SOMALILAND ELECTIONS REVIEW REPORT

Somaliland Non State Actors Forum (SONSAF)

March, 2011

Table of Contents

Executive summary

The aim of this review is to evaluate the performance of the multi-party elections held in Somaliland in the last ten years. It focuses on assessing the compliance of Somaliland's electoral processes and practice with international and regional standards governing the conduct of elections. This task is urgent and important in light of Somaliland's upcoming Local Council, Legislative, and the overdue House of Guurti elections and the tensions that have surrounded the 2010 Presidential election process during the lead-in period.

The review covers four broad areas: the compliance of Somaliland's national law with international standards; the performance of all mandated institutions; the electoral process and its management; and electoral dispute resolution. With regard to the national laws, the review focuses on the availability and quality of the national electoral law and related laws; on the electoral process, the review considers in particular the functioning of the National Electoral Commission (NEC); on the role of the mandated institutions, the study investigates the performance of each national institution in discharging their role and responsibilities; and on election dispute resolution, the report considers the role of the NEC, the courts and other actors.

The review was undertaken by local consultants with guidance and regular input from the Somaliland Non State Actors (SONSAF) Democratization Group. The review took a qualitative approach to data collection and analysis, drawing on primary and secondary resources. To source the primary data, focus group discussions were organized with groups from all relevant institutions; secondly, a series of semi structured interviews were conducted with academics, members of think tanks and electoral analysts, and with politicians from previous central and local governments. Individual voters were also interviewed.

The academics and analysts were selected on the basis of their contribution to the field of Somaliland's electoral studies and were in particular asked to respond to questions related to the constitutional and legal frameworks and their impact on the democratization process, with specific reference to the issues that created disputes i.e extension of the terms of different government institutions. The politicians were approached for their insights as political practitioners. On average each interview lasted two hours and in all 10 were conducted, (3 academics, 3 policy analysts, and 4 politicians) in Hargeisa, Somaliland.

The first phase of the review began with focus group discussions with groups representing the main stakeholders in the elections process or those institutions that were mandated to organize, manage and oversee the elections. These included the NEC; the Parliamentary Houses of Representatives and Guurti; the three contesting Political Parties, the Constitutional Court, and members of past and present governments. The focus group discussions lasted for an average of 2.5 hours and brought together a minimum of 6 members from each group. The participants were mostly high level officials, including the Vice-President of the UDUB government, the current Chairman of Kulmiye, Deputy Chairman of UCID, the Chairman of the Constitutional Court and the Chairman of the NEC.

Other sources of information included secondary literature such as media reports, NEC reports, and both national and international election monitoring reports, as well as relevant laws. Stakeholders from a wide variety of sectors ; including all the institutions that participated in the review, local NGOs, women NGOs, academic and research institutions, the media, religious and traditional leaders and business community representatives contributed to this report during a validation workshop held on 9 February 2011 in Hargeisa, Somaliland. In the validation workshop the preliminary findings of the review were presented and the participants were asked for their feedback. All the relevant feedback, including any corrections on the content were incorporated in the report.

The overall aim of the review is to contribute to the process of learning from the experience of past elections and ensuring that future elections are more credible and more widely accepted.

The findings of the report address fundamental issues relating to:
• The legal and institutional framework relating to elections in Somaliland;
• The performance of the mandated institutions in executing their roles and responsibilities
• Access to the media by political actors of different political parties and leanings;
• Exercise of freedom of expression and assembly during the electoral process;
• The legal and institutional framework for election management in Somaliland;
• Independence and effectiveness of the NEC;
• Voter education and participation;
• Voter registration exercises;
• Electoral malpractices; and
• Dispute resolution mechanisms.

The report finds that Somaliland's legislative framework is largely in compliance with international and African standards, though there are some significant gaps and exceptions particularly in relation to limitation of the number of political parties and the role and powers of the Guurti. In practice, there are serious concerns especially with regard to the voter registration process and hence the authenticity of the existing voter rolls; the lack of a 'level playing field' in access to resources by all political parties; freedom of the media; and widespread malpractices, such as, double voting and other serious fraud.

The NEC was commended by the majority of the respondents for its overall performance; however, there was some criticism of its functioning by opposition parties and some civil society observers. Though some of these criticisms may be somewhat ungrounded in relation to the first NEC (NEC1) and the current members (NEC3) of the Commission, the effectiveness of NEC2, which managed the voter registration programme was rated as a failure.

Many observers of the Somaliland electoral process, including the recent review by the international observers from the US, European countries and African countries, recommended that steps be taken to increase the independence of the NEC by strengthening the process for appointing commissioners and providing them with greater security of tenure and organizational funds.

Another concern is that the essential steps for the conduct of free and fair future elections in Somaliland have not been unprepared as of now. Most electoral laws are adopted or amended in haste making it difficult to ensure that all those who need to be familiar with them, including staff of the NEC, can be educated on their content.

Some of the recommendations to strengthen the electoral process in Somaliland can only be taken over the long term, as we look forward to future polls. But others can be adopted immediately for the 2011/12 elections. In particular, the NEC should be empowered to deal with electoral malpractice by suspending candidates responsible for creating such malpractices; all the absent laws should be prepared and approved well ahead of time in order to allow for proper implementation; the codes of conduct for political parties and media should be formulated and publicized early on; and the NEC should be made financially and legally independent. Above all, voters lists should be resolved very early on in the process.

This review on Somaliland's past Elections was commissioned by SONSAF.

SECTION ONE

1. Introduction

On June 26 2010 Somaliland crossed a critical threshold in its democratization process by holding its 2nd Presidential Election. Undeterred by the lack of formal international recognition, poor resources and the threat of Al-Shabaab, voters turned out to cast their ballots for one of three Presidential candidates from the three national political parties contesting the position. This was followed by a peaceful transfer of power with the inauguration of opposition leader Ahmed M. Mahamoud Silanyo into office.

The peaceful outcome of this 2nd Presidential Elections follows the holding of a series of successful elections in the last ten years including a constitutional referendum in 2001, municipal elections in 2002, the 1st presidential election in 2003 and Legislative elections in September 2005.

In the past twenty years, the people of Somaliland have gradually consolidated their collective efforts to rebuild their country despite numerous internal and external challenges. There appears to be a general consensus among the communities in Somaliland that the only way to achieve development and build the strength of the nation is through a democratic process. In the late 1990's the elders, politicians, businessmen, clan leaders and intellectuals agreed to assemble a democratic form of government; a broad-based government of regional reconciliation including representatives from all clans in the region. (Bradbury, 1997).

It is generally agreed that elections constitute a principal avenue of citizen involvement in political life; popular understanding of the popular effect on the national political process has important implications for the country's institutional and democratic governance. Successful elections can help consolidate nascent democratic institutions and enhance prospects for greater economic and political development. While on the other hand, flawed elections can lead to violence, destruction of property, and polarize national political discourse.

Though Somaliland has conducted and implemented four national elections that were regarded as free and fair by the international community, the country continues to face persistent challenges in carrying out its elections.

These challenges include heated disagreements over the postponement of a number of elections, poor management of the election processes; particularly over the voter registration process, budget constraints, lack of clarity in the legal process, inadequacy of rule of law, lack of independent judiciary systems, and electoral fraud such as rampant multiple voting, amongst others.

There is therefore a need to reflect on the progress, challenges, and prospects of democratic multi-party elections in Somaliland, in order to incorporate these lessons learned into future electoral processes.

2. Background

2.1 Creation of Somaliland

The Republic of Somaliland was established in May 1991, in what had been the northern regions of Somalia. The creation of this new republic was a direct result of the civil war in Somalia that began in 1982, when resistance to Siad Barre's regime was first mounted in the northern cities of Hargeisa and Burao by the Somali National Movement (SNM). Two decades of Barre's regime and the war that followed resulted in human rights violations on an unprecedented scale and conflict, which devastated the country. Cities in the north, which had traditionally been centers of trade, administration and education, were left in pieces. In Hargeisa for example, 80 per cent of the buildings were destroyed, supply infrastructures like electricity and water were decimated, the schools left roofless and ruined, and the hospitals left without the most basic facilities. The cost was staggeringly high, with people left dead, wounded, displaced and impoverished.

Since revoking the 1960 Act of Union with Somalia in 1991, Somaliland has made significant progress in achieving peace and stability. After the collapse of the Somali state, the people of Somaliland reverted to their traditional, clan-based forms of self-governance in order to resolve their conflicts, negotiate peace, establish a functioning government and embarked on rebuilding their country and livelihoods with little outside help. Despite instances of internal conflict, Somaliland continued to make progress and clan militias were disarmed. An unusual parliament was created, mixing democracy with the traditional leadership of elders and clans. The Somaliland government, based in Hargeisa has made progress in establishing administrative coverage and increasing its capacity since 1997. The most remarkable of Somaliland's achievements include the introduction of a multi-party system in 2001 and the successful elections that followed in 2002, 2003, 2005 and 2010.

