

FROM SUBSTATE GOVERNANCE TO CONSTITUTION-BUILDING AT THE CENTRE

A View from Somalia

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EXECUTIVE SUMMARY

Since the effective collapse of central authority in Somalia in 1991, local systems have offered crucial platforms for governance. Local systems of governance continue to be relevant alongside efforts to rebuild the Somali state, such as attempts to revive formal pre-1991 local government institutions. This case study uses key informant interviews and desk research to investigate the ideas and practices underlying local governance frameworks, and the challenges facing official local government formation processes in Galmudug and Hirshabelle, two federal member states (FMSs) in Somalia. The overall objective is to understand whether—and if so how—local values and institutions can offer insights into ongoing efforts to develop practical and acceptable constitutional frameworks at the FMS and federal levels.

Traditional institutions that revolve around clans and customary and sharia law form the core of governance in local spaces in Somalia. These institutions have proved resilient and interact in different ways with federal and FMS interventions to establish formal and standardized local governance institutions, such as local government laws and policies. Clan leaders often seek to limit the reach of formal local governance frameworks, while also attempting to leverage formal institutions to their advantage.

Even where formal local government institutions, such as district councils, have been set up, they are primarily based on clan representation, and aligned with often fluid pacts among clan leaders. Customary and sharia law also continue to provide most of the substantive basis for governance in general and the resolution of disputes in particular. In line with traditional systems, group inclusion and decision-making processes focused on dialogue

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and consensus building seem to be the foundation for local governance, involving checks and balances that partly constrain the potential despotism of clan leaders. Unique traditions in various local spaces also tend to allow the emergence of governance systems that vary across territories and communities, and adapt to changing clan dynamics.

The practical importance of clan-based representation and governance contrasts with the reluctance to formally recognize clan identities in FMS and federal constitutional and legal dispensations. The variations in local government systems also pose dilemmas for the standardized local governance systems that federal and FMS laws and policies seek to promote.

Based on these and other insights, the case study outlines key ideas and practices to inform conversations and negotiations on building acceptable and effective political and constitutional settlements at the FMS and federal levels. In this way, efforts to rebuild the Somali state can draw on the comparative advantages of balancing both bottom-up and top-down initiatives and learning.

INTRODUCTION

More than 10 years after adoption of the 2012 Provisional Constitution of Somalia, this case study offers an analysis of governance at the local level in two of Somalia's federal member states (FMSs), Galmudug¹ and Hirshabelle.² The analysis is intended to inform works that seek to understand local governance in contexts of contested statehood and how practices prevalent in different, often overlapping local authorities can influence constitutional values, institutions and practices at the national level.

The case study first provides a brief explanation of Somali clans, their dynamics and institutionalization. Second, it describes the relevant features of Somalia's formal constitutional system, both past and present, focused in particular on the making of the 2012 Provisional Constitution and the role of clan and regional leaders in that process. This section also briefly discusses aspects of the Provisional Constitution and some of the FMS constitutions, mainly in relation to local governance. Section 2 describes the findings of field researchers concerning multi-level governance and overlapping authorities in Galmudug and Hirshabelle. In the absence of standardized regulations and customs, the characteristics of multi-level governance and overlapping authorities vary between the two FMSs and differ from other more established FMSs in Somalia. Section 3 describes patterns of governance in the two

¹ The researcher in Galmudug, Hussein Abdi Elmi, conducted 21 telephone interviews with informants between 1 April and 15 June 2024. The informants were Somali nationals aged between 35 and 65 who lived in Galmudug and had witnessed state-building efforts. The interviews were in Somali and recorded separately. Given the prevailing context of widespread political violence, some informants in both FMSs, particularly clan elders, active politicians and civil society activists, requested anonymity.

² The researcher in Hirshabelle, Ahmed Mohamud, conducted semi-structured online and in-person interviews with 15 informants, such as clan leaders, Islamic scholars, politicians, civil society activists and representatives of armed groups. The researcher also undertook a desk review to augment data from the interviews.

FMSs, demonstrating the operation of communal law and alliance building among fragmented clans. It analyses how overlapping governance practices arise from resilient and dynamic interactions among clans and sub-clans, which are collective identities that serve as the de facto building blocks of the political and legal order, and interact in diverse ways with formal institutional structures. Section 4 provides the conclusions.

1. ON CLAN DYNAMICS AND THE FORMAL CONSTITUTIONAL SET-UP IN SOMALIA

Clan dynamics

The linguistic and religious similarities among Somali people throughout the Horn of Africa has engendered a push from some quarters to unite them all—including those living in Djibouti, Ethiopia and Kenya—as part of a ‘Greater Somalia’ (Carment, James and Taydas 2006; Weitzberg 2017). This aim has never been achieved, not least because of resistance from the three neighbouring countries, but also the lack of historical experience where Somali speakers were administered under a single political authority (Tripodi 1999).³ In fact, Somalia, which at independence in 1960 brought together British Somaliland and Italian Somaliland, has struggled to maintain a unified state, particularly since the collapse of the military regime of Siad Barre in 1991, when Somaliland unilaterally announced its independence and the rest of the state collapsed.

The process of rebuilding the Somali state continues to face challenges linked to the importance of clan identities, which are based on claims of direct lineage from a common ancestry. Clans were historically malleable systems but have increasingly become important markers of territorial and military formations, which influence but do not always determine political outcomes (de Waal 2020). Clan politics contributed to the collapse of Somalia’s democratic experiment, which saw the first peaceful alternation of leaders in Africa in 1964, paving the way for Barre’s military takeover in 1969. Although Barre officially outlawed clan loyalties, they remained important markers of politics. Barre eventually surrounded himself with and benefited from people from his own clan—the Darood—in an attempt to prevent coups, but this enraged other groups. The final years under Barre were characterized by clan-based attacks by the national armed forces first against the Majeerteen (a sub-clan of the Darood), who mainly reside in Puntland, and then against the Isaaq, who mainly reside in Somaliland.

Somalia has four major clans: Dir/Isaaq, mainly in Somaliland; Darood, mainly in today’s Puntland and Jubaland states, but also in parts of Ethiopia and Kenya; Hawiye, mainly in today’s Galmudug and Hirshabelle states, but also in parts of Ethiopia and Kenya; and Rahanweyn/Digil-Mirifle, mainly in today’s

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³ Tripodi (1999) describes traditional Somalis as ‘quintessentially stateless’, and as managed and organized as clans based on customary law.

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Southwest state. None of these clans constitutes a numerical majority at the national level. Each is divided into sub-clans and sub-sub-clans, down to the level of major families. Somalia also has a few 'minority' clans, such as the Somali 'Bantus'. In the lead-up to and following Barre's fall and the collapse of the national state apparatus, clans and sub-clans quickly became the principal lines of organization (Makinda 1999). In view of this reality, efforts to re-establish the Somali state have sought to recognize and to some extent empower clan identities. Notably, the so-called 4.5 formula has been used since 2000 to determine the composition of the legislature. According to this formula, the four main clans each get the same number of seats, while the minority groups together get half of the total number of representatives allocated to each of the main clans (Somali Dialogue Platform 2023a). This formula was first formally agreed at the Arta Conference in Djibouti in 2000, and later used to select members of the Transitional Federal Parliament after the 2004 Transitional Federal Charter had been adopted.

