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NEC on a Rope? The Need for Good Leadership

Just as the country emerges from one bruising unsettled political stand-off over the extension of the House of Elders, Somaliland finds itself once more plunged into a constitutional crisis. The President and the House of Representatives are at odds over the nomination and approval of a new National Electoral Commission (NEC), threatening to mark one more round of protracted political stalemate.

So far, the extension of the mandate of the previous National Electoral Commission by the House of Representatives on February 23 marked the peak of this latest political disagreement. The controversial move set the stage for yet another constitutional showdown between the President and the House, to take place before the Supreme Court. It resulted from a chain of events that began with a dispute over the process of selection of candidates for a new National Electoral Commission, following the expiry of the former commission's term in January. From then on, the situation worsened in a series of tit-for-tat moves by the rival camps.

In the already polarised and entrenched political environment, where the key stakeholders perceive each other with deep distrust, and voices of reason are all too rare, a divisive performance in the formation of such an important and sensitive body as the National Electoral Commission may have major negative bearing on the democratisation process, for a number of reasons: firstly, elections looming large in Somaliland include the highest political office, the presidential post – thus, a lot is at stake, requiring broad acceptance of the process.

Secondly, there is a perception that already the selection process of the NEC favours the incumbent government: the president nominates three candidates for the commission, the House of Elders (the Guurti) –often seen to be aligned with the president– nominates another two candidates, and the two opposition political parties are supposed to nominate only two. With such a system, it is even more vital that due process is seen to be followed, with specific attention paid to securing general confidence in the new commission. The third and final point is that a system in which the Opposition plays only a minor role in nomination, but is able to approve or reject each individual candidate through exercise of its majority in the lower House, a process that merely adheres to the rules without proactively attempting to build consensus with the Opposition is likely to result in stalemate; bogging Somaliland's political system down in a time-consuming side battle, threatening to stall the electoral time table as well as major tasks such as voter registration.



Running elections involves the management of sensitive materials, which needs a broadly accepted NEC.

In the eyes of these challenges, the question is therefore how the diverse stakeholders with competing interests can achieve a competent, experienced and regionally-, clan- and gender-balanced commission that is broadly acceptable to all.

The best hope to overcome these challenges, as in previous situations, would be Somaliland's traditional approach through consensus-based politics. In this particular case, it means holding a joint consultation of the stakeholders under the leadership of the President in order to reach a compromise on the nominees within the legal framework, but before they are submitted to the House for confirmation. Kulmiye, the leading opposition party, has long stated its acceptance of such consultations. Unfortunately, they never took off. Instead, the President, the Guurti and the chairman of UCID party (the other opposition party), nominated their respective choices, and Kulmiye withheld its nomination in protest, together triggering the above-mentioned tit-for-tat controversy.

Meanwhile, various quarters of society raised serious objections over the composition of the list of nominees. Women's groups denounced the exclusion of women from the announced nominees, fearing that they might not even have one representative in the new commission. Elements of two major clans from the east of Somaliland, who were not included among the six nominees, made no secret of their opposition to the confirmation of the six candidates, unless the list was revised. Furthermore, the absence of all the previous members from the proposed new commission was a cause of concern for many observers. Not least, the donor community, who invested heavily in the previous elections, is deeply disappointed by the apparent lack of at least minimal continuity, and the resultant loss of hard-won experience. The observed imbalances in the existing list of nominees put Kulmiye in an awkward position, and provided no good options. The party would have to kill three birds with one stone, that is: To come up with a nominee that addresses the gender issue, and the two missing major clans, and to safeguard experience. Selecting a female nominee from the Habar Jeclo clan certainly would have pleased women's groups and probably Kulmiye's main supporters, but the absence of the Dhulbahante from the incoming NEC would have politically alienated them further. The opposition party came under pressure from all interested sides, ultimately dividing the party leadership and making it even more difficult for Kulmiye to come up with a compromise choice.



Next Stop: Supreme Court.

Despite the growing grievances over the composition of the list of proposed commissioners, the President forwarded the six nominees to the House of Representatives for confirmation. Initially, and with an overwhelming majority, the House of Representatives refused on procedural grounds to table the list for a confirmation hearing: It criticised the list as incomplete, and therefore referred it back to the eligible parties. The House resolution, which had the backing of MPs of all three political parties, was meant to send a strong message to the stakeholders, including the President, to get their act together and to come up with an experienced, competent commission, balanced in terms of gender and region/clan and acceptable to all.

But hopes that the window of opportunity resulting from the House's decision would be used to resolve this controversial issue were dashed when the Parliament, on the initiative of a group of Kulmiye MPs, took another controversial step: The lower chamber of parliament extended the term of the old commission by two years after the legal advisor of House endorsed the move. Key opposition figures saw their extension of the Commission as an equivalent to the contested extension of the Guurti, which the President had supported earlier. Some MPs argued that their support for the move was intended "to raise the stakes" and force the President and the Guurti to compromise with the Opposition and the Parliament.

Observers immediately doubted that this development would compel the President and the Guurti to negotiate or give in, rather seeing it as further escalation of the conflict. Meanwhile, many believe that a reasoned decision to reject all or some of the forwarded nominees in the course of a formal review process in the House, where the opposition parties claim to have the necessary votes, would more effectively force the President and the Guurti either to nominate alternative candidates or to compromise in other areas. But for some reason, Kulmiye and the Parliament do not appear to have considered this option.