2.2 Political reconstruction

The lack of recognition by the international community has meant that the initial phase of political reconstruction in Somaliland has largely been an internal affair. However, Somaliland did receive significant international assistance for rehabilitation and reconstruction of public services in that initial phase and later on support for the democratization process. While lack of formal recognition has had its costs, it has also given the people of Somaliland the opportunity to craft a system of government rooted in their local culture and values that is appropriate to their needs. For the first decade this comprised a system of government that fuses traditional forms of social and political organization with Western-style institutions of government. This was characterized by the formalization of the House of Elders in the governance structure in recognition of the role of the traditional Elders in the peace-building and political reconstruction process (International Crisis Group, 2003)

Somaliland's traditional leaders – clan lineage leaders and regular Elders that include poets, religious leaders and business men– enjoy considerable levels of legitimacy and authority. They were

instrumental in brokering a peace in the immediate aftermath of the war of liberation in 1991, and were crucial in mediating the internal conflicts in the early 1990s. The Borama Conference of 1993, which established a civil administration in Somaliland, institutionalized the role of the clan elders in formal government by creating an upper house in the parliament comprised entirely of traditional leaders. The Guurti, as it is known, is responsible for maintaining peace and security, and serves also as a sort of supreme moral authority and ratifier of government laws. The Guurti is a body composed of prominent social leaders; the most eminent of traditional leaders, those known for their wisdom among their peers, opinion leaders, religious and cultural leaders. This fused style of western parliamentary democracy and traditional Somali political practice worked reasonably well over the past 20 years, though some critics charged that it allowed the government to co-opt clan elders, eroding their capacity to mediate conflicts in which the government itself was a party. It unquestionably gave the clan elders a much more regular and direct role in matters of state. (Academy of Peace & Development; 2008)

With regards to legal governance, the 2001 constitution of Somaliland established a hybrid system of Government. Constitutionally, Somaliland has three branches of Government. A president, elected for five years, heads and nominates a cabinet of ministers who are in theory subject to parliamentary approval. The legislature is composed of two chambers, the unelected upper House of Elders (the Guurti) nominated by the clans, and the lower House of Representatives, which is directly elected by the people for a six year term. This 82-member House of Representatives is the main legislative chamber, approving all legislation, as well as the annual budget and acts as a check on the power of the executive, which is the strongest branch.

Though Somaliland has made remarkable progress in its democratic transformation, it has also faced challenges that led to political wrangling based on attempts to manipulate the political process, weak governing institutions and lack of capacity and resources in the NEC.

2.3 The Electoral system

In order to meet International standards an electoral system should be characterized by inclusiveness, simplicity, legitimacy, fairness and accountability (International IDEA, 2002).

The Somaliland constitution defines a political system that is based on a democratic multi-party structure, in which the head of state, parliament and district councils will be directly elected by the public through a secret ballot.

However, since Somaliland's politics is very much dominated by competing clan interests, the advent of multi-party politics in 2001 gave birth to a number of political parties. However, the constitution limits the number of parties able to contest national elections to three. To become an accredited party, political organizations contesting district council elections in 2001 had to gain 20 per cent of the votes in four of Somaliland's six regions. This was intended to ensure that the national parties represented a cross section of clans and avoided the emergence of religious or clan-dominated parties **(Ragnhild et al,**

2005). The parties that crossed the threshold into national parties were the Democratic United National Party (UDUB) led by ex-President Dahir Rayale; Kulmiye (Solidarity), led by the current President Ahmed Mohamed Mohamud Silanyo; and UCID, the welfare Party led by Fiasal Ali Warabe.

The law stipulated that these parties would be entitled to equal use of the media and free expression of their political views; they would also be able to nominate individuals to stand for elections and register complaints about the commission with local courts.

For the most part, the parties have few ideological differences, and are mainly personality driven. Each tends to be identified with a coalition of clan interests across the regions. These three parties contested all four national elections and accepted the outcomes peacefully.

Despite the lack of familiarity with voting, political parties and procedures, the calm and orderly manner in which the voting took place throughout the country came as a pleasant surprise to everyone, including the international observers who declared all elections to be free and transparent democratic exercises.

In 2000, the first National Electoral Commission (NEC) was appointed and they subsequently organized the first three elections: the local council, the 1st Presidential election, and the Parliamentary elections. Comprised of seven commissioners, the NEC has faced extraordinary challenges in organizing polling stations, establishing electoral rules and procedures, training polling station monitors, printing ballots, and the many other tasks associated with organizing elections.

However, due to the haphazard and hasty formulation of the electoral laws, there were a number of inconsistencies in the electoral process.

In the local council elections of 2002, Somaliland employed a proportional representation system in which voters cast their votes for specific parties and positions were filled on the basis of sequential party lists. However, the 2005 Electoral Law established a unique voting system that combined proportional representation with voting for specific candidates, incorporating elements of an open party list system. The Presidential elections were however held on the first-past-the-post system. (Bradbury et al (2003)

The first NEC has been highly praised for a job well-done despite lack of past experience in managing elections and some short-comings in the process.

Over the years Somaliland has demonstrated a remarkable ability to deal with challenges that threaten its stability and progress. There were fears that multi-party elections might cause chaos and conflict in a clan-based society, but the experiences and the peaceful outcomes of the elections have dispelled those apprehensions.

3. Past Elections

3.1 Local Council Elections

The first democratic election that heralded the end of the clan-power sharing formula and the onset of a democratic order were held on 15 December 2002, following the adoption of the multi-party system and the passing of the Political Party and Associations Act.

The local council elections were important for a number of reasons, including the following: voters participated in an open electoral process for the first time in thirty years; the national system of governance became more decentralized by granting local communities more power to manage their own affairs (Fadal, 2009); and the political parties who could legally contest subsequent national elections were identified.

The local elections were held in all five regions constituting 23 districts, although no voting took place in some parts of the Sool region.

The NEC's main weakness was lack of experience since none of the commissioners had previously administered an election; however, they compensated this by their team work.

In the final count of the votes, the ruling party, UDUB, won the majority of the votes cast, while Kulmiye and UCID came second and third, respectively.

It was generally agreed that there was little basis on which to distinguish one party from another except their leaders and the degree to which they appealed to different clan constituencies.

International observers reported the process was orderly and transparent. Irregularities were cited in a number of areas, including incidents of multiple voting, but were not considered serious enough to have substantially altered the results. (Independent Observers' Statement, 15 December 2002).

The opposition accused the ruling party UDUB of using government resources to support its campaign. The lack of a census and an electoral register also caused some problems. Only Somaliland citizens over 16 years of age were eligible to vote. Instead of registration cards it was decided to use indelible ink on Election Day as proof of voting, with eligibility to be corroborated by a local elder in the absence of formal identification.

Women's participation as voters was impressive; it is widely accepted that the majority of the voters were women (Bradbury et al, 2003). According to Shukri Bandare, a member of NEC1, women voters have constituted more than 60% in all elections. Yet, there were only 5 women candidates (that were accepted by the political parties) and the number of successful women councilors was negligible: 2 out of 379.

The main lessons learned by NEC from the local council elections process included;

- A rough estimate of voter numbers was agreed upon, which prompted an increase/adjustment in the number of polling stations for the next elections;

- Identification of training gaps for NEC staff

- Cross assignment of polling station presiding election officers (this means assigning officer to a region which is not their home region); they were previously appointed from local communities and so could be influenced by their clans, (Crisis Policy Briefing; 2009)

3.2. 1st Presidential election

The 1st Presidential election soon followed the local council elections which prepared the ground and raised the public interest in multi-party elections. Constitutionally, the presidential election should have taken place a month prior to the end of the government's term of office, which was February 2003. However, the timetable was amended for a number of reasons, including the delay in holding the district council elections, the need for additional and clarifying electoral legislation and the lack of preparedness among the political parties.

However, NEC learned and drew lessons from the local elections and implemented a number of significant new approaches. It increased the number of polling stations by more than 100 to reduce queues and late closings, introduced a one year prison sentence for people caught double voting, senior polling station staff were moved to stations away from their home areas to reduce possibilities of vote rigging and it ensured that its staff and party agents received more training.

The contest was among the candidates of the three political parties of UDUB, the governing party, Kulmiye and UCID who make up the opposition.

The competition between the parties was heated with little regard for election laws and agreements or the integrity of the process. Kulmiye was accused of aggressive campaigning and fund-raising among its supporters in the Diaspora on clan appeal, while UDUB was accused of using public funds and assets in their campaign.