The 2012 Provisional Constitution makes no reference to the formula. In fact, 'clan' is only mentioned as a prohibited ground for discrimination (article 11(1)). In practice, however, the 4.5 formula largely continues to determine the selection of members of the lower house of parliament. Ensuring the inclusion of representatives of all the major clans in parliament has been crucial, as parliament selects the president, who appoints the prime minister, who in turn appoints all the other ministers. The president and the prime minister always come from different clans (with the two positions alternating between the Darood and the Hawiye), as does the speaker, and clan identities are a consideration in distributing positions within the Council of Ministers, as well as other senior positions broadly across government. Clan and sub-clan identities are also considered in the composition of key offices in the FMSs and at the local level, in those cases where several (sub-)clans reside in the same territory (Somali Dialogue Platform 2023a). Overall, clan elders have a crucial role not only in resolving intra-clan disputes, but also in nominating clan representatives to all key state institutions and hence wield significant power within clan structures.

Post-independence constitutional practice

Somalia's 1960 Independence Constitution established a parliamentary democracy with no reference to clan-based representation. Two competitive general elections were held under that constitution: one in 1964, which resulted in a change of government, and one in 1969. The highly fragmented system of political parties, together with an electoral system that enabled many rapidly formed smaller political parties to win seats, meant that the largest party had to negotiate with others to form a coalition government. The largest party after the 1969 elections, the Somali Youth League, was not allowed to form such a coalition, however, because a left-wing faction of the army led by Barre staged a coup and suspended the constitution. In 1979, the military junta proposed a new constitution with a presidential system, and organized a popular referendum to endorse it. This allowed Barre to continue in power as a civilian president. What followed was a military authoritarian regime that, while it formally outlawed clan politics, over time heightened clan-based political

consciousness due to the regime's dependence on the president's clan alliance and its attacks on other clans that were seen as providing a constituency for rebel forces—especially those in today's Somaliland.

When the authoritarian regime collapsed under pressure from clan militias in 1991, Somalia descended into anarchy and tens of thousands of Somalis left the country or moved from their urban base to their clan 'homelands', leading to a major territorial reconfiguration of the population. Somaliland unilaterally declared independence in May 1991. Mogadishu was overrun by warlords, mostly leading to fights along either Hawiye or Darood clan lines, as well as within each clan. Puntland was formed and declared its autonomy in 1998, principally as a confederation of the Harti sub-clan of the Darood clan. In other regions, de facto politically autonomous clan and sub-clan groupings governed themselves using customary law (*xeer*) and sharia law (Mahdi 2012; Peterson and Zaki 2023). Given how some clans have succeeded in instrumentalizing these laws to build resilience in the face of state failure, some scholars have called for their explicit recognition as building blocks for a sustainable nationwide social contract (Notten 2005; International IDEA 2018; Somali Dialogue Platform 2023a).

Provisional Constitution of 2012

Somalia adopted a Provisional Constitution in 2012, following a series of negotiations that featured changing actors and shifting loyalties over almost a decade (Heritage Institute for Policy Studies 2017). Adoption of a constitution was anticipated in and pursued under the 2004 Transitional Federal Charter (TFC), which established the first internationally recognized transitional federal parliament. Its 275 representatives were selected based on clan representation as a peacemaking solution, using the 4.5 formula (Somali Dialogue Platform 2023a). The four major clans were allocated 60 representatives each and the minority clans together had 35 seats (Samuels 2007–2008: 598). Women were allotted 12 per cent of the seats (article 29). The TFC provided for an independent federal constitution commission (article 11.5), which was established in 2006 with a mandate to draft a constitution within two years. The commission had 15 members, 13 of whom were appointed according to the same 4.5 formula, as well as two women (Samuels 2010). In this period of volatility, its work was paused until 2010, when a reconstituted commission with an additional 15 members issued a 'Consultation Draft Constitution' (Heritage Institute for Policy Studies 2017), which was more of an options document for public consultation. Meanwhile, several self-extensions of the terms of the transitional parliament led to new negotiations among political elites, which resulted in an agreement in 2011 between the President of the Transition and the Speaker of the Transitional Parliament (Kampala Accord 2011). This agreement postponed planned presidential elections and required the formation of a government in line with the 4.5 formula. The Kampala Accord sought to stabilize government enough to allow the adoption of a new constitution and the formation of a new government. Subsequently, a committee of experts was established to enhance the expertise of and assist the Commission to prepare a final constitutional draft. The two bodies largely worked in parallel and produced separate drafts, which they later combined

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into a 'Harmonized Draft Constitution' and presented to the signatories of the Kampala Accord. In the meantime, stakeholders met in late 2011 and early 2012 in Garowe, Puntland, and agreed, in view of the impossibility of holding a referendum, that the constitution should be adopted by an indirectly elected constituent assembly. The signatories of the Kampala Accord discussed the Harmonized Draft and established a Technical Review Committee, which revised the draft and returned it to the signatories. They signed the revised draft in June 2012 and adopted protocols providing for the establishment of a constituent assembly of 825 local clan elders, broadly chosen using the 4.5 formula, as well as a Technical Facilitation Committee. The assembly was convened in July 2012 and the Facilitation Committee presented the draft constitution for its adoption as the Provisional Constitution of Somalia in August 2012 (Heritage Institute for Policy Studies 2017: 4).

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Beyond the clan system, the existence of a relatively organized government in Puntland strongly incentivized those responsible for drafting the constitution to opt for a federal arrangement. Indeed, the 2004 Charter itself was a result of the insistence of Puntland, which consistently indicated that it would only remain part of Somalia on condition that it was organized as a federation. Nonetheless, disagreements on issues related to the particular design of the federal system meant that the draft remains incomplete. It recognizes 'Existing Federal Member States in Somali' (article 142), which effectively only refers to Puntland, and establishes a procedure for the formation of additional FMSs (article 49). The incomplete nature of the Constitution and the impossibility of holding a ratifying referendum as originally anticipated meant that it was adopted as a *provisional* document to be completed in a subsequent review process.

Accordingly, the Provisional Constitution provides for the establishment of an Independent Constitution Review and Implementation Commission, which reports to a parliamentary oversight committee, to prepare a draft permanent constitution for submission to parliament. However, the formal review process has advanced only intermittently, due to political dynamics linked to the selection of presidents and prime ministers, the complex relations between Puntland and the federal government and initial delays in the formation of new FMSs. The Provisional Constitution authorizes the federal government to oversee the establishment of other FMSs based primarily on the merger of pre-1991 administrative regions (article 48). Four FMSs have been established: Jubaland in 2013, Southwest state in 2014, Galmudug in 2015 and Hirshabelle in 2016. The only pre-1991 region that has not been formally included as part of an FMS is the Banadir region, which includes Mogadishu. This is currently administered by officials appointed by the federal authorities. All the FMSs have formally established executive and legislative bodies through sub-clan- and clan-based indirect elections. Some continue to face tremendous challenges, notably Hirshabelle, as discussed below.

