

APD PUBLIC

FORUM



*“The opportunities and challenges facing
Somaliland’s Parliamentary and Presidential
elections planned for 2015”*

The Academy of Peace and Development (APD)

REPORT

17th August, 2014

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1. Introduction

In 2015, Somaliland plans to hold the Presidential and Parliamentary elections, and for the first time, there are proposals to hold both elections at the same time. However, there are many outstanding issues that have to be addressed before any elections can happen. Some of the issues include the revision and preparation of the appropriate electoral Laws including the voter registration Law, conducting voter registration and others.



The Academy of Peace and Development (APD) held a Public Forum on the way forward for the 2015 Elections where the Somaliland public expressed their opinions on 17th August, 2014 at Maan-soor Hotel.

The purpose of the forum was to provide a public dialogue space for discourse on the opportunities and challenges that may affect Somaliland's Parliamentary and Presidential elections planned to be held in 2015. The goal was to generate an informed discussion before the 2015 elections, analyze and give recommendations on the arising issues. The participants included members of the National political parties, university students, lawyers, women, youth organizations, civil society members and other members of the public.

The Academy of Peace and Development (APD) works with diverse communities to bring multiple views and perspectives into public engagement processes. APD specializes in communication techniques that build trust, enable all segments of the community to be heard and respected, yet also to understand and learn from their differences.

Forum Design:

- Prior to the forum, APD sent an invitation and advertised the public forum event.
- At the forum, the APD Coordinator opened the forum with short opening remarks.
- This was followed by the facilitator who provided a brief PowerPoint presentation on Somaliland's Democratization process particularly, the experience of holding Elections.
- The three panel members made their comments on both the agenda of the forum debate and their own perceptions of the situations. They hoped that the forum discussion will come up with concrete recommendations.
- The participants were then asked to discuss and debate the following questions in a panel discussion. All participants were encouraged to participate and analyze the current situation and context; debate and discuss all the burning issues facing the planned 2015 elections, and contribute their ideas plus recommendations for the way forward.

Proposed Questions

1. What needs to be done to hold elections on time by 2015?
2. Will the soon to expire term for NEC have an implications for the Elections?
3. What challenges can holding a combined election bring for the 2015 elections?
5. What actions can the various relevant actors take to address the concerns and issues for the upcoming elections?

2. Background:

Somaliland has been building systems of legitimate and accountable governance based on Multi-party democratic elections since 1999. In May 1999, the Somaliland government approved a plan to move from the clan-based system to a multi-party political system -providing the proposed parties were not based on clan or religious lines and drew support from all regions.

Since 2001, when Somaliland national referendum with the support of 97% of the population legitimized the Somaliland national Constitution, the Somaliland government has been in the process of taking the democratization process forward in order to meet what the national Constitution promised to the citizens. The citizen rights are enshrined in Article 15 to 36 of the Constitution.

According to the Somaliland Constitution, the political system of the Republic of Somaliland shall be based on peace, co-operation, democracy and plurality of political parties. It further stipules that the number of political parties in the Republic of Somaliland shall not exceed three (3).

The Electoral System is also structured as follows:

- Municipal elections: proportional representation - votes for specific parties and positions were filled on the basis of sequential party lists in 2002. Amended in 2011 for open list
- Parliamentary Elections: proportional representation - voting for specific candidates, incorporating elements of an open party list system.
- Presidential elections: first-past-the-post system.

The election of district councils in 2002 established the structure for a decentralized form of government that is accountable and responsive to the local electorate.

Though Somaliland has conducted and implemented five national elections that were rated free and fair by the international community, the country continues to face persistent challenges in carrying out these elections.

- 2001 national referendum with the support of 97%
- The Local Elections of 2002,
- The 1st Presidential Elections of 2003,
- The Parliamentary Elections of 2005
- The 2nd round of Presidential Elections in 2010 and - more recently,
- The 2nd round of Local Council elections in 2012

These challenges include heated quarrels over the postponement of number of elections, poor management of the election processes, such as voter registration, budget constraints, lack of clarity of the legal process, inadequacy of rule of law, lack of independent judiciary systems and rampant multiple voting etc.

There are also serious issues of constitutional interpretations that are not resolved, such as contradictions among some articles (Articles of 57(2) and 111(7) of the national Constitution which are seen as negating the rights set in Article (9).

The recurrent and persistent challenges are an indication that Somaliland is not learning from the lessons of past elections, by reviewing the process and performance of these elections.