It has become apparent that politics in Somaliland are disproportionately based on the personality of leaders rather than on policy positions or ideology. This gave the voters no credible basis to choose among the parties. This characteristic was evident both before and after the elections, raising serious questions about the actual commitment of political leaders to their professed values and principles.

Though the 1st Presidential election presented Somaliland with its most difficult challenge due to the close margin of victory (80 votes) by the UDUB candidate, the country once again survived the crisis by choosing to resolve differences through the law and the compromises made by its leaders.

Though there were reports of multiple voting in some areas, international election observers reported no major irregularities. In the absence of voter registration lists, indelible ink was used to mark voters and prevent multiple balloting. But the ink was easily bleached out and this was exploited by all parties. (Crisis Policy Briefing; 2009)

3.3 Parliamentary elections

After many years of debate over district and regional boundaries, voter registration, and bitter dis-agreements over the allocation of Parliamentary seats for Somaliland's six regions and many districts, the government and the opposition parties finally came to an agreement on three main proposals. These proposals appear to have been positively received by the majority of the people and were passed by the out-going parliament in early 2005. They were a regional allocation of seats based on estimated population figures; voters to vote for the individual party candidates; and voting to take place at region-level rather than district-level. This meant that candidates shall stand for elections at the regional level and votes from all districts of the region shall be pooled and counted as regional votes for each candidate. This has eased the contentious district level allocation of seats.

The election pitted the ruling Democratic United National Party (UDUB) against the opposition parties Kulmiye and UCID. The three political parties were able to present their platform in a competitive fashion, although there was little to distinguish them from one another in terms of their policies.

Though Somaliland is supposed to be moving away from representation based on clan to party politics the social system presents many challenges. The country is still in a transition period and clan consideration will have to be taken into account while moving from the old clan system to the party system. Because of this the three parties devised an informal system whereby parties ensure that a candidate has the support of his lineage before he is selected as a candidate (Aboker et al, 2005).

Hence, the candidate selection criteria was not pegged on the candidate's or party's political agenda or plans only, but on issues such as candidate's clan or lineage, loyalty to the leader or party, individual economic resources, personality, education and past performance. This confirms that the allegiance to clan is still strong in the Somaliland social system no matter the type of political organization that is officially introduced and adopted (Yusuf, 2011). Indeed, the fact that the House of Elders (Guurti) has been encapsulated in the political structure is an indication of the importance of the traditional social organization.

Though all the parties were new to the multi-party political field and the differences between them were not readily apparent, Somaliland's independence was a unifying feature of the three parties in the election which reflects the key aspiration of the majority of the people.

The three parties conducted their campaigns in the same style. Each party announced the launch of its campaign using vehicles mounted with loudspeakers that went through the streets as early as 7 am. A

long procession of vehicles carrying supporters of various party candidates filled the streets en-route to the Liberty Garden where rallies were held. Pictures of candidates were stuck onto buses and other vehicles that had been specially hired for the occasion or provided for free by supporters.

The three political parties were able to campaign without security obstacles throughout the country, although in the eastern parts of Somaliland the elections were not held due to the territorial dispute with Puntland (Parliamentary Election; IRI, 2005).

The main and significant drawback was the absence of a voter registration process. Somaliland's investment in its State institutions has not stretched to a national census or any form of citizen registration. One result is that Somalilander's can vote in any polling station in the country, whether or not he/she lives in that area or not. The country's limited resources were evident in the election's rudimentary facilities; however, poverty has not destroyed the quality of multi-party system engagement and fervor for the election process.

The elections also fell short of some other international standards, which included a significant gender imbalance in the number of candidates, the public media was not equally accessed by all parties and there was a claim by the opposition of unauthorized spending of public money by the party in government.

Despite these problems, the overriding impression was that the electoral process was transparent, free and fair, and full of great enthusiasm which will contribute greatly to and support the building of democracy in Somaliland.

3.4. 2nd Presidential elections

The peaceful and successful holding of the 2nd Presidential election was the culmination of a gradual process of democratization in Somaliland and herald's the second phase of democratization in the region.

However, the road towards holding this 2nd Presidential election was riddled with dangers and serious challenges for Somaliland.

One of the most contentious issues was the continual postponements of Election Day accompanied by extensions of the incumbent President's term of office by the House of Elders (Guurti). President Rayale's term of office was renewed five times. As the Presidential term came to an end on 15 May 2008 the country's House of Elders (Guurti), known to be close to the President, unilaterally extended his tenure by one year, thereby ignoring the election schedule agreed upon by all political parties and the National Election Commission (NEC2). The official explanation was that the authorities needed more time to register voters.

The final delay was caused by the unilateral decision of NEC2 not to use a voter's registration list, which they argued was tainted by massive and systematic fraud. This triggered a popular uproar and prompted both opposition parties to declare an election boycott and to suspend cooperation with the commission. The resulting impasse plunged the country into a political crisis. The political leadership on both sides blamed the NEC, its technical partner, Interpeace, and each other, but the crisis was a result of their own reckless political maneuvering (Crisis Policy Briefing; 2009).

This political crisis indicated that the threat of political instability and increasing levels of conflict in the still unrecognized country was high. Doubts about the government's democratic intentions continued to emerge.

One of the problems was and is a lack of an independent judiciary, which enables different political groups to interpret the same law differently, thus, taking advantage of loopholes in the constitution.

The crisis was defused in late September 2009 when the parties – under strong external and internal pressure – accepted a memorandum of understanding (MOU) agreeing to a change in the leadership and composition of the NEC; use of a "refined" voter registration list, and delay of the elections to a date to be determined by the NEC, with input from independent international experts (Crisis Policy Briefing; 2009).

 A new NEC was quickly agreed and set in place. The new NEC with the support of the civil society and international supporters managed to schedule and organize the critical presidential election.

The NEC tried their best to ensure that the elections followed international standards of accountability and transparency, by recruiting and mobilizing university students to mange the polling stations, issuing new voting cards to avoid fraud and ultimately supervised a credible and successful election.

The outcomes of the 2010 election, which included a peaceful transfer of power, demonstrated the increasing capability and willingness in Somaliland to move forward with the democratization process. Aptly noted by the government of Ethiopia in their public statement to Somaliland, "The people of Somaliland once again demonstrated their sense of responsibility and commitment to maintaining the peace and stability of the country, as well as its on-going democratization. The Somaliland political parties have also remained true to this high standard of citizenship demonstrated by their people. It does not matter who has prevailed in the election - the winners are the people of Somaliland and they need to be congratulated."

Indeed, it is the people of Somaliland who demonstrated their desire for peace and a non confrontational style of governance and with no international pressure or coercion, Somaliland has chosen democracy. The Parliamentary and local council elections scheduled for late 2011, show that Somaliland is determined to continue on this road of democracy for the foreseeable future.

4. Objectives

The purpose of this report is to review overall performance of Somaliland's elections through consultative meetings with relevant and prominent key stakeholders and analysis of relevant data.

The assessment is based on discussion and analysis of the past, current and future challenges and opportunities and the way forward.

5. Methodology

The Consultancy was done under the direct supervision of SONSAF Secretariat and Board of Directors, SONSAF Democratization Working Group and in collaboration with the Somaliland NEC.

The review focused on the overall election performance as a process and also examined different stages of the elections cycles.

The consultative meetings were participatory and inclusive of all indentified stakeholders. Participants were encouraged to be open, analytical and logical in their debate and discussion.

The review followed a qualitative approach to data collection and analysis, drawing on primary and secondary resources. In order to source the primary data, firstly a series of Focus Group discussions were organized among nine national institutions (and CSOs) that have a role in organizing and holding elections. At least 6 members from each institution were brought together to discuss and debate questions designed to facilitate the assessment of the performance and management of the elections. Discussion groups from each institution met separately and each session took an average of two hours.

The mandated actors that were interviewed in focus groups were:

1. House of Elders
2. House of Representatives
3. Government
4. National Electoral Commission (NEC)
5. Political parties (Kulmiye, UDUB and UCID),
6. Supreme Court (Judiciary)
7. A CSO group, composed of members of local NGOs, media, business etc. This group had no specific mandate in the constitution except that they represent the civil society and are part of the voting public.

The discussion group members were selected by each institution themselves. They were mostly high level officials that included the (ex) Vice-President of the UDUB government, the current Chairman of Kulmiye party, Deputy Chairman of UCID party; the Chairman of the Constitutional Court and the Chairman of the NEC.

Secondly, one-to-one interviews of 10 key informants of national stature were also conducted. The one-on-one interviews were designed to capture the self-expressed viewpoints, concerns and analysis of carefully selected academics, electoral analysts and politicians. The academics and analysts were selected on the basis of their contribution to the field of Somaliland's electoral studies and were particularly asked to respond to questions related to the electoral laws.