After 2022, an informal, extra-constitutional body known as the National Consultative Council (NCC), made up of the federal president and the presidents of the FMSs, was made responsible for reaching agreement on

key constitutional issues. Chief among these were the structure of the federal judiciary, which was agreed in December 2022; principles for the allocation of competences in the federation, which were agreed in December 2022; a model for the security forces, agreed in March 2023; and resource-sharing principles, which were agreed in March 2023.

Formally, the amendment procedure in the 2012 Provisional Constitution requires amendments to be adopted by broad political and public consensus, which entails public consultations and democratic decision making. In practice, many decisions are made through informal processes that emphasize discreet, often fragile, deal making that mainly involves executive leaders at the federal and FMS levels, such as the NCC. Because of the informal nature of these arrangements, disagreements between the federal government and the FMS have also undermined progress on constitutional reform. In March 2024, for instance, the NCC announced agreement on a presidential system of government. While the federal parliament subsequently adopted the proposed system of government (Hassan 2024), this is not yet formally part of the constitution, as the amendment process requires further steps, arguably including a referendum (article 132(10)). Puntland, however, rejected the agreement and publicly announced that it would cease to recognize the incumbent federal government (Reuters 2024).

From the above, it is obvious that, despite efforts to build workable political institutions through dialogue, the development of binding constitutional rules and practices has suffered from interruptions and vacillation. These challenges can be attributed to a general suspicion of constitution-making projects, and of political systems that might lead to centralization or that could benefit some but not all social groups in Somalia (Tripodi 1999).

Local governance

The 2012 Provisional Constitution established a Somali state with two levels of government: the federal and the FMS levels (article 48(1)). FMSs, in turn, comprise an FMS government and local government structures (article 48(2)).

Prior to 1991, the Somalia government was highly centralized and hierarchical. However, various regions have served as a basis for the formation of FMSs and districts, the number of which have changed over time. Prior to the 1969 coup, the central government appointed the mayors (administrators) of regional and district governments, which existed alongside the elected regional and district councils that oversaw the operation of regional and district government. The central government could also dissolve these local councils (Davies et al. 2023). After the coup, Barre disbanded the elected councils and replaced regional governors and district commissioners with military-run regional and district revolutionary councils. He increased the number of regions to 18 and the number of districts to more than 70, while also deliberately ensuring that the boundaries ignored clan settlement patterns to reduce the influence of clan loyalties (Davies et al. 2023). In practice, the level of centralized control, the authoritarian nature of the government, persistent conflict, and humanitarian and other exigencies meant that the regions and districts enjoyed neither

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practical autonomy nor legal protection, and were inadequately resourced. Today, local governance systems have evolved differently in different places and while the regions and districts have some historical resonance, clan dynamics and religious armed movements have diluted their practical importance.

In 2016, the federal government adopted the non-binding 'Wadajir Framework' to guide the creation of district government across the country.

The federal government is not constitutionally mandated to form local government structures such as district, town or local councils. The 2012 Provisional Constitution (articles 48(1)(b) and 49(4)) recognizes local government as part of FMSs, creating some potential for innovation and diversity in their structure and composition. However, the number of districts established by FMSs and their boundaries are subject to the approval of the House of the People (article 49(4)). In 2016, the federal government adopted the non-binding 'Wadajir Framework' to guide the creation of district government across the country. A national local government framework law had been adopted in 2013 (Law No.116 of 2013; Davies et al. 2023), which has wider reach and provides for the boundaries and types of local government, including at the regional and district levels, and the principle of equitable access to public services. The 2013 law also provides for direct election of regional and district councils, and requires the establishment of new regions and districts, largely based on the number of villages (for districts) and districts (for regions), alongside a minimum population size (Davies et al. 2023). Under the law, regional and district councils appoint mayors and regional governors, as well as district and regional police commanders, security commanders and district attorneys. The law anticipates key roles for clan leaders and national parliamentarians from the relevant area in the process of forming district and regional councils. It also outlines the mandate of district and regional governments, including on taxation.

FMSs, however, have resisted the 2013 federal law on the grounds that determination of the structure of regional and district governments is within their mandate, and that the law was adopted before the formation of some of the FMSs. This resistance may be the reason why the Wadajir Framework avoided dealing with regions, and is also non-binding. Nonetheless, the law is technically still applicable and the Wadajir Framework complements, rather than replaces, it. At the same time, however, FMSs, including Galmudug and Hirshabelle, as discussed below, have adopted local government laws to regulate the formation, mandate, structure and composition of local government in their areas.

The Wadajir Framework recognizes communal reconciliation as an element of local government formation and function. It sets out a community-led process for the formation of representative administrations in district councils and outlines four components: social healing, peace dividends, civic dialogues and local governance through elected district councils, all of which have proved complex and problematic in view of the broader political context of a weak state unable to stem conflict and secure the rule of law over transactionalism. There is therefore recognition in formal government policy of the need for, or reality of, community-owned district and local councils. Despite its goals,

however, the Framework appears to lack broad ownership and is seen as a donor-driven initiative (Davies et al. 2023).

These federal-level instruments⁴ coexist with the general understanding that the structure and boundaries of local government should be left to FMSs. The Provisional Constitution provides for the sharing of revenue between the federal and FMS governments based on their agreement (article 54), but does not specifically discuss how FMSs would distribute the resources they receive from the federal government to local government. It is therefore not clear how the constitutional empowerment of FMSs regarding local governance coheres with federal legal and policy frameworks.⁵ In practice, despite the level of standardization expected based on federal (and FMS) local government law and policies, there are variations in the structure and operation/functions of local government both among and within FMSs, partly because some of the local governance structures pre-date the FMSs and even the federal government. FMSs have in certain areas appointed local governments—there are no elected local councils, apart from a few in Puntland—and in significant parts of the country FMSs have little control over their territory or local governance structures (Davies et al. 2023).

A second background issue is the resilience of informal or clan-based authorities in local spaces, where the very idea of the Somali state is contested. In these contexts, there has been a call for the federal and FMS governments to recognize and work in coordination with, rather than seek to replace, local structures that have emerged organically, at least until they have sufficient capacity and resources to readjust local government systems based on public inputs, while seeking ways to set up new ones where they are absent—especially in cases where areas are liberated from Al Shabaab (Davies et al. 2023).

The Provisional Constitution does not specifically discuss how FMSs would distribute the resources they receive from the federal government to local government.

2. MULTI-LEVEL GOVERNANCE IN GALMUDUG AND HIRSHABELLE

Galmudug

Galmudug state was established in 2015, following the adoption of an interim constitution on 28 July 2015 by around 800 representatives drawn from 11 clans and sub-clans. The state constitution recognizes the status of Galmudug as a member state in a federated Somalia (articles 1 and 6 of the 2015 State Constitution of Galmudug). Galmudug is one of the smallest FMSs in Somalia,

⁴ There is also a National Decentralization Policy drafted by the Ministry of the Interior, Federal Affairs and Reconciliation, but it is not clear whether it has been officially adopted by the Council of Ministers. The policy mainly focuses on capacity building of local government and coordination among local governments and with the FMSs and federal government. The policy can be accessed at: <<https://moifar.gov.so/wp-content/uploads/2022/12/POLICY-FRAMEWORK-FOR-PARTICIPATORY-FEDERALISM-AND-DECENTRALIZATION-IN-SOMALIA.pdf>>, accessed 10 March 2025.