3. Plenary Discussion Highlights:

The coordinator of the Academy of Peace and Development (APD) delivered the



opening remarks by introducing APD and the aims of the public forum. Ahmed Mohamed Diriye, stated that; “APD is committed to promoting democracy and consensus decision-making by encouraging and supporting participation of Somaliland citizens in the affairs of their

lives. In this regard, the goal of the Academy is to empower Somaliland communities to peaceful change by providing a neutral venue to identify their issues and set priorities for response”. He added that; “the aim of the current forum is to provide a neutral forum for dialogue and to create the opportunities to discuss and address public concerns about the planned elections in 2015.”

The three panelists started the discussion by each presenting a brief introduction to the topic. Ibrahim Gamgam, the Registrar of the National Electoral Commission (NEC) stated that “NEC has the proven capacity to hold these upcoming elections and has already made some progress in the preparation process. He hoped that everyone will contribute to the success of holding these elections. Amina Haji Mohamoud, a key member of the Somaliland civil society, a woman activist, hoped that the discussions will be constructive in producing solutions for the challenges identified. She noted that we all want fair, free and peaceful elections to take place.

3.1. Actions to be taken in order to hold 2015 elections on time:

The participants have identified and unanimously agreed on a number of challenges that need to be addressed in order to hold a successful election in 2015. However, they all held different opinions and presented diverse solutions for the various issues identified. Nevertheless, there was a general consensus that holding the elections on time was crucial for the progress of democracy in Somaliland. They also agreed that constitutionally; it was the responsibility of the government to hold the Elections. Some participants argued that postponement of the planned elections will affect relationships within the country as well as, the backing of the International supporters that have encouraged Somaliland's democratization process.

Most of the participants mentioned the following main issues to be addressed and put in place in order to hold elections on time:

- Preparation and passing of the Laws that are required for the 2015 election; these include, voter registration law and the Parliamentary Election Law, both of which have expired.
- Conducting an acceptable voter registration
- Passing Laws to stop multiple voting
- Review the status of the National Electoral Commission (NEC) members, whose term of office is expiring on October, 2014.
- Extensive voter education and awareness raising that reaches all the potential voter

Members of the main opposition party Wadani made various statements reflecting their suspicions that the government is 'dragging its feet' in order to delay the elections and seek extension of term in office. An example they gave of this sentiment is that they have reports that the Kulmiye Cabinet has passed on an Act to conduct the Civic Registration (CR) before the Voter Registration. We all know that the civil registration will take a long time and therefore, delay the voter registration and the Election. They added that; if certain parties tie the elections to there being a civil registration first, this for them is proof that this was being used as a strategy to delay the elections.

Furthermore, the opposition parties also questioned the ruling party Kulmiye's commitment in addressing issues before the election due to their absence from this meeting; this portrayed a lack of commitment for the opposition parties.

What the opposition parties also argued was that in order to avoid fraud there needed to be "a voter registration in place first" this was mainly to ensure that that elections took place on time. So while both political parties unanimously called for elections to happen on time and for the voter registration to be initiated as soon as possible, they differed as to which election should come first, presidential or parliamentary, in this case the election was to be separated. The opposition party WADANI was in favor of having the presidential elections first in case the two elections could not be held at the same. However the other opposition party was adamant that if the elections were conducted separately then the parliamentary elections are required to come first. This difference of interest can also be due to WADANI chairman being the speaker of the house of parliament, thus WADANI's reluctance to hold parliamentary elections first. Nonetheless, the opposition parties and the civil society call of discussion was for strong and effective laws put in place. This is to ensure that elections happen on time instead of vague laws that allow partisan interpretations, resulting in parties extending their terms.

In general, there is a public worry that with the short time left before the election date which is only 10 months, as well as the apparent insufficient or visible preparations that have been made; this might result in the elections being delayed. The Civil Society members also voiced their concerns about the accusations and counter accusations of the government and the opposition camps (tit-for-tats) they advised for cool heads to prevail in order to focus on getting on with the necessary tasks as everyone wants the same thing, therefore to conduct a fair and free election will lead to a peaceful and prosperous Somaliland. However what the civil society repeated several times was the need to move away from the growing culture of extension and terms of institutions such as the Presidency, Parliament and local councils. As some participants pointed out, if we allow every ruling party to extend its terms then this will become a cultural trait.

Some general comments that came from the civil society were that:

- There is a need to undertake a wide public awareness campaign and voter education so that people understand how the elections will take place and what is expected of them.
- One participant suggested that to make sure things happen in time, the government needs to clarify what it intends to do with NEC, either to extend their term or to change them.
- The participant also added that while the responsibility of holding the elections on time rests with the government, nonetheless, the opposition parties themselves have to put pressure on the government to ensure that it fulfills its responsibilities.