The politicians were approached for their insights as political practitioners. On average each interview lasted two hours and in all 10 were conducted, (3 academics, 3 policy analysts, and 4 politicians) in Hargeisa, Somaliland.

To supplement the focus groups and the one-on-one interviews, the secondary literature consulted included the review of various Electoral laws and related laws, including past elections reviews and reports and media reports.

In the course of the consultation the participants were encouraged to be self critical of the election processes in Somaliland and identify what they see as the challenges in holding free and fair elections – what have been Somaliland's strengths and achievements and where it has been weak.

The election review questions were guided by the provisions of the National Constitution and the National Electoral Laws, as well as the recognized International Standards for free and fair elections.

The review measurements and questions for discussion were based on Internationally Recognized Electoral Standards: such as the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, the 1981 African Charter on Human and People's Rights and the recently adopted African Charter on Democracy, Elections and Governance.

These standards seek to promote transparency, inclusiveness, accountability, predictability, fairness, equal opportunity and other virtues that form a firm foundation for a democratic process.

All in all a total of 80 people were involved in the review.

The Review consultations were conducted from 2 January 2010 to 2 February 2010.

SECTION TWO

6. Review Findings

Elections are a corner stone in the democratization process because they enable citizens to enjoy the rights enshrined in the countries National Constitution, as well as the Universal Declaration of Human Rights in order to choose their representatives freely. While elections are not the endpoint of democracy, they are one of its key pillars. They are the foundation of the social contract through which elected leaders gain legitimacy to govern from the electorate. While credible elections do not guarantee good governance, they do deliver legitimate leaders, a fundamental requirement for good governance. Credible elections enhance prospects for democratic consolidation, while flawed elections tend to undermine political and economic development.

In general elements of Free, Fair and credible elections depend on:

1) An enabling legislative framework,
2) The impartial and neutral practices of election administrators, the media and the forces that maintain law and order and,
3) Acceptance of the competitive electoral process by all of the political forces in the country.

The review findings conclude that despite numerous challenges that include legal fissures, Somaliland's four elections in the last decade were credible. In less than a decade a new Parliament with an opposition majority was put in place and the Presidency changed hands through the ballot box. Despite heated political tensions and a razor-thin margin between the candidates, the election results were accepted by all political parties, domestic and international observers, and the public at large. The performance of Somaliland's NEC was largely commended by observers and local conflict resolution resources helped convince members of the public and political parties to accept the electoral outcomes. Moreover, Somaliland's security services did not resort to the use of force, despite considerable tensions in the pre-election periods and in the lead up to the tabulation and announcement of election results.

The majority of the review participants recommend that effective communication and trust among key stakeholders and greater professionalism and transparency in the performance of their duties is required for the achievement of successful elections in the future.

6.1. Compliance of electoral legislation with international standards

The significant international instruments referred to in this report are the 1948 Universal Declaration of Human Rights (UDHR, Article 21) and the 1966 International Covenant on Civil and Political Rights (ICCPR, Article 25). The Republic of Somaliland is bound by these human rights treaties acceded to or ratified by the Somali Republic and has formally confirmed its compliance with them in its own

Constitution. The Republic has also confirmed that it shall implement in Somaliland other human rights treaties such as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, Article 25).

The term 'legal framework for elections' refers to all legislation and pertinent documents, which have a bearing on elections.

A legal framework for elections will typically include the following sources:

    a) Constitution,
    b) Electoral law,
    c) Other legislative acts relating to other aspects of elections,
    d) Agreements among the main stakeholders on the conduct of elections and
    e) Codes of conduct for political parties, for election officials and for election observers.

Generally, elections must be free, fair and periodic, so as to ensure that the will of the people is the basis of a government's authority. International instruments forbid discrimination on any grounds that constrain these individual rights, requiring that states craft reasonable and objective criteria established by law in order that these rights are not infringed upon. Electoral freedom is the ability of the people to freely express their will, determine their political status and choose their representatives without coercive pressure, which is ensured by Article 15 to 36 of the Somaliland Constitution.

The specific rights that electoral freedom encompasses include the right of equal access to direct or indirect political participation; the right to non-discrimination; and the freedoms of expression, assembly, association, and access to media. Furthermore, states are required to ensure that elections proceed smoothly and produce fair outcomes by passing clear laws regarding electoral management and election dispute mechanisms; and establishing independent institutions, such as an Electoral Commission and allowing observers to monitor the implementation of these election management laws. It is especially crucial that the government implements a credible voter registration process and adequate voter education and takes proactive measures to prevent election-related violence.

The review findings conclude that Somaliland's legislation generally complies with international and regional standards, with a few main exceptions that include Article 83; the Political Parties Act (Article 9) and Article #58. But there are also numerous gaps, loopholes and ambiguities in various relevant legislations, as explained below.

All respondents agreed that the legal frameworks for all the elections that have been held were in place. Any existing gaps for successful holding of elections were either filled by Codes of Conduct, agreements between the main stakeholders or one time use laws that were passed by parliament at the last moment. Somaliland electoral laws allow for the use of codes of conduct and, informally, alternative dispute resolution arrangements agreed between NEC and political parties (Ibrahim, 2009). As the general secretary of the Guurti put it, "*All the necessary legislations were put in place prior to the elections and had it not been for these laws, the country would not have come this far. Indeed legislations have been put in place albeit incomplete and rudimentary*". The legal framework clearly

spells out the powers and functions of the NEC including protection of its members and staff against arbitrary dismissal by government; voter education; registration and funding of political parties; regulation of election campaigns and sanctions for non compliance, amongst others. However, respondents also agreed that there is a need to fill the gaps and loopholes in the legislation, and to enact new relevant legislation to enable the holding of future successful elections.

Article 83, gives the Guurti the power to extend the mandate of the incumbent President, but it may do so only if "on the expiry of the term of office of the President and the Vice-President, it is not possible, because of security considerations, to hold the election …" According to most respondents the Guurti has interpreted this authority much more broadly since the presidency of Mohamed Haji Ibrahim Egal, whose term was prolonged twice (in 1995 and 2001); Rayale's term has been extended three times. This largely 'unconstitutional' extension has meant the postponement of presidential elections several times. The recent extensions of the Guurti – during the last Presidential election - caused much resentment and controversy among the Somaliland public and political elite.

Article 9, which limits the number of political parties to three, is based on the fear of too many clan-based political parties being formed which could result in further fragmentation of the society. However, according to most respondents this has resulted in the monopolization of power by the parties and leaders who were in place when the constitution was adopted and the first political parties were being formed. There is a strong argument that this law can be used to infringe citizens' rights of political association. In practice many aspirants for national office are constrained by the law.

Article #58 on the House of Guurti provides that its members should be selected every six years, but does not stipulate how. Renewal has not happened since 1997, and the procedure needs to be clearly defined and agreed.

Many respondents believe that the voter registration of 2008 was totally mismanaged. It caused repeated delays of the production of the voter list, and consequently delays in the holding of the election. Some of the root causes were the lack of appropriate legislation which meant that important areas were completely neglected; other ambiguities were created which led to confusion and unnecessary complexities at every level.

The voter registration law neglected to specify a penalty clause on election malpractice, it cross refers to the Penal Code, which is also unclear on how to address electoral malpractice. This has led to a large number of malpractice cases going unchallenged. Malpractice has become very common in elections, particularly double voting.

Article 10 (2) of law states that process of voter registration should take place 6 months before the election date. It does not mention how long it should take. But more importantly, it does not take into account the different seasons of the year, which could impede voter registration for some regions, such as, the unbearably hot period in the coast or periods of drought when the pastoralists are busy looking after their livelihood base.

Some respondents argue that the article, which says that voters should vote at the polling station in which they are registered, has disenfranchised many rural pastoralists who have to move around in search of water and grazing. People in rural areas constitute the majority of the population.

Other respondents stressed the fact that the combining of voter and citizen registration led to complications in the voter registration process. Respondents added that NEC is not mandated to conduct citizenship registration, it is rather the responsibility of the Ministry of Interior. The UDUB party assessment report of the 2010 election vehemently declares that, "In the absence of a civil register it is absurd to allow NEC to lead the registration project". (Milestones, 2010) Furthermore, there are no appropriate mechanisms for ensuring that the information in the register is accurate; and therefore, the public confidence in the register is low.

The legal framework for each election in Somaliland has not been comprehensive, clear and inclusive to fit the needs of the context. All respondents agreed that there were many gaps, loopholes and incomplete laws. "*These need to be eliminated if we are to make progress"* said Artan, a member of Parliament.

The major loopholes discussed include:

- The Voter Registration Act stipulates that "voters can only vote in the polling station where they had registered". Though this was designed to help prevent double voting, it has had a significant impact on the voting potential of the pastoralist population who were unable to be at polling stations where they registered, on Election Day for a number of reasons. "*This is one of the flaws in the Act that needs to be eliminated for it doesn't address our society's needs and context"* says, Abdi Ali Jama, Hargeisa local council member.