⁵ Proposed amendments to the law, agreed in 2019 between the FMSs and the federal government, adjusted key aspects by removing provisions on regions and key mandates of local government regarding taxation. These amendments have not yet been adopted. Like the lack of broad ownership of the Wadajir Framework, the impact of the federal stipulations on regional and district governance is perhaps limited.

comprising one and a half pre-1991 regions: Galgadud and about half of Mudug. Clan affiliations mean that the other half of Mudug is in Puntland. Galmudug is dominated by the Haber Gedir sub-clan of the Hawiye clan but it also has a sizable Darood population and a smaller community from the Dir clan. In 2015, the state had 10 districts based on pre-1991 boundaries: seven from Galgadud and three from Mudug. The state constitution largely leaves the establishment of new regions and districts to the Galmudug government, subject to the approval of the Galmudug legislative council (articles 1 and 6 of the 2015 Constitution of Galmudug).

The Galmudug government enacted a local government law in 2017 (Law No. 4 of 2017). This law empowers the Galmudug Ministry of the Interior to establish local government councils, with the authority to tax local businesses and provide local public services. The law provides for directly elected local district councils, the size of which varies according to the population of the area. However, no elections have yet been held and members of these local councils are mostly selected based on agreements between sub-clans—small groups of clan elders indirectly select candidates from clan nominees. The Ministry of the Interior established the first local government council in Galkayo, the state capital, in 2020, after a three-year delay. Selection of members of the council was delayed by six months due to clan disputes (Yusuf 2023). The formation of a second local administration in Adaado in 2022 took less time, as did the selection of members of the body, as clans had a pre-existing agreement on representation. This pattern of delays in some areas, contrasting with rapid advances in others, highlights the importance of pre-existing inter-clan agreements developed through local initiatives (Yusuf 2023).

By the end of 2024, Galmudug had increased the number of districts to 19 without increasing Galmudug's territory: 12 in Galgadud and 7 in Mudug. It is unclear whether the new districts were created in line with the relevant laws or how they redraw existing boundaries. Moreover, at least three districts—Ceel Bur, Masagawaay and Ceel Dheer in Galgaduud—have been under Al Shabaab control since 2023 (Somali Public Agenda 2024).

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The motives for the creation of new districts include the will to accommodate local demand and the prospects of influencing representation in the federal legislature. The 2012 Constitution stipulates that the number of members of the House of the People elected from constituencies is to be determined by the National Independent Electoral Commission (article 111G(2)(e)). However, it does not determine the number of representatives to be elected from each FMS. In this context, in addition to responding to local dynamics, the creation of new districts can be used to negotiate a higher number of representatives, especially for a relatively small FMS such as Galmudug or Hirshabelle. As noted above, however, the number and boundaries of districts determined by each FMS must be approved by the federal House of the People, partly to control the opportunistic creation of new districts for use as a bargaining chip for federal representation. Moreover, guidelines in the 2013 local government law and other federal instruments set out requirements for the formation of districts, which should contribute some level of coherence across FMSs.

The process of forming districts and organizing direct elections for district councils remains contested, particularly due to clan disputes and the lack of social reconciliation efforts (International Crisis Group 2023). Rival sub-clans sometimes compete to establish parallel district administrations and local government councils, due to contests over power sharing (Abdi Elmi 2024). Some of the minority sub-clans, for instance, have criticized the process by which Galmudug was formally established, a situation that might have accentuated clan-based competition over sharing power and resources. In addition, where local councils were established by the Galmudug Ministry of the Interior, inter-clan rivalry has often been a destabilizing factor for local governance. Interviewees reported improper and erratic implementation of legislation. Furthermore, the Galmudug government's ability to manage its territory has been further constrained by the operations of an armed Sufi group, Ahlu Sunna Waljama'a, which was originally established to counter Al Shabaab but subsequently sought formal power in Galmudug and even in federal institutions (Abdi Elmi 2024).

These inter-clan rivalries and challenges from armed groups operate against a background of mediation and arbitration practices rooted in traditional mechanisms. Traditional institutions have been used to prevent or settle disputes at little cost, especially compared to the alternative of violent conflict. These customary laws and institutions also deal with other facets of functional cooperation within and between clans and sub-clans by establishing stable lineage groups within them. Furthermore, local businesses and other organized groups often appear to resort to clan institutions to protect their affairs, enforce contracts, facilitate business transactions and settle their disputes and conflicts, once again demonstrating the resilient power of clan institutions in local governance spaces (Abdi Elmi 2024).

Alongside customary law, both state officials and clan leaders use sharia law. The role of Islamic scholars reinforces the power of the state (Abdi Elmi 2024). Islamic scholars often interpret official actions or test their concordance with Islamic norms, and can issue fatwas (religious interpretation) endorsing or rejecting such actions (Abdi Elmi 2024). Informal agreements among clan and political leaders regulate evolving power-sharing arrangements in local councils. It is unclear how such power-sharing arrangements are concluded but their effects validate extra representatives in local government councils above the numbers expected by legislation. For instance, Dhusamareb and Galkayo (south) had local councils with more than the formally designated number of seats: 33 council members in Dhusamareb and 29 council members in Galkayo (Somali Public Agenda 2024). Apparently, state government officials appointed the extra members either in response to community demand for inclusive local councils or to respect pre-existing communal power-sharing agreements (Somali Public Agenda 2024).

In addition to the continued significance of customary law, sharia law and inter-clan/sub-clan pacts, the research highlighted an additional dimension related to overlapping governance in local spaces that involve the federal government. In particular, the federal government is directly involved in combating jihadist

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and other groups within the state. One consequence of this is that both federal and FMS officials are closely engaged in local government affairs, especially in the selection of representatives. This sometimes means that federal government officials attempt to impose on or otherwise manipulate clan elders regarding the selection of local, district- or state-level representatives, which is beyond their mandates under formal legal frameworks. Federal and FMS efforts overlap and compete with clan authority in its own sphere. Furthermore, federal and FMS officials engage directly in tax and revenue collection and allocation functions, which arguably usurps the legal roles of district and local bodies outlined in local government law, mirroring efforts by clan leaders to control representation in local government for similar reasons.

Overall, in practice, despite the existence of formal local government frameworks, local government powers and responsibilities appear to be exercised by a maze of state, federal and local government and traditional institutions and personnel. This maze of entities may in part be due to the limited role of formal law in shaping decisions and politics in Somalia, especially at the lower level, the limited capacity and legitimacy of local government and its inability to assert its autonomy. This in turn is partly connected to the fact that state and federal authorities are involved in the appointment and funding of local government, which provides channels for informal influence.