The Panel Members also pointed out that Somaliland needs to break free from the 'unproductive cycle' that it has been going through since it started the democratization process. This includes extending terms of office of the main national governance institutions, therefore delayed elections and governments (as well as, other stakeholder) that wake up only when the elections are intended to take place.

3.2. National Electoral Commission (NEC) term of office and its implications for the Elections:

The participant's opinions on the current NEC members and suggestions for their future status were mixed. Though most of the participants praised the capacity and effectiveness of the NEC members, but there was a vocal minority who thought that the current NEC was responsible for the fiasco of the local council elections of 2012. The two opposition parties were less negative towards NEC compared to some civil society members.

There were a number of suggestions that included extending the term of the current members of NEC, replacing them completely with new ones and also keeping the present members while adding more members. There were also proposals on how they should select them. The Civil society members held differing opinions on the past record and credibility of the current members of NEC:

- Some of the participants argued vehemently that NEC needs to be changed because they have lost the trust of the people. They blamed NEC for the problems that were encountered in the local council elections of 2012.
- However, other participant argued that while there might have been some electoral fraud within NEC, they have also done a lot of good work in the past elections. So instead of throwing them out let's give them a chance and be patient with them.
- Yet another civil society member pointed out that NEC needs an external body to monitor it in order to control the alleged corruption within.

The opposition parties were less critical of NEC;UCID participants warned that if a new NEC team were brought it would be a challenge to the elections happening on time. Therefore, they proposed that the current NEC staff should be kept or at least the majority should be kept and only a few new people brought in. Similarly Wadani members declared that they did not support the changing of the NEC team. They pointed out that the government and the international community has invested a lot of resources in building their capacity and they have acquired lots of experience in holding elections effectively. Wadani like UCID suggested that if NEC were to be changed then only a few should be changed but the majority insisted they should stay. Furthermore, Wadani added that they wanted an expansion of the NEC team from 7 to 9 members. They noted that Wadani has not selected any of the current members. They are similar to the suggestion from the civil society to have also proposed the formation of a monitoring group to oversee NEC. A similar sentiment was reiterated by the Panelist from NEC who cautioned that changing NEC members would mean possible delays to the elections. He also noted that the issue of corruption does lie amongst NEC's feet yet also with individual voters who were determined to cheat and misuse the system as well.

3.3. Challenges of holding a combined election for the 2015 elections:

The participants agreed that holding two major elections at the same time is unprecedented in Somaliland. That means both NEC and the voters do not have much experience on such scenario. Hence, concerns were voiced from various quarters as to the chances of success in undertaking such an initiative. The majority of the participants recommended holding the two elections separately. However, the opposition parties have finally revealed their different political agendas related to holding the two elections.

The Civil Society members had reservations about the national capacity and awareness to hold the two elections together and this was evident in most of their remarks:

- Our people who are mostly illiterate will be challenged by the two simultaneous elections. The technicalities of choosing candidates in two ballot papers will present difficulties for both the voters and the NEC staff.
- The Somaliland political circumstances are not sufficiently mature for holding both elections at the same. Political interests which are closely associated with the clan interests will clash over the complex choices they have to make.
- Both the government and the opposition parties are after their own interests, which sidelines national interest, therefore, it is the public or voters who should make the choice. We need to think of our national interest and make a decision based solely on that premise; otherwise we will lose sight of our long term goal.

The members of Wadani continued to argue that both elections should be at the same time. However, if that is not possible we should hold the Presidential elections first because they argued the laws governing the parliamentary election are not available, while the law governing the Presidential elections is available. They further argued that the Somaliland system of governance was a Presidential system, which means the President can correct the wrongs occurring. The point is that, if the Presidential election does not take place or is postponed it might cause conflict. While, if the parliamentary elections is postponed or does not take place it will not be as conflictive. Therefore, it is preferable to delay the parliamentary elections. The UCID members, also held a different position as noted earlier, that they wanted the election to be held together if this was not possible than they felt the Parliamentary elections should be held first.

They felt it was illegal for a parliament to be in position for more than 20 years without any elections. One of the panel speakers pointed out that combining elections is something that Somaliland has never done before and as a result it is a proposition which creates public anxiety and hesitation. However, the panel member from NEC asserted that NEC has the capacity and expertise to hold both elections together and added that it would also be relatively cheaper than holding the two elections separately.

3.4. Voter registration and its implications on the 2015 election

All the participants agreed that a credible voter registration is essential for achieving fraud free, fair and peaceful elections. It is understood that a proper voter registration will deter both electoral fraud and stop non-citizens from casting a vote. Most of the participants acknowledged that double and multiple voting were rampant in 2012 largely due to the absence of a voter registration.