- Persistent disputes surrounded the Election laws for the House of Representatives, particularly with regard to constituency demarcation. District and regional boundaries need to be clearly defined in order for elections to take place and their outcomes accepted.

- There was great disparity with regard to the election laws governing the House of Representatives as one candidate was chosen having secured 1500 votes whereas another candidate failed to win with 6000 votes. Such disparity, the Chair of Kulmiye added, should be ended so the number of votes to be earned before one can be declared a winner shall remain consistent for all candidates.

- *'The issue of Women's rights and representation vis-à-vis elections is a concern as there is great injustice in this area which underscores that the time has come for us to harmonize the traditional laws and the constitution"* commented Indho, member of the Guurti. Some participants highlighted the need for legislation which establishes a quota for women in the elected institutions. It has became apparent that existing laws, though not discriminating against women, are not sufficient to enable women to be represented in the elected institutions due to cultural factors, such as the clan system which is male dominated.

- Currently, there is no law governing the election of the House of the Representatives as their term has long expired, and the law that made their election possible in 2005 has also expired.

- Laws governing local council election are overdue and the extension of their mandate is unconstitutional.

- There is no law governing the modalities of the Guurti's election and this is a major gap .

- The role of NEC is not clear when it comes to what should be done with the Guurti and the House of the Representatives whose terms of office have expired.

Currently, the only election that can be held successfully is the Presidential election; all others require amendments, and improved Laws to be drafted.

One of the sources of these complications is related to the way the Electoral Laws were formulated from the beginning. The Secretary of the Guurti declares that; *"Instead of drafting and enacting these laws one at a time and in haste, all the electoral laws should have been drafted together as package, after proper nationwide consultation".*

Shukri Bandare, who was a member of the NEC says that "*the main existing Electoral laws were formulated prior to the selection of the first national electoral commission. The Four elections held since 2002 were managed with the already existing three electoral laws (Law no. 14/2000, Law no. 20/2001 and Law no. 20-2005)*". She adds; "*As a member of the first National Electoral Commission, I remember each of the three articles had its own shortcomings and gaps which became apparent while we were at the beginning of the election process.*"

She adds, "*For instance Law 14/2000 was used for the selection of the current three national parties from the political organizations that contested the local government election. The Law which was very brief did not clearly state if the three parties selected at the end of first local government election will remain the only national parties that will participate in the future elections or if other new political parties can compete in the coming elections.*"

Other respondents asserted that another hindrance was that as soon as the three political parties were established, the committee that was in charge of establishing such political parties was disbanded. As a result, mistakes are everywhere vis-à-vis laws governing political parties and elections. The discussion centers around whether to strengthen the existing three political parties or whether the number of the political parties should be increased.

Most of the Electoral laws were made under intense pressure and there is very little harmony among them. For example, in the local elections of 2002, Somaliland employed a proportional representation system in which voters cast their votes for specific parties and positions were filled on the basis of sequential party lists. However, the 2005 Representatives Electoral Law established a unique voting

system that combined proportional representation with voting for specific candidates, incorporating elements of an open party list system.

Many respondents believe that the Guurti and the previous Government were in cahoots as many laws that could have been approved by the Guurti and House of Representatives were aborted by the then Government with the assistance of the Guurti. For example, the previous Government was to undertake demarcation of the regions and districts long ago. That didn't happen as scheduled because the government was under little serious political pressure to make these changes. *"And now that the same government had increased the number of regions to 13 - yet another major problem has been created as there is bound to be some conflict and confusion on the legality of these new regions"* said a UCID party member.

Most CSOs blamed these persistent gaps in the national Electoral Laws on the failure and lack of capacity of the House of Representatives to enact appropriate laws. The ineffectiveness of the Parliament stemmed from the fact that both the majority of the members and the Chairing committee were from the opposition. This basically divided the Parliament along opposition and government supporter's lines. As such, lack of cooperation between the government and the House of Representatives has been a major source of conflict affecting the completion of the electoral laws.

According to many respondents one of the main factors in this are clan interests, which affect the political situation and by extension the legislative system of the country, despite a three party system that was set up to avoid such a situation.

The legal advisor for NEC, Mr. Khadar said that *"laws are human-made and as such there will always be gaps. The legal framework and political will pull each other. If one is missing the other one will not be effective. Moreover, I do believe that each legal framework has some inherent loopholes whether we are aware of it or not. In addition NEC has its prerogative rights to proceed with its work.*"

NEC's legal advisor wondered *"why it is that Presidential elections are always a problem, and why Guurti extended their terms as well as that of the House of the Representatives*?" Mr. Khadar was of the opinion that laws for upcoming elections can be drafted. However, he added, what about the political will?

"We may act as a democracy but we know nothing works in this country without the clans and their interest." Said Muse Bihi, the Chair of Kulmiye Party, adding "*how will we reconcile clanism and democracy is the big question for Somaliland?"*

Although the general political climate has created openings that allow citizens and media to criticize the political system and individual politicians without fear of reprisals, the Penal Code Act (and the much hated Emergency Committees - which the current government abolished) still criminalizes materials alleged to be seditious, sectarian and defamatory. The Anti-Terrorism Act 2003 prohibits 'promoting terrorism' without expressly defining what acts constitute the promotion of terrorism. It would be easy

for security or other forces to declare that opposition campaign statements or actions are seditious if they wanted to suppress their political voices.

Some respondents believe that the incomplete 'constitution' is one of the main sources of the problems and thus concludes that there is a need for a constitutional review process. The Ex-Minister of the Environment & Pastoralism affirmed the widely held belief that, "*the constitution was tailored to fit the size or interests of the serving President at the time of its inception e.g President Egal"*. He basically designed it to help him get re-elected for the third time, but also concentrated the power in the hands of the Executive branch of government.

Finally, since the constitutional court is not much trusted there is scant utilization of the established mechanisms for election dispute resolution. This persistent gap has ushered in the need for international mediations for the first time in 2010, and proved the glaring failure of local mechanisms.

6. 2. The National Electoral Commission (NEC)

This section evaluates the successes and challenges the NEC in Somaliland faced in discharging its mandate. It examines the NEC's performance of its function in accordance with the national electoral law and international standards.

A. Mandate and Independence

The NEC is an independent body that plays an important role in securing, protecting, and promoting democracy in any state. The NEC implements "national legislation" on the "conduct of elections." Its main functions include voter registration, education of voters, conducting the vote (Planning/ programming, budgeting/scheduling), voter registration, counting and tallying votes, and declaring the results.

The Commission's mandate in the Constitution and in national laws clearly spells out its powers and functions and provides for its independence and protection of its members and staff against arbitrary dismissal by government.

However, the composition and functioning of NEC has been a source of heated dispute in various elections, particularly because some actors allege that the Commission is generally inefficient and is not independent. This was perhaps true of NEC number two, which organized and managed the voter registration, for the 2nd Presidential election, which is generally considered a failure. However, both NEC number one and three were considered independent, effective, impartial and competent

The first National Electoral Commission was established in 2001. The selection processes reflected the Somaliland political culture of consensus to a large degree. Most of the key political actors have a say in it: the President nominates three members, the House of Elders nominates two members, the opposition political parties each nominate one member and the House of Representatives have the final

approval of each and every member. This method may look cumbersome, but it accommodates different clan and political group interests and hence enhances the legitimacy of the National Electoral Commission and its independence. This does mean that it is difficult to expel one member of the Commission or to disband it altogether before its term ends. However, the precedent was set in November 2010 when strong public action and responsible actors forced the sitting NEC to disband because of corruption and incompetence.

Many respondents felt that the fundamental design of the NEC's selection process does not lead the commissioners to be independent, since they are appointed by political actors that have partisan agendas and that are putting up candidates for election i.e political parties and their leaders.

The independence of the NEC is measured not only in terms of the appointment, status, and removal of its members, but also according to each NEC member's past record, such as trustworthiness, past employment record and past relationship with the political contestants, which may affect his/her neutrality. It is arguable that the past relationship between NEC2 and some government officials including the President undermined that Commission's ability to be impartial.

However, both the first and the current set of Commissioners have proved many skeptics wrong. They have worked as a team and demonstrated their capacity to organize peaceful and successful elections.

The majority of the respondents agreed that both the first and the current NEC did a commendable job in the preparation, electoral logistics and overall efficient management of the elections.

There was division amongst respondents about the independence of the current NEC. Though most respondents agreed that they were strong and independent individuals who showed team work, they also depended on others for financial and professional skills.