Hirshabelle

Hirshabelle state in southern Somalia was established in October 2016. The Hawiye constitute a majority in the state. Alongside Galmudug, it is one of the smallest FMSs, comprised of the pre-1991 regions of Hiran and Middle Shabelle. Hirshabelle also surrounds the Benadir region, which includes Mogadishu, increasing the stake of the federal government in the state's operation.

This FMS had controversial origins and interviewees underlined a pervasive understanding that then federal president Hassan Sheikh Mohamud pushed for the state's creation as part of his bid to retain power (Mohamud 2024). The contestation emanating from this genesis spurred new, overlapping conflicts, which still continue. One of these conflicts was a push by an influential Hawadle sub-clan of the Hawiye for greater territorial autonomy in the Hiran region (Mohamud 2024). Another was an ongoing power struggle with the incumbent state president, as a result of which local militia blocked federal presidential visits to the Hiran region (Somali Dialogue Platform 2023b; Abdi Elmi 2024). At the heart of these struggles was residual bitterness regarding differences over an informal agreement dating back to the state formation period. Ostensibly, this agreement had awarded the state presidency to the Hawadle sub-clan, the deputy presidency to the Abgal and other Hawiye sub-clans, and the positions of interior and finance minister to the marginalized Shidle of the minority Jarerweyn group, respectively (Heritage Institute for Policy Studies 2020). In particular, the Abgal in the Middle Shabelle region believe this allocation of positions applied only to the first term of state government following the deal, and they took over the presidency of the region,

while the Hawadle (mainly in the Hiran region) believe it was a continuous arrangement.

The field research suggests that Hirshabelle state is dysfunctional, mainly due to the problems encountered during the state formation process (Somali Dialogue Platform 2023b). At the time of the research, the state government's budget depended on foreign aid, since only meagre revenue could be derived from taxing the *khat* trade, local transportation and small-scale vendors of livestock and other agricultural products. Despite this, the state government was top-heavy with more than 80 ministers, deputies and state ministers (Hiiraan Online 2022). This makes it the largest administration of all the FMSs, which highlights the emphasis on co-opting successive claimants among the clans and sub-clans. Moreover, residents in the eastern Middle Shabelle region have suffered perennial bloody conflicts among the sub-clans (*Horn Observer* 2023), while Al Shabaab insurgents continue to occupy large parts of the south. Corrupt military officials and clan militias were another problem that caused insecurity, particularly from unlawful fee collection at roadblocks on the major roads linking the state to Mogadishu (*Horn Examiner* 2023). The state's legislature has been ineffective. Since 2016, other than budgets, it has only passed the 2018 local government law, which focused on reviving elected district councils based on the those that existed prior to 1991. This law became a priority, as the establishment of stable local districts had been suggested as a way to enhance reconciliation, empower marginalized sub-clans and provide a framework for better fiscal decentralization processes (Somali Dialogue Platform 2023b).

Despite the adoption of the local government law, establishing district and local councils has been a very slow process and little of practical value has been achieved (Mohamud 2024). Before 2022, Hirshabelle formally had 12 districts—seven in the Middle Shabelle region and five in the Hiran region—based on pre-1991 boundaries. Eight new districts were approved between 2022 and 2023, formally increasing the number of districts to 20 (Somali Public Agenda 2024). There is a lack of clarity on the boundaries of the new districts, which were of necessity carved out of the existing districts. District formation was initiated by the Hirshabelle interior ministry, and the establishment and staffing of relevant structures were supported by non-governmental organizations (NGOs) such as the Somalia Youth Development Network (Somali Public Agenda 2024), as well as other external partners which also lobbied to increase the representation of women in district institutions (Finn Church Aid n.d.). District representatives were selected by indirect voting as recently as in January 2024, meaning that seats were distributed between clans using their own power-sharing formulas. The number of local councils that have been established and are operational is unknown.

Notwithstanding the formal number of districts, only Jowar district in the state's capital was fully under the Hirshabelle administration's control at the time of the research, as a result of which the district enjoys little autonomy from the FMS government. In Jowar, the Hirshabelle finance ministry has overseen tax collection and allocated the revenue to cover the

The field research suggests that Hirshabelle state is dysfunctional, mainly due to the problems encountered during the state formation process.

state government's costs, as well as the allowances of the Middle Shabelle regional governor and district commissioner, their deputies and the police commissioner. Interviewees observed that this practice conflicts with the local government law, which provides for local councils to collect taxes according to the budgets approved at the district level. Functioning districts in the Hiran region and other district councils in the Middle Shabelle region enjoy de facto autonomous power, separate from the FMS, and Al Shabaab does not tolerate any formal local government formation in the territories it controls. Autonomous districts, which seem likely to operate according to customary and other informal norms, manage their own revenues and expenditures, and presumably use these as they deem fit.

At the time of the research, the selection of representatives for district councils was ad hoc, despite the passage of the Hirshabelle local government law. Respondents cited the Warsheek council, where the mandate of representatives lapsed in 2023. The Hirshabelle interior ministry organized indirect elections in January 2024 using power-sharing formulas previously agreed by clan elders, and the same individuals who had previously held council positions were retained (Mohamud 2024). At the same time, the power-sharing formula is quite flexible. For example, the long-delayed formation of the district council in Jowar was resolved in 2023 after the Hirshabelle president proposed an amended formula that created additional seats to meet clan and sub-clan demands (Somali Public Agenda 2024).

In the absence of a common vision of the state or an adequate common economic base, clans focus sharply on territorial control.

Hirshabelle state's inherently unstable political settlement, coupled with the penetration of extremist armed groups into its territory, has created highly fractured loyalties in terms of local governance. Respondents described a maze of clan-based disputes that pitched dominant Hawiye sub-clans against marginalized Jarerweyne and minority Dir sub-clans, but also some minority Hawiye sub-clans, in protracted struggles to control aspects of local governance, as well as the few resources Mogadishu sent to combat jihadists, which were partly diverted to buy patronage (Mohamud 2024). In the absence of a common vision of the state or an adequate common economic base, clans focus sharply on territorial control. At the time of the research, the Abgal asserted significant control over the Middle Shabelle region, and the Hawadle, another sub-clan, dominated the Hiran region. During the research, the Hawiye sub-clans occupied all senior positions in the FMS government, such as the president, deputy president, interior minister, financial minister and military commanders. In the district council formation processes, these clans always claimed the highest quotas of representatives, fuelling conflict and delays. For instance, the formation of the Jowar district council began in 2019 but was delayed for five years due to disputes over representation quotas. Jarerweyne groups with minor power-sharing benefits also lost out on access to revenue and other resources.

The state constitution formally establishes a judicial framework to deal with these complex disputes, but it is largely inoperative. This is due, in part, to polarization, which denies political actors any opportunity for the deliberation and compromise required to agree on the structure and composition of

judicial institutions. In the absence of formal dispute resolution mechanisms, interviewees noted the influence of clan militias and the people's preference for expedited informal proceedings and clan-enforced judgments. Hirshabelle officials sometimes engaged with Islamic educators to clarify that the government's actions were in accordance with sharia law and to conciliate warring clans.