However, given the fact that conducting a civic registration is part of the national development plan, there were heated debates about the manner and approaches of undertaking the Civic Registration and Voter Registration. The Civil Society members proposed diverse views based on their own justifications. Some members observed that politicians have a habit of waiting to start talking about elections right near the time when elections are supposed to take place.

However, the opposition parties were adamant that a voter register is the top most priority in order to facilitate a timely election in 2015.

The Civil Society members proposed various contrasting suggestions and strong positions that included:

- Some participants underlined that in order to hold fair elections there is a need to first have a voter registration, while others argued that what is essential first is a civil registration before a voter registration, in order to check and ensure that those who registered to vote were truly Somalilanders.
- Other participants reiterated that voter registration is important as a means to avoid the corruption and fraud that happened during the 2012 local council elections.

- Some participants argued that the opposition parties continuously pushed for voter registration more for their own interest to compete for power, but jumping a civil registration does not benefit Somaliland. They added that without any census and civil registration, it is difficult to hold elections.
- One of the participants pointed out that any game needs rules, and this competition between political parties needs clear rules. Rules that are formatted and put in place before the competition not rules that are created and edited between the political parties.
- One angry participant noted two major problems: 1. that the government has become a political party. This is in part explained because there are few effective laws and regulations to guide the governance system. 2. Another major problem was the weakening of social cohesion due to growing clan allegiance and interest. He added that political parties are now seen more as clan groups rather than national Political Parties. This has resulted in growing divisions in the Somaliland communities.
- It was confirmed by other participants that this relapse into clanship is a result of the Political Parties practice of drawing people back to the traditional system of negotiations.

The opposition parties (Wadani and UCID) advocated in conducting the voter registration first ahead of the election date and advised against linking the two registrations together. They made their concerns clear by asserting that any linkage between the two meant a delay in holding the elections, which they believe shall cause conflict. The Wadani members' argued that the Voter registration (VR) is essential for holding the elections, while the Civic registration (CR) is a long term national plan, which takes many years to complete. The CR is about family sheets that record births, marriage, and birth for the whole nation. They reiterated that while voter registration is not required to capture everyone (only the voting 40%) and the civil registration is meant to capture information about everyone, (100%), Somaliland does not have the financial resources and the capacity to do both exercises right now. The Civil registration is a long term, continuous process while the voter registration is geared towards a shorter

term, so as to ensure that people are able to vote. They suggested that Somaliland put its effort in doing the one, namely the VR. While it can be postponed what it cannot undertake, namely the CR for a later date. They added that Somaliland has done a voter registration before and therefore is confident to do it again.

The Panel speakers' added that Somaliland needed to ensure that there was a system that will prevent multiple voting. It needs to also have in place a punishment system for those who commit election fraud. NEC, went on to insist that the problem is not only the institutions but also the people themselves who are corrupt. He pointed out that people are more interested in increasing the votes for their clans and therefore, willing to lie and influence under age children to vote.

Conclusion

While there were some disputes as to whether the voter registration should happen before the civil registration or not. With many of the civil society asking to have CR first and all the opposition parties insisting that the VR should be first. Nonetheless all the participants agreed that elections cannot be done without voter registration. At the end of the meeting the participants were asked to make some action recommendations that the relevant actors needed to take to move forward on the upcoming elections. The participants suggested the following recommendations should be acted on by the mandated institutions in order to ensure that the elections will happen on time with a voter registration.

Government:

- To facilitate the process and make sure that elections are held on time
- Provide the funding (its share, at least) and release on time for NEC and other institutions that are required to implement their part of the tasks.
- Prepare and pass on all the electoral laws and legal requirements to the Parliament for the election to take place. Particularly, the Voter Registration Law, which is currently with the Cabinet.

Opposition Political Parties:

- Reduce their divisions and cooperate on issues that facilitate the holding of the election
- Voice public concerns
- Inform the public on the election issues and educate the voters on the laws governing the elections
- Push the government and hold it accountable for holding timely elections

Parliament (House of Representatives and House of Guurti):

- Pass the relevant electoral laws in time.
- Prepare and initiate the required Electoral laws if the government fails to do so in time.
- Improve consultation with your constituencies
- Welcome and accept citizen contributions to the national legislative process

National Electoral Commission (NEC):

- Conduct wide voter education

- Conduct a credible and fool proof voter registration
- Start early preparation for holding the elections
- Provide adequate training for the NEC staff
- Improve the NEC transparency

Civil Society

- Take effective part in the national civic and voter education programs
- Support NEC by providing expertise in the implementation of various election programs
- Organize and perform local Election Observer role