One of the most salient sources of the Commission's weaknesses is its inadequate funding. The government which is responsible for providing adequate and timely funding for NEC has failed to do so, due to various reasons, that presumably include lack of resources at its disposal from the government. The Commission's budgetary allocations are insufficient to fulfill all of its mandated tasks, and these shortcomings are especially noticed in the failure to adequately address and deliver effective public voter education, train and retain most of its staff and safe guard against fraud.

Lack of coherence and frequent changes to the electoral framework also hindered NEC in preparation for the elections. For example, late amendments to the electoral laws have been a particular challenge. In 2005, when Somaliland held its first Parliamentary elections in more than 30 years, electoral laws were passed only two weeks before candidate nominations were due. There was no time for voter education and little time for political parties and candidates to prepare.

Voter registration and polling processes, which fall under the NEC's mandated activities, have been continually flawed and heavily criticized. Problems with the voters' register included multiple registrations, duplicate names, under age registration, missing names, and names registered under false

identities. These issues have not been adequately addressed, and have raised accusations of electoral fraud by the parties that lost the recent presidential election.

Most respondents agreed that the voter registration debacle was a nation wide failure to observe electoral laws. Systematic fraud and competition among the clans led to wide-scale deceit in he voter rolls and eventually the dismissal of NEC2.

There is also controversy over the way that votes are counted, tallied and transmitted. Although the NEC established a National Tally Centre, accessible to representatives from all political parties, to receive and verify results from the Regional and District Tally Centers, many critics feel that the use of telephones to convey results from districts is neither secure nor reliable.

However the overall public perception of the NEC tend to be quite positive – this confidence in the main election management body and its procedures improved the security of the whole election process, and led to public confidence and the absence of outbreaks of violence.

Besides the lack of financial independence, a major challenge for NEC is how to manage electoral malpractice and improve compliance with election laws. Systematic and widespread electoral fraud is condoned nation wide and requires a nationwide campaign on its impact and political willingness to curb it.

6. 3. Performance of (other) key institutions on their election mandates and responsibilities

This section will evaluate the capacity and performance of key national institutions that have a mandate in the electoral process by examining their performance with respect to their mandate and the degree to which they have fulfilled their roles and responsibilities.

Other key institutions refers to the government of the day, the political parties, the parliament, security forces, election adjudicating bodies, civil society, and organized groups.

It is important to recognize that elections can be undermined as much by state actors as they can be by non-state actors and factor in these considerations when trying to organize and secure free and fair elections.

6. 3.1. Incumbent Government

Once an election has been declared the incumbent government in effect becomes a caretaker government and is expected not to undertake far-reaching policy or administrative decisions.

The government during this interim process should create a neutral environment in which elections can be conducted. It should demonstrate that it is trusted sufficiently to manage a free and fair electoral process. Besides other responsibilities the government of the day should;

- Facilitate the formulation of the electoral laws that cover the legal requirements of all national elections,
- Ensure independent and free media,
- Ensure that all political parties have equal access to national media,
- Release funding for the election to the NEC early in the process, as should be outlined in the electoral law, and respect its independence,
- Create an integrated and impartial electoral security coordinating body.

The review findings have revealed that the past government is generally credited with having overseen four peaceful and successful elections. These elections were rated as fair and free by both local and international observers. The fact that the elections took place peacefully is an achievement in itself.

It has been credited with ensuring the availability of legal and regulatory frameworks for the elections, facilitating the set up of a credible NEC - except NEC2 - creating an impartial electoral security system and leaving the private media alone.

Though the government has at times used the security forces to discourage and intimidate the opposition before the elections, it has also been acknowledged that the government did ensure the impartiality of security services in the conduct of their duties during the pre-election campaign and election days.

The government also provided an enabling environment in which domestic election monitoring organizations and international observer groups could freely observe and comment on all aspects of the electoral process.

However, most respondents said that the same government did not provide 'a level playing field' for all Presidential candidates. The incumbent President was accused of manipulating the electoral process by using state power and influence. It was generally agreed that all candidates or political parties did not have equal access to public resources such as media, security, and funding.

It was widely agreed that despite the adoption of a multi-party system and its officially sanctioned organs, the president and his party enjoyed substantial advantages of incumbency and existing legal presidential privileges. Further, the president and his party the UDUB utilized state resources in support of their campaigns including use of government cars, personnel and advertising, and received positive and the overwhelming amount of coverage on state television and radio

The incumbent government did not take steps to fully fund elections through budget allocations as a matter of national sovereignty. It did not even release the percentage it agreed to contribute on time.

Another major drawback was the continual and according to many, unjustified postponement of elections of the last presidential elections. Many respondents think that this has been the last president's most colossal mistake, which eventually led to his down fall.

Another major failing of the incumbent government was the lack of an independent judiciary. It was accused of rendering the constitutional court dependent on the Executive and therefore denied the nation an appropriate mechanism for the expeditious, just and fair resolution of electoral disputes.

6. 3.2 Political Parties

In any democracy political parties are at the centre of political life. They play a pivotal role in founding and consolidating democratic systems of governance. Attempts to build sustainable democracies without viable political parties have failed. Political parties play a vital role in the market place of political ideas and programmes. They are major vehicles for the recruitment of political leadership, the structuring of electoral choice, and the framing of policy alternatives.

In Somaliland political parties were only introduced in August 2000 with the passage of new political party legislation. This legislation specifies that only the three political organizations that received the most votes (including, at least 20% of the votes of any four of the six Somaliland regions)in local government elections held in December 2002 would be allowed to field candidates in any and all future elections. The interpretation of this clause has caused much debate and political controversy, which is still going on, since other interpretations argue that new political parties can compete for successful registration and legitimacy every new round of local council elections. The three parties that achieved this in 2002 were the Union of Democrats (UDUB), the party in government at the time; Kulmiye, led by Ahmed Mahamoud; and the Party of Justice and Welfare (UCID), headed by Faisal Ali. The law stipulated that these parties would be entitled to equal use of the media and free expression of their political views. The law further classifies these three as national parties and instructs the government to subsidize them but does not specify an amount; they should also be able to nominate individuals to stand for elections and register complaints about the commission with local courts.

Firstly, all agree that Somaliland's political parties have played an essential role as mediators in a difficult transition from the clan-based system of the past and ushering in and nurturing the democratic political process fairly well. They represented and facilitated the freedom of citizen's to organize and associate which includes the freedom to form and participate in political parties or other political organizations. They have also participated in the national democratic debate permitting the expression and reconciliation of different views and interests, and have facilitated the translation of the outcome of this process into law and public policy.

In it generally agreed that the political parties are still underdeveloped. In most respects, there is little to distinguish between the three parties. They have very few ideological bases, though they are all committed to Somaliland's independence and the pursuit of international recognition.

Most of the respondents corroborated that all political parties have actively promoted and participated in multi-stakeholder, as well as inter-party and intra-party dialogue platforms to ensure transparent and inclusive party processes that can contribute to peaceful and credible electoral processes.

They have committed to peaceful actions at all times, especially during electoral periods, and have signed and enforced codes of conduct. Above all they have openly accepted the results of credible and democratic elections in the country.

However, their major weaknesses include utilization of campaign strategies and messages that appeal to clan or regional differences, and as such a lack of focus on issue-based policies; deficiency in the practice of internal democracy, especially in the conduct of candidate selection and nomination processes and exclusion of women from both decision-making and candidacies in the party.

One civil society participant recalls that during the Parliamentary elections "*the political parties did not promote issue based platforms to voters during the campaigns, and candidates were selected mostly based on clan allegiances rather than accomplishments or ideology. Campaigning was largely conducted along clan lines*". He added "*many voters could not associate candidates with particular issues and were uninformed about the role and importance of parliament as an institution.*"

All parties also lack properly registered membership, fee paying lists and have very poor fundraising strategies that lead them into the pockets of major donors.

They do not have effective strategies to ensure wide dissemination of their policy documents to the public, nor do they have policies to ensure appropriate selection of party agents, trained and monitored during electoral periods.

Though party candidates and their supporters are able to solicit votes from any part of the country, without any fear of harassment or intimidation by state and non-state actors, they do this only during election campaigns because of the clan sensitivities across regions.

Parties also have a poor record of lobbying for improvement in the electoral laws and the widest possible media coverage to enable voters to make informed choices.

In sum, the major threats to the future development of the political parties include clan interests, which are very much entrenched in the social system, and marginalization of women who constitute the majority of the voting public. The issue of whether the 3 party system should be opened up or changed is also an ongoing debate that will impact the future development of political parties.

6. 3.3 House of Representatives

The Somaliland constitution identifies the Lower House of Representatives as the legislative chamber with the authority to initiate, amend, reject and approve legislation submitted by the Council of

Ministers and the authority to approve or reject ministerial appointments and the national budget, to impeach the president and to propose a vote of no confidence in the Council of Ministers.