In addition to state government officials, clans, militias and jihadists, NGOs are also present in local government spaces. A few NGOs lobbied for involvement in district council development, but most mainly provide humanitarian and social assistance. Nonetheless, as Mohamud (2024) notes, civic organizations, including women's and youth organizations, play no role in Hirshabelle state's local administration because the state government disregards them. In particular, respondents asserted that state officials disregarded the comments, recommendations and critiques made by NGOs on the consultation process for the drafting of the Hirshabelle local government law. This may be due to the fact that NGOs advocate for transparency and accountability in local government (Mohamud 2024).

Overall, Hirshabelle faces similar local governance dynamics to Galmudug, in the sense that formal legal prescriptions are largely inapplicable and clan/sub-clan relations largely determine the reach, nature and scope of local governance. The lack of institutionalization in local governance, however, is more pronounced in Hirshabelle due to the weakness of the FMS government. Moreover, Al Shabaab controls a larger proportion of the state than in Galmudug, which further limits the reach of the FMS and its local government framework.

3. COMMON FEATURES OF LOCAL GOVERNANCE DYNAMICS IN HIRSHABELLE AND GALMUDUG

Some common patterns can be discerned from comparing the two FMSs.

Absence of a political settlement. Hirshabelle and Galmudug have a shared history of rushed state formation. Their constitutions do not appear to reflect, and may have actually prevented the emergence of, stable political settlements. The two states are also encumbered by serious and at times violent contestation without regular channels for narrowing differences. Hirshabelle appears particularly unable to function properly. As a consequence of the relative weakness of the two FMS governments, despite some efforts to establish symmetrical/standardized formal structures, the process of forming and operationalizing regional, district and other local government entities has been slow, informal and contested.

Formal frameworks are not determinative. Legislated procedures for establishing district and local councils are not determinative. In their efforts to control local governance spaces, state government officials often rely on

In addition to state government officials, clans, militias and jihadists, NGOs are also present in local government spaces.

Hirshabelle and Galmudug have a shared history of rushed state formation.

a combination of formal laws, customary law and sharia law. Customary law and clan-based politics largely shape the fate and operational modality of formal local governance institutions, although formal law also seems to shape clan dynamics. On substantive issues, in most parts of Somalia customary law and sharia dominate, while formal laws (national, FMS and local) have limited, if any, relevance, although there is a significant formal government presence in Mogadishu and some other major urban centres. In particular, clan-based negotiations at the local level take place with a view to filling positions in formally established entities, such as district councils and other offices. Local government structures also seem to provide predictable platforms for negotiations between clans or sub-clans. In addition, although clan-based political representation is dominant, for some formal laws provide the vocabulary for demands for directly elected councils, thereby reducing the influence of clan leaders. Overall, local government laws and frameworks—both federal and FMS—appear to both shape and be shaped by clan dynamics and customary laws.

Local council representatives are regularly installed indirectly following informal clan-based agreements reached outside of the procedures outlined in local government law.

Clan-based representation. Local council representatives are regularly installed indirectly following informal clan-based agreements reached outside of the procedures outlined in local government law. Moreover, disagreements over representation, often occasioned by dominant clans incessantly demanding higher quotas, are usually resolved through informal negotiation. The predominance of local clan dynamics means that the nature and operation of local governance arrangements vary. Even where the structure of local government appears to be based on local government law (e.g. formally established district councils), clan negotiations are critical in defining the composition of legislative bodies, often based on power-sharing formulas. Clans make decisions through drawn-out dialogues, consensus building and transactional approaches. There are recurrent negotiations and renegotiation between clans and sub-clans to reconfigure representation in district and local councils. As informal deals, these agreements are not legally binding. This agreement-making activity highlights the potential for clans to construct and reconstruct relatively stable political relations, partly anchored in predictable customary law and sharia law. Nonetheless, while this constant renegotiation among clans allows flexibility and adaptability, it can also be suboptimal for the functioning of local government, and may even be destabilizing to the existence, scope of functions and operation of local governance frameworks.

Derivation of clan leaders' authority. Customary law does not vest clan leaders with the authority to control formal local government institutions. The de facto authority of clan leaders is an attribute of their leadership role in clans. Customary practices and conventions are followed to extend the role of clan leaders to local government, according to the shared understandings of each community. At each level, starting from families to sub-clans, clans and clan groups, elders select individuals to arbitrate disputes in some instances and lead political decision making in others (Abdi Elmi 2024). The various roles can overlap and can be complex, linked in part to the range of honorary leadership titles in Somali society (Hussein 2018). The practice of overlapping authority that arises from clan leaders' indirect control of state institutions differs

according to varied local government dynamics, depending on the nature of clan leadership and the strength of the clan, as well as the extent of the institutionalization of formal state organs.

Stabilizing fluid clan dynamics. Local sub-clan identities are relatively fluid, which engenders constant processes of negotiation and renegotiation at the district and lower levels. In this context, customary law aids efforts to stabilize clan and sub-clan identities in two ways. First, it provides predictable guidance for sharing obligations, with which most ordinary people are familiar, such as on the regulation of compensation for wrongs committed by individual clan members. Moreover, under customary law, these obligations are collective for a group of men from a lineage based on patrilineal fatherhood (Abdi Elmi 2024).⁶ Second, clan elders have the authority to settle disputes within and between sub-clans, following customary law. Such disputes range from contract to family law and criminal law. Consequently, clan elders have roles they can leverage to solicit support for legal and political unity within and across clan groups (Abdi Elmi 2024). Since clans often have their own militia, it is likely that a coercive element is present in this political role of clan leaders (Day 2020).

Clans simultaneously leverage and constrain formal local governance frameworks. Clan leaders use their positions with some ingenuity to entice their clans to maintain unity in the expectation that they can secure benefits for the group from formal institutions. In particular, clan leaders have incentives to control formal local government institutions for the patronage and material resources that follow. The authority of FMS officials to appoint members of district councils provides opportunities to strengthen the prerogatives of clan leaders because they expect the council members to remain loyal to them. Moreover, achieving higher levels of representation in local governance councils has the significant symbolic value of demonstrating the demographic majority status of a group in a territory and the coercive domination with which this status is associated—even if only as a matter of perception (Somali Public Agenda 2024).

Even as clan leaders leverage benefits from formal governance structures, it is in their interest to restrict the encroachment of the formal government apparatus into local spaces, where clan leaders can maintain and reinforce their authority without the constraints of formal law. These conflicting interests mean that clan leaders seek to support, control and restrain the ambit and effectiveness of state institutions in order to preserve their own control over clan members and territories.

Federal and FMS officials leverage and at times destabilize clan dynamics. Similarly, federal and FMS officials have interests in leveraging, controlling and sometimes manipulating clan-based dispensations in local government. In both Galmudug and Hirshabelle, state officials have sought or agreed to power-sharing alliances among clan elders to stabilize the environment

Clan leaders use their positions to entice their clans to maintain unity in the expectation that they can secure benefits for the group.

