely linked to issues of fiscal federalism. [Member states] collect and retain all taxes within their jurisdictions; the FGS collects revenues in Mogadishu only. This political context makes it difficult to create a harmonized system of taxation across the country. Without a mechanism to address imbalances across states, fiscal autonomy will exacerbate economic inequities across Somalia. Revenue and functional assignment are key to achieving meaningful revenue mobilization and service delivery across the country."

Factional and divisive politics in the country is also providing ample space for Al-Shabaab to make new gains. As a number of MPs have publically stated during the recent parliamentary debate on security, the terrorist organization is now far more brazen than it has been at any point since 2011, when they were ejected from Mogadishu.

They are levying taxes on all walks of society, including Mogadishu residents. The roads linking the capital to the closest towns in the north and in the south have become impassable, because Al-Shabaab fighters have retaken them. Most tragically for Somalia, several MPs have acknowledged that their own constituents have been seeking justice at Al-Shabaab's notoriously brutal courts because they argue, the FGS courts are ridden with corruption and undermined by politicization.

The high-stakes zero-sum game in Somalia is also stalling other political, security, economic and transitional tasks. The successful implementation of the National Security Architecture for example, agreed in London in 2017, rests on a cooperative relationship between the FGS and member states. Both the constitutional review process and an agreement on an electoral model have also stalled for the same reason.

Modalities for Ending the Stalemate

Despite the severity of the crisis, there are ways in which the two sides could find common ground. However, there are no silver bullets. At the core of the crisis is a protracted conflict between the center and the periphery enabled by constitutional ambiguity. This is common in federal systems, but it is more acute for newly federalized and post-conflict countries such as Somalia. Our suggested modality for ending the stalemate rests on five assumptions:

First, the FGS and member states have serious limitations, which render them largely toothless. Neither side can effectively dominate the other, nor does either side enjoy greater legitimacy than the other. They are both extraordinarily weak, both in political and military teams – neither side, fortunately, could effectively resort to arms to resolve the dispute. Moreover, most of Somalia's leadership came to power through indirect elections marred by industrial-level corruption. What makes them viable is largely the protection of AMISOM forces in the one-city governments they run (including the Federal Government). The exception is Puntland, which controls large swathes of land, although Al-Shabaab and ISIS are increasingly encroaching on it.

Second, the current stalemate is as much political as it is a constitutional. While the elasticity of the Provisional Constitution remains a thorny challenge to state-building,

The leaders' collective failure to negotiate a compromise is symptomatic of their weak leadership. Beyond the constitution, there are other mechanisms to finding a common ground. For example, the National Leaders Forum could be revived as an inclusive entity for dialogue. For all its issues (including the fact that, at times it appeared it had supplanted parliament and cabinet), the NLF proved to be a useful platform under President Hassan Sheikh, where the leaders hashed out their differences away from the gaze of the public, media and the ever-meddlesome external actors. The FGS's promotion of the National Security Council (NSC) as a credible alternative is misguided. The NSC can never replace the NLF, because the latter was an inherently political platform with wide terms of references whereas the NSC is a technical platform with a narrow agenda. However, the two bodies could work effectively in complementarily.

Third, the two sides can establish permanent areas of cooperation while respecting each other's remit. Notwithstanding its ambiguity, the Provisional Constitution actually provides basic guidelines for separation of powers between the center and the periphery. Throughout the world, defense, foreign affairs, monetary policy, and borders and immigration management are the exclusive domains of national governments and Somalia should not be an exception, notwithstanding the stipulation in the Provisional Constitution that suggests regions should be consulted with in these matters. At the same time, regional governments should have a clear mandate for: local policing, provision of basic services, such as education and health, and a decentralized justice system. Most importantly, to ensure co-operation the Federal Government should steer clear of local politics. Mogadishu-backed candidates for state leadership will almost always lack legitimacy at the local level. Lastly, the two sides must collaborate on the pending but critical issues, namely the finalization of the constitution, resource-sharing, agreeing on a credible electoral model and citizenship.

Fourth, the two sides can and should take measures to rebuild trust and confidence. At the moment, their distrust of each other is clearly reflected in the most recent statement by the Council of the Interstate Cooperation (CIC), which unreasonably called for third party mediation. Even for Somali standards, that's a remarkably worrisome new low for the parties. Bringing external actors to mediate is unbecoming of a confident leader and risks deepening the crisis by introducing new stakeholders with their own agenda.

On the other hand, the talks between FGS and Hirshabeelle are encouraging and should not be conducted in isolation of the rest of the member states.

Fifth, the Upper House (Senate) has a constitutional and political role in solving the crisis, and must be empowered to do so. Conceived as the "house of federations", members of the Senate tend to be seasoned politicians who have deep connections to their member states, including with their leaders. The Senate's initiative to mediate is a welcome reprieve from the seemingly routine shouting matches between the FGS and member states. Senators are also sympathetic towards the FGS since they're observing it up close and have a deeper understanding of the context than periphery politicians.

Recommendations:

The following are seven steps leaders could take to overcome the current stalemate:

1. President Farmaajo should immediately call for a dialogue with the CIC at one of the capitals of the federal member states in order to build confidence and remove barriers to dialogue. In response, the leaders of the member states should withdraw their call for an external actor to mediate. The President's gesture should be enough to drop that demand.
2. The overarching objective of the meeting should be the following: A) A public commitment by the FGS to cease and desist in interfering in the internal affairs of the member states. The FGS should further commit to allowing a fair election to take place in the states without supporting certain sides. B) The member states should publically commit that they will hold free and fair election in their regions and allow local civil society the space to monitor their implementation. C) Member states must also assent to uncontested leadership of FGS in foreign policy, defense, immigration, and monetary policy. D) The National Leaders Forum (NLF) should be reconstituted as an inclusive political platform that meets regularly to discuss matters of national concern. E) Reconstitution of the NLF should not result in the undermining of parliament's oversight role as well as its right to legislate.

3. The two sides – FGS and federal member states – should agree on an action plan towards resolving core issues that are necessary to avoid a repeat of the same crisis. In particular this means re-vitalizing the constitutional review process, democratization (namely the upcoming electoral process), resource-sharing, the National Security Architecture, the federal justice system and the Constitutional Court. Parliament should monitor and approve, or veto where appropriate, whatever political leaders agree on.

4. The initiative of the Upper House (Senate) to mediate should be encouraged. Senators have the real potential of mediating between the FGS and member states as their political allegiance straddles the two camps. So far, the Senators have taken positive actions towards resolving the crisis.

5. Within the National Leaders Forum framework, the two sides should focus on halting the slide towards greater instability in Galmudug. This region, from which so many of Somalia's political elite hail, needs stability, reconciliation and democratic dispensation. Its current institutional arrangements are untenable.

6. The FGS should reverse its new policy on humanitarian aid and development assistance to Somaliland. This would certainly rebuild some confidence and pave the way for restarting the stalled Somalia-Somaliland talks.

7. The FGS should respect democratic values enshrined in the Constitution, such as freedom of the expression, freedom of assembly, and freedom to petition the government itself. Denying basic freedoms in the name of security has neither brought stability nor made the FGS more productive. Instead, it has made the FGS weaker, disoriented from its key tasks, and in perpetual crisis.



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