However, the new Representatives lacked experience and were unfamiliar with the functions of parliament, and the government was faced with working with a parliament in which, for the first time, it did not hold a majority. This created a hostile relationship between the government and the House of Representatives, which negatively affected parliamentary business in the years that have followed. (Abokor et al 2005).

This aggravated power struggle produced protracted standoffs over procedural and legal issues. These first affected the electoral processes when the parties failed to agree on the appointment of a new NEC after the mandate of the first one expired on 20 January 2007. The new commission was not approved until 3 September and only began work at the end of October, less than six months before the presidential elections then scheduled for 15 April 2008. It proved unable to conduct the election, due in part to incompetence, but also to a dominant presidency, the constraining political culture and the pervasive influence of clans and clan leaders.

Most respondents pointed out that lately the House of Representatives has been unable to realize the role envisaged for it in the Constitution, as an alternative centre of power that has the capacity to make policy, articulate and represent public interests, and check the hegemony of the Executive branch because of its weaknesses and ongoing power struggles between branches of government.

The law makers were divided for a considerable period of time (along party & clan lines) and remained at loggerheads with the Executive branch. Most of them also have limited ability to draft laws on their own due to lack of capacity and experience in this area.

It is also generally agreed that the link between the current members of the House of Representatives and their constituents is virtually non-existent. There is also a weak link between the political parties and the members of the Representatives that belong to these parties. For example without strong party structures it has been difficult for the party to keep their MPs in line in the House of Representatives. First, although candidates run for office formally on a party platform, they have to use their own funds, mainly obtained from clan members, and mainly campaign for the clan vote which reinforces allegiances which can conflict with subsequent party interests. These factors have affected the discharge of their role as well as the cohesiveness and direction of the party.

Overall the participants agreed that the House of Representatives was nevertheless able to enact an acceptable legal frame works for all four elections. These frameworks are perceived to be legitimate and contribute to the quality of the electoral system as evidenced by the widespread acceptance of the election outcomes.

However, the Representatives failed to produce a consolidated legal foundation for all elections; they drafted and passed most laws in haste, which produced numerous gaps and ambiguities and encouraged

divergent interpretations of these laws. It is also agreed that the majority of the members lack the capacity and skills required to produce appropriate electoral laws for the country.

A major threat to the role of Representatives is a continued lack of agreed constituencies and absence of information on lower level districts particularly with regard to demarcation, size, and number of seats. Others include the unremitting interference from the Guurti and Executive branches, which is based on lack of separation of powers. The continued absence of women and minorities also continues to taint the House of Representatives.

Furthermore, there does not seem to be clear plans to accord priority to the fundamental review of the Constitution and the Electoral Law in the foreseeable future and this will continue to present problems for future elections processes.

6. 3.4 Guurti

The House of Guurti is the constitutional formalization of the traditional Council of Elders. The current representatives of the House of Elders were selected through negotiations among members of each clan. According to the Constitution, the Guurti shall have 82 seats and the period of office shall be 6 years. The powers of the Guurti are first and foremost the passing of legislation relating to religion, traditions (culture) and security. The Guurti shall ratify, reject or propose amendments to all laws passed by the House of Representatives apart from those on financial matters.

Most respondents believe that though the Guurti has played a crucial positive role both during the SNM struggle and the early years of the establishment of Somaliland, their political impartiality is under question particularly relating to the process of extending the term of the incumbent President.

Critics maintain that the Guurti is no longer relevant in managing conflict between the competing political actors, because it has itself become a party in ongoing political disputes. This politicization has begun to undermine the Guurti's credibility as an honest neutral broker in managing the conflicts between competing political actors. This is compounded by the fact that the Guurti itself is at the centre of most of the recent political crises regarding the extension of its mandate.

However, the Guurti members and their supporters appear to have failed to realize the impact of this, and still defend the relevancy of the Guurti and maintain that the current Guurti can continue to play a stabilizing role. Some respondents argue that these extension powers have safe guarded the national political system by legitimizing institutions and avoiding political and legal vacuums, when needed.

However, most participants argue that they have failed to even attempt to develop their own election law (preferring to stay in the House forever), have continually caused national political discord by extending the term of the sitting president and have seriously undermined the powers of the elected legislature. They have never supported the formulation of a consolidated legal foundation for all national elections.

The House of Guurti remains the only unelected representative institution in Somaliland. Its six year term has expired many times over and many members have served since the 1993 grand conference. Some of the current members inherited the seats from their dead relatives, which is a very worrying trend for the majority of the public. However, the constitution is not very clear on how the Guurti is to be elected or selected, and despite years of stalled negotiations principally between the incumbents and clan leaders, no consensus had been reached on whether it should remain clan nominated or be directly elected, like the House of Representatives.

An overwhelming majority of the participants believe that the Guurti poses a threat to Somaliland's democratization process since they remain unelected, collude with any incumbent government, obstruct sensitive laws enacted by the elected legislative and are influenced by clan interest more than any national body.

Many respondents believe that Somaliland's democracy will not progress unless the issue of the Guurti's election/selection is addressed through national consultation and consensus.

6. 3.5 Judiciary (Constitutional court)

An independent judiciary is an essential ingredient in free and fair elections. The constitutional court is crucial due to the central role that it plays in the resolution of electoral disputes in particular and the promotion and protection of democracy in general. Any person who is dissatisfied with the result of an election should be able to challenge it in the countries' domestic courts.

Multiple procedures outline the process of challenging the election of a president. Once the NEC declares the results of the vote, any unsatisfied person can challenge this outcome in court within 10 days. Essentially, election petitions involve determining the "validity" of a poll. The burden of proof is on the person who lodges the application to demonstrate that there was an irregularity in the electoral process. The burden a petitioner must meet is a balance of probability, not beyond a reasonable doubt.

The mandate of an electoral court is limited to determining whether the law was complied with. Therefore, if the court determines that a person was unduly elected; judges can only order the NEC to re-tally votes. Judges cannot declare that a particular presidential candidate won the election. This authority rests solely with the NEC.

The Opposition parties have always viewed the courts as an instrument of the state that could not objectively adjudicate any petition that involved the sitting President.

Many respondents doubted the independence of the judiciary from the executive arm of government, which has damaged the integrity of the courts. The independence of the judiciary ensures that disputes are adjudicated based on their factual and legal merits, not on political considerations. In other words, judges should be free to act on their "own convictions, without any apprehension of personal

consequences" to themselves. Most respondents believe that "separation of powers" is lacking in Somaliland's governance structures.

Most respondents agree that there are qualified personnel in the higher court structure, and that they successfully confirmed and legalized the election results. The constitutional court also swears in elected officials and responds to all cases that are brought in front of it. The courts also ensured that seats are taken only by those persons properly elected.

However, the majority of respondents do not believe that the judiciary is independent and it therefore lacks the trust of the opposition parties. Due to the shortage of resources and skills, most judges are also believed to be susceptible to corruption. Another structural weakness lies in their selection and appointment process which is very much influenced by the executive branch.

The Chief Judge Omane, of the Constitutional Court argues that "*It is not the role of the court to 'seek or solicit' cases to be brought in front of it. That right lies with the claimants. If no one brings his case to the court...the court is not going to address them. For example, the court waited for 10 days after the 2010 elections results were announced to give a chance for parties to bring complaints. Once that period is finished the court has to approve the results tabulated and approved by NEC.*"

6.3.6 Media

A free and fair election is not only about casting a vote in proper conditions, but also about having adequate information about parties, policies, candidates and the election process itself so that voters can make an informed choice.

Freedom of expression and access to the public media is particularly essential in providing opposition parties a chance to compete on an equal footing in an election, yet access remains limited in Somaliland. It is well-known that State-controlled media did not provide equitable and free access for all electoral contestants during all elections.

Though the Somaliland government is credited with having given the private media a wide berth, some journalists continue to face repression for their efforts to report accurately and responsibly. In Somaliland the media is quite free and vibrant and reports all types of news including fabricated, politically biased or personal attacks stories. This often prompts the government to put some journalists in prison, including those that report news that is both correct and inflammatory. Respondents suggested that many journalists focus more on scandals or salacious topics than on concrete issues of importance to voters.

In the most recent election the private media was relatively independent; it signed and observed the Codes of Conduct organized by NEC and presented a fair monitoring of the electoral process. They also provided training for their journalists and other media personnel.

However, most media did not provide robust voter education to ensure citizens understand voter registration and polling day procedures in particular. Private media were also allied to different candidates. In addition, underpaid journalists may have supplemented their income by accepting money from politicians to report stories in a way favorable to them.

Many alternative media sources are also partisan particularly the Diaspora run internet websites. The biased reporting from these sources robs citizens of the accurate information they need to make informed decisions on Election Day.