⁶ The flipside is not only that women are excluded and discriminated against, as non-duty bearers of common obligations of compensation, but also that, through the lens of tradition, it is difficult for clans to understand the aims of gender equality.

sufficiently for them to collect taxes, even from a small economic base. In fact, state officials, including those appointed through clan representation, have become the primary beneficiaries of taxes in both FMSs, in addition to their role as gatekeepers for any federal transfers. State formation in Galmudug and Hirshabelle, moreover, was hastened by the alliance-building needs of federal politicians, although the transactional approaches have entrenched unstable political arrangements in the state constitutions. Transactional practices persist, whereby state and federal officials intervene in the selection of clan leaders in return for securing their choice of legislators and endorsement of other officials at the federal level (Abdi Elmi 2024). Consequently, some traditional leaders cite government-issued identification cards as evidence of their legitimacy and authority (Mohamud 2024). These leaders appear to be instrumental in enabling officials to influence the selection of representatives in local, state and federal legislative assemblies (Somali Public Agenda 2024). Transactional alliance building of this kind obscures the authenticity of clan and sub-clan leaders, and fuels factionalism, thereby increasing intra-clan group rivalry.

4. RELATIONSHIP BETWEEN OVERLAPPING LOCAL GOVERNANCE AND CONSTITUTIONALISM

Since 2012, the promoters of state-building projects in Somalia have tried to establish a formal constitutional order founded on constitutionalism and primarily anchored in individual rather than group identities. This order seems to seek to reinstate the formal constitutional arrangements that emerged between independence and 1969, within a new system of multi-level federal governance.

Nation-, state- and constitution-building processes in Somalia continue to face challenges from a resilient system based on clans and sub-clans, customary practices and sharia law.

Despite these constitutional ambitions, nation-, state- and constitution-building processes in Somalia continue to face challenges from a resilient system based on clans and sub-clans, customary practices and sharia law. Hybrid practices appear to be flourishing, in relation to the intersection of the formal and informal at local levels. The clan leaders who have de facto authority based on traditional rules and practices, as well as the 4.5 rule on clan representation, appear able to continue to shape and modify the operation of the formal legal framework on local governance. Dynamics at the local level demonstrate that the construction and implementation of any constitutional framework is an elusive undertaking. Proponents of constitutional formalization or codification in Somalia should acknowledge this and seek to address it.

At the local level, many view the federal constitution and institutions, and even FMS institutions, with suspicion, as obscuring clan-based conflict management rationales and as seeking to impose a universalizing approach to governance and conflict resolution that is unsuited to local realities (and power struggles). Moreover, even for those local actors that perceive constitutionalism as having the potential to maximize local interests against national encroachment,

mistrust of the federal and FMS officials and stakeholders responsible for negotiating the final constitution runs deep. This lack of trust is enhanced by the inability of formal state structures to deliver basic services, such as safety and security, and therefore prove their practical value.

To put these dynamics in perspective, however, state formation and strengthening processes are highly complex, can have unpredictable roadmaps and can take a very long time (see Tilly 1975). Somalia has undergone notable changes in the past 20 years, in particular since the adoption of the 2012 Provisional Constitution, albeit slowed by instability and violence. Alongside the establishment of federal state institutions, although still with limited reach, Somalia has seen the emergence of FMS and FMS institutions, as well as local government councils, partly buttressed by clans and sub-clans with an interest in expanding their power and patronage bases at all levels of government. The dilemma lies in the fact that the new structures offer some individuals and clans the opportunity to instrumentalize state institutions to enhance their own political power and influence. This represents a further incentive for clan leaders to keep state institutions weak and unaccountable to prevent them from becoming rivals to their own power. The question then arises whether local communities will build on their mistrust to change political dynamics from the bottom up.

Somalia has undergone notable changes in the past 20 years, albeit slowed by instability and violence.

REFERENCES

- Abdi Elmi, H., 'Constitutionalism in contexts of invisible and multi-level governance: Galmudug', Background paper for this case study (2024), unpublished
- Agreement between the President of the Transitional Government of Somalia and the Speaker of the Transitional Federal Parliament of Somalia made in Kampala on 9 June 2011 (The Kampala Accord), <<https://unpos.unmissions.org/sites/default/files/110609%20-%20Kampala%20Accord%20%28signed%29.pdf>>, accessed 20 March 2025
- Carment, D., James, P. and Taydas, Z., *Who Intervenes? Ethnic Conflict and Interstate Crisis* (Columbus, OH: Ohio State University Press, 2006), <<https://kb.osu.edu/server/api/core/bitstreams/eb683888-7eef-5649-8d01-d977678f0e91/content>>, accessed 25 March 2025
- Davies, F., Jama, M. Y., Watanabe, M. and Bhatti, Z. K., *Local Governments and Federalism in Somalia: Fitting the Pieces Together* (Washington, DC: World Bank, 2023), <<https://documents1.worldbank.org/curated/en/099031224022529372/pdf/P1719741308f0a0851875a1d476daf78217.pdf>>, accessed 10 March 2025
- Day, A., *Hybrid Conflict and Hybrid Peace: How Militia and Paramilitary Groups Shape the Post-Conflict Transition* (New York: United Nations University, 2020), <<https://unu.edu/cpr/project/hybrid-conflict-hybrid-peace-how-militias-and-paramilitary-groups-shape-post-conflict>>, accessed 25 March 2025
- de Waal, A., 'Somalia's disassembled state: Clan unit formation and the political marketplace', *Conflict, Security and Development*, 20/5 (2020), pp. 561–85, <<https://doi.org/10.1080/14678802.2020.1820160>>