Many people, including moderate members of Kulmiye, saw the controversial extension of the old NEC as a strategic mistake and counter-productive. It looked obvious that the party's interest lay with the progression of the electoral process in order to hold the crucial elections on schedule. The tit-for-tat tactics however risk derailing the process and providing the incumbent government with justifications to postpone elections. Furthermore, a continuation of the political "trench war" is ultimately seen to challenge the country's

political stability.



Shukri Bandare, the only woman in the previous NEC, in action during the parliamentary polls in 2005.

Each side has its own standpoint on the ongoing crisis. Senior government officials close to the President maintain that his three nominees were selected in good faith and that he had no influence whatsoever on the Guurti nominations, as charged by critics. Furthermore, the President reportedly felt that the opposition had the opportunity to block any nominees – including his – in the course of the process at the House of Representatives, where they have the majority. He is believed to favour the plain legal procedure over pre-procedural consultations, even if this is unlikely to produce a broadly accepted NEC.

On the other hand, Kulmiye’s hardliners offer their own rationale. They perceive the current deadlock as an extension of many previous confrontations, where the President mostly succeeded in getting things his way. The stalemate is not considered an isolated incident, but part of the pattern in which the government allegedly disregards the opposition political parties’ viewpoints and concerns, failing to consult on sensitive national issues in which they have a stake: “the President does not recognise or understand that the political parties are national institutions that have a role in policy-making”, stated a senior official in Kulmiye. These elements in Kulmiye believe that they have the right to play hardball with the President and to confront him head-on “as a natural reaction” because they feel provoked. In wider perspective, however, it seems that it is one thing to give the President a hard time, and quite another to achieve tangible concessions from him.

The stand-off over the formation of a new Commission took another twist when the government actively discharged the old members of NEC from the scene. This became a focal point of political wrangling on February 19, as the President instructed the old commissioners to hand over the office to the Director General of the NEC. In their response, the old commissioners characterised the President’s approach as inappropriate and disrespectful. They also advised the President that their legal status was still in dispute, since the House had extended their term. Finally, they stated they would only hand over the office to another legal commission, rather than to a representative of the executive. Political observers saw this last public statement of the old NEC as unnecessarily provocative, further aggravating the situation.



Former NEC Chairman Axmed Xaaji Cali Adami, UCID Chairman Faysal Cali Warabe and Vice-President Axmed Yuusuf Yaasiin (from left to right) at the signing of the Code of Conduct for the Parliamentary Elections. Consensus-based politics were the key to resolving many earlier challenges of democratisation.

After abortive attempts, including by the Academy, to reconcile the two sides, the President ordered the seizure of NEC's premises. Three officials: the Head of the Civil Service Commission, the Auditor General, and the Accountant General, entered NEC's premises in the absence of the old Commission and, along with the Director General, took stock of the furniture and the other equipment in the offices. Then they sealed the buildings and officially handed the responsibility to the DG of NEC.

This seizure and removal of the old commissioners could not have come at a worse time for the government, since it was already under pressure for its jailing and contested trial of three journalists who had been arrested on charges of slandering the President and his family. Though the public reaction to these incidents was rather mute, responses from the Somaliland Diaspora, and the International Community, who were closely monitoring the situation, were outspoken. In particular, the Diaspora noted that these unfortunate incidents marred Somaliland's democratic credentials and observed Somaliland to be on a slippery slope towards autocratic rule. As for the International Community, it has been reported that they have expressed their deep concerns to the government, as well as to both chambers of Parliament, through personal channels, and some are in the process of reviewing their support to Somaliland's democratisation process.

So far, mediation efforts to break the deadlock did not bear fruit. From today's perspective, two steps appear necessary to clear the way for a breakthrough on this issue: 1. The Supreme Court's nullification of the old NEC's extension by the House of Representatives. This is likely to happen any time soon. 2. The rejection of all or some of the six current nominees by the House in the course of a formal review and confirmation process. Realizing this second step looks far more difficult, because it is not clear whether the opposition or the wider House is ready to accept a review of only six candidates. However, from the current position, it seems to be the only approach that would clear the road for subsequent consensus building, as the President argues that, for political reasons, he cannot withdraw his submitted nominees prior to negotiation. Ultimately, the opportunity for consultation would therefore arise only if and when the House rejects all or many of the current nominees.



Seal at the doors of the NEC premises – the old commission is out and a new one is not within sight.

In any case, March has now passed and the countdown to the local elections in December and presidential elections next April is on, yet the process is flagging. With no NEC in place or within sight, the voter registration process is effectively dead for the moment. The country has to face the prospect of local as well as presidential elections without prior voter registration.

The necessity to nominate a new NEC at this time has been known for years in advance. The on-going debacle is a classic example of the failure of Somaliland's leadership – both in the government camp and on the opposition side – to reach a collective decision on a vitally important matter for the sake of national interest. Instead of cooperating responsibly to solve this pressing problem, we find the leadership engaged in a partisan point-scoring game. Moreover, with the NEC 'on a rope', Somaliland's sovereign cannot hold representatives accountable in a timely and qualitative manner.

Particularly at this critical moment in Somaliland's history, we cannot afford to compromise on the fairness, inclusiveness or integrity of the democratic process. The future of this country is our common responsibility and we must proceed in a spirit of mutual respect, tolerance and accommodation. It is sincerely hoped that this will be taken into account as all parties strive to ensure that the window of opportunity is reopened.