- Finn Church Aid, 'Promoting local governance in Somalia: Looking back, looking ahead', [n.d.], <https://www.kirkonulkomaanapu.fi/wp-content/uploads/2021/11/Somalia_LG_www.pdf>, accessed 25 March 2025
- Hassan, M. O., 'Somalia's parliament approves historic constitutional amendments', VOA, 30 March 2024, <<https://www.voanews.com/a/somalia-s-parliament-approves-historic-constitutional-amendments/7549916.html>>, accessed 25 March 2025
- Heritage Institute for Policy Studies, 'Somalia's parliament should produce a constitution by and for the people', Mogadishu, February 2017, <<https://www.heritageinstitute.org/wp-content/uploads/2017/02/Somalias-parliament-should-produce-a-constitution-by-and-for-the-people.pdf>>, accessed 20 March 2025
- , 'State of Somalia Report: 2019 Year in Review', Mogadishu, 2020, <https://8v90f1.p3cdn1.secureserver.net/wp-content/uploads/2021/01/HIPS_2020-SOS-2019-Report-English-Version.pdf>, accessed 25 March 2025
- Hiiraan Online, 'Hirshabelle parliament approves Gudlawe's 81-member cabinet', 4 August 2022, <https://www.hiiraan.com/news4/2022/Aug/187263/hirshabelle_parliament_approves_gudlawe_s_81_member_cabinet.aspx>, accessed 25 March 2025
- Horn Examiner*, 'Proliferation of illegal checkpoints in Somalia raise concerns of Al-Shabab resurgence', 12 June 2023, <<https://hornexaminer.com/proliferation-of-illegal-checkpoints-in-somalia-raise-concerns-of-al-shabab-resurgence>>, accessed 25 March 2025
- Horn Observer*, 'Scores dead as fierce clan-based fighting in Somalia's Middle Shabelle takes on fourth day', 20 July 2023, <<https://hornobserver.com/articles/2348/Scores-dead-as-fierce-clan-based-fighting-in-Somalias-Middle-Shabelle-takes-on-fourth-day>>, accessed 25 March 2025
- Hussein, S. M.-S. H., 'The Impact of the Role of Traditional Leaders on Political Governance in Somalia: Present Realist and Past Reflections', Somali Institute for Development Research & Analysis (SIDRA), November 2018, <<https://sidrainstitute.org/wp-content/uploads/2018/11/Traditional-Elders-Report.pdf>>, accessed 25 March 2025
- International Crisis Group, 'Avoiding a new cycle of conflict in Somalia's Galmudug state', Africa Briefing No. 193, September 2023, <https://www.crisisgroup.org/sites/default/files/2023-09/b193-somalia-galmudug-state_0.pdf>, accessed 11 March 2025
- International IDEA, 'Constitutional history of Somalia', ConstitutionNet, updated August 2018, <<https://constitutionnet.org/country/somalia>>, accessed 29 October 2024
- Mahdi, A., 'Customary dispute resolution in Somalia', *Africa Conflict and Peacebuilding Review*, 2 (2012), pp. 87–110
- Makinda, S. M., 'Clan conflict and factionalism in Somalia', in P. B. Rich (ed.), *Warlords in International Relations* (London: Palgrave Macmillan, 1999), <https://doi.org/10.1007/978-1-349-27688-2_7>
- Mohamud, A., 'Constitutionalism in contexts of invisible and multi-level governance: Hirshabelle', Background paper for this case study (2024), unpublished
- Notten, M., *The Law of the Somalis: A Stable Foundation for Economic Development in the Horn of Africa* (Red Sea Press, 2005)
- Peterson, B. and Zaki, M., 'Reforming Somali Customary Justice: Pathways to Adapting Xeer Procedures and Practices', Sababi Institute, 15 December 2023, <<https://kpsrl.org/sites/default/files/2024-02/Reforming%20Somali%20Xeer%20-%20Practices%20and%20Procedures.pdf>>, accessed 21 March 2025

- Reuters, 'Somalia's Puntland refuses to recognize federal government after disputed constitutional changes', 31 March 2024, <<https://www.reuters.com/world/africa/somalias-puntland-refuses-recognise-federal-government-after-disputed-2024-03-31>>, accessed 25 March 2025
- Samuels, K., 'Constitution-building during the war on terror: The challenge of Somalia', *New York University Journal of International Law and Politics*, 40 (2007–2008), pp. 597–614, <<https://constitutionnet.org/sites/default/files/Samuels%20Somalia.pdf>>, accessed 25 March 2025
- , 'An opportunity for peacebuilding dialogue? Somalia's constitution-making process', *Accord: An International Review of Peace Initiatives*, 21 (2010), pp. 86–89, <https://rc-services-assets.s3.eu-west-1.amazonaws.com/s3fs-public/Whose_peace_is_it_anyway_connecting_Somali_and_international_peacemaking_Accord_Issue_21.pdf>, accessed 25 March 2025
- Somali Dialogue Platform, 'The Role of 4.5 in Democratization and Governance in Somalia: Implications and Considerations for the Way Forward', Policy Brief SDP.03, 2023a, <<https://reliefweb.int/report/somalia/role-45-democratization-and-governance-somalia-implications-and-considerations-way-forward-may-2023>>, accessed 6 March 2025
- , 'Hirshabelle's Political Settlement: Opportunities for Meaningful and Inclusive Political Processes', Policy Brief SDP.01, 2023b, <<https://riftvalley.net/publication/hirshabelles-political-settlement-opportunities-for-meaningful-and-inclusive-political-processes>>, accessed 17 March 2025
- Somali Public Agenda, 'Understanding the Formation and Operation of Local Councils in Southwest, Hirshabelle and Galmudug States', Research Report No. 13, January 2024, <<https://somalipublicagenda.org/understanding-the-formation-and-operation-of-local-councils-in-southwest-hirshabelle-and-galmudug-states>>, accessed 25 March 2025
- Somalia Transitional National Charter, 2000, <<https://icric.gov.so/wp-content/uploads/2023/07/2000-ARTE-TRANSITIONAL-NATIONAL-CHARTER-2000.pdf>>, accessed 20 March 2025
- Tilly, C., *The Formation of National States in Western Europe* (Princeton, NJ: Princeton University Press, 1975), <<https://archive.org/details/formationofnatio0000char>>, accessed 26 March 2025
- Transitional National Charter of Somalia, 2004, <<https://constitutionnet.org/vl/item/interim-constitution-somalia-2004-2012>>, accessed 20 March 2025
- Tripodi, P., 'Back to the Horn: Italian administration and Somalia's troubled independence', *International Journal of African Historical Studies*, 32/2 (1999), pp. 359–80, <<https://doi.org/10.2307/220346>>
- Weitzberg, K., *We Do Not Have Borders: Greater Somalia and the Predicaments of Belonging in Kenya* (Athens, OH: Ohio University Press, 2017), <<https://doi.org/10.2307/j.ctv224txv2>>
- Yusuf, F. I., 'Decentralizing Taxation and Public Services to Local Governments in Somalia: Findings from Puntland, Galmudug, and Benadir', Somali Public Agenda Research Report No. 9, 2023, <https://somalipublicagenda.org/wp-content/uploads/2023/04/Decentralizing_taxation_and_public_services_to_local_governments.pdf>, accessed 25 March 2025

ACKNOWLEDGEMENTS

The authors prepared this case study within the framework of a research project on constitutionalism in contexts of invisible and multi-level governance, coordinated by International IDEA, as part of the Peace and Conflict Resolution Evidence Platform (PeaceRep) of the University of Edinburgh. It benefited from the deliberations at the December 2024 Edinburgh Dialogue on Constitution in Fragile States, which focused on constitutionalism in contexts of invisible and multi-level governance. The authors are grateful for the meticulous and constant guidance, brainstorming and helpful inquiries from Kimana Zulueta-Fülscher and Christina Murray. The authors also acknowledge the role of Hussein Abdi Elmi and Ahmed Mohamud for the background studies on Galmudug and Hirshabelle, respectively; and Nisar Majid for reviewing an earlier version of the case study. All remaining errors are ours.

ABBREVIATIONS

FMS	Federal member state of Somalia
NCC	National Consultative Council
NGO	Non-governmental organization
TFC	2004 Transitional Federal Charter

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This research is supported by the Peace and Conflict Resolution Evidence Platform (PeaceRep), funded by UK International Development from the UK Government. However, the views expressed are those of the authors and do not necessarily reflect the UK Government's official policies. Any use of this work should acknowledge the authors and the Peace and Conflict Resolution Evidence Platform.

Design and layout: International IDEA

DOI: <https://doi.org/10.31752/idea.2025.13>

ISBN: 978-91-7671-905-3 (PDF)



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