Partisan rhetoric amplified by the media can also fuel conflict. Inflammatory, biased, and inaccurate coverage of the news particularly of election processes and results can create unnecessary discord.

6.3.7 Civil Society

Since the early 1990s Somaliland's civil society organizations (CSOs) has been generally vibrant. It has provided social services, and advocated for gender representation and human rights.

Since the advent of the multi-party system Somaliland CSOs have tried to advocate for the ratification of election laws that reinforce peaceful and credible electoral processes; promote dialogues on election issues and carry out conflict mitigation initiatives.

The civil society has also worked hard to maintain peace, educate the electorate and increase the legitimacy of the election by training and deploying domestic observers in all elections.

But it is also recognized that the CSOs face major challenges regarding voter and civic education. It was acknowledged by all respondents that the level of awareness especially in rural areas about the value of elections and voting is very low. All respondents reiterated the importance of continuous and intensive country wide civic education to ensure that all citizens are empowered to make informed choices during elections. The majority of the rural population is in need of broad-based civic education – touching on such themes as nation building, democracy, governance and human and citizen's rights. There is a wide information gap between rural and urban areas and this has contributed to the 'clanisation' of election campaigns.

The CSOs have also largely failed to organize debates among candidates in coordination with the media and political parties. CSOs are also characterized by poor nationwide coordination & networking.

The factors that can threaten the role of the CSOs in the national democratization process include their inadequate understanding of constitutional, legal and electoral frameworks which is needed in order to advocate for electoral reform and improvement. They also face the constant threat of division along political party or clan lines.

6.3.8 Domestic and International Observers

Nonpartisan domestic and international observers can provide an impartial assessment of the electoral process and observe a larger swathe of the country, helping citizens to assess the legitimacy of an election and know to a certain extent whether their votes are counted.

However, challenges associated with domestic observation in Somaliland include mobilizing enough qualified observers to cover the entire territory, and the ability to gather credible and objective information. Another challenge faced by domestic observers is the law which prevents people from voting outside the polling station that they registered at. Because observers have had to vote in their home districts this has prevented them from being deployed to other districts to observe the elections process, where they would likely have been able to play a more impartial role. Thus this practice may have led to biased observation and reporting.

International observers were also challenged by the restriction to travel to all parts of the country due to security concerns.

Nevertheless, participants agreed that the observers adhered to regional and international standards and principles guiding election monitoring; observers were selected on the basis of competence and impartiality, domestic observers were recruited from community-based organizations and it was ensured by NEC? that international observers were familiar with local laws, customs and culture.

In sum, drawbacks on observation included lack of reporting on all aspects of the electoral process, inadequate geographic coverage, particularly to remote rural areas, and failure to enforce codes of conduct for all election observers.

7. The Role of the International Community

International donors have and continue to play a significant role in financing and monitoring Somaliland's elections. The role of the international community in Somaliland's elections is primarily guided by the Democratization Steering Committee, is made up of Denmark, EC, USAID, DFID, Swedish SIDA and Norway, with Interpeace (IP) as the secretariat. These donors have agreed to co-finance Somaliland's elections and pool their funds in a common pot. The Committee meets on a weekly basis, Co-chaired by EC & USAID. They decide collectively the way forward and IP implements.

Interpeace's mandate involves managing the donors' basket fund, recruiting and supervising specialized technical assistance to support the NEC and civil-society organizations to carry out tasks related to the elections.

It is widely acknowledged by all the main stakeholders that Somaliland would not have made much progress in its democratization process, particularly with regard to holding the last two critical elections, without the financial, technical and moral support of the international actors, specifically western donors. Everybody accepts that the Somaliland government was incapable of raising sufficient funds for holding most of these elections. It did provide funds for the referendum on the constitution and the local council elections, but contributed only 30% of the funds required for holding the 2010 presidential elections.

All stakeholders have confirmed their appreciation of the international support to Somaliland's democratization and multi-party elections and the acceptance of the role they have played.

According to the majority of respondents the Interpeace led democratization programme is one of the most significant and long standing mechanisms of support to the Somaliland people by the international community. The sustained support made advanced planning and complex activities that must begin long before an election possible and took into account the importance of post-election support to reform and capacity building. The long-term support to the electoral cycle as a whole bridged the gap between elections and contributed to the successful elections results.

The international community has also contributed observers for all the elections. The presence and eventual reports of these observers not only provided legitimacy for the elections but have also spread Somaliland's success story across the world.

However, a small minority of respondents assert that dependence on outside funding for the elections could promote outside interests. International guidelines also recommend that countries should take primary responsibility for financing their elections.

SECTION THREE

8. Conclusion

Somaliland's electoral legislation mostly conforms to international standards and provides reasonable safeguards to facilitate free and fair elections, though there are gaps and places where the national law is in conflict with international standards. There are also subordinate pieces of legislation that impose restrictions on political actors, media and voters themselves and as such complicate the application of international standards. Constitutional, legal and regulatory frameworks were augmented by Codes of Conduct. Despite this, there remain gaps in various laws which create ambiguities and confusion and must be resolved.

The National Election Commission (NEC) has many positive attributes but it remains financially and technically dependent on the international community, which could affect its integrity and effectiveness. This is due to the provision of inadequate funds by the government.

There is rampant multiple voting, which seems to be condoned by all actors. This is creating a negative culture around elections which will have serious ramifications on the process of democratization and certainly future elections.

There are some procedural and administrative problems that weaken the process, but these can be corrected by effective legislation.

Despite these drawbacks, all four elections were rated free, fair elections, credible and free of violence both domestic and international observers and the outcomes were accepted by all actors.

The role of the international community was considered very positive and critical for the overall success of the democratization process, the multiparty elections and Somaliland's worldwide image.

Overall, there was a vast public interest in the election, particularly, by women and youth. There is no segregated national election data, including by sex, but according to African Elections Data base the following total votes were cast: In the 1st Presidential election in 2003, 488,000 votes were cast, House of Representatives in 2005 670,000 votes, and 2nd Presidential elections in 2010 538,000. Given that the officially estimated population of Somaliland is 3 million, the number of people that voted is relatively small.

Though they constitute the majority of the voters women are underrepresented in politics at all levels and there is an urgent need for the equitable participation of women as an integral aspect of improving the democratic practices as a whole.

9. Recommendations

The following recommendations aim to inform and empower the various stakeholders and policy makers to ensure that future elections in Somaliland are free and fair. The ability of these stakeholders to implement these recommendations in advance of the scheduled 2011 local council depends on many internal and external factors. The most significant of which is likely to be the outcome of the debate and national consultations on whether to open and allow more political parties to compete for the elections and the availability of necessary funding.

Electoral laws & legislation

- There is a clear need to update or amend existing laws and introduce a significant number of new laws so that the various electoral laws are consolidated. All the relevant institutions should work on this a national priority. They should undertake a review of all electoral laws and other relevant legislation to ensure that they promote a vibrant multiparty system

- Formation of a National Electoral Law Review committee at the appropriate time - long before the next elections are due

National Election Commission (NEC)

- NEC should be independent financially and legally

- Enhance the credibility of the electoral process and the legitimacy of electoral outcomes, in particular by addressing contentious issues such as the voters' register, boundary demarcation, vote buying, electoral fraud, and access to media during elections

- Electoral boundaries need to be drawn in such a way that they provide equal value to each vote in order to ensure effective representation

- The voter registration process should be corrected and maintained in an accurate and transparent manner in order to protect the rights of voters and to prevent fraud. The NEC must ensure that the voter register is accurate, credible and reliable. Voter education with regard to registration should address what citizens should be equipped with when going to register and what will happen in the process

- Civic education by the NEC should educate the public about the proper role of the Commission in electoral administration, to ensure that there is proper understanding of the correct procedures and to ensure vigilance against abuses, and thus create confidence in the integrity of the electoral process and the NEC.

- Elections should be managed by a specialized group of highly trained and committed election staff who are employees of NEC

- In order to address the malpractices during and after elections, it is recommended that the NEC's legal department be reinforced to expeditiously handle electoral disputes.

- NEC should make an effort to seek the formation of a credible electoral conflict resolution system

- Work with all stakeholders to ensure peaceful and credible elections

Incumbent Government

- Government must increase the resources it allocates to the NEC, to ensure the Commission's efficiency and effectiveness and independence from the government

- The national media should allocate sufficient time and space for registered political parties, so that all candidates and political parties have equal access to the public media

- Facilitate and allow election observers to observe all stages of the election processes and encourage their geographical reach

- There should be effective mechanisms for compliance with the law and the enforcement of electoral malpractice laws, in order to prevent electoral fraud that can lead to conflict among the contestants and voters when results are announced

- The NEC should be empowered by legislation to impose stiff penalties on candidates and other stakeholders that engage in any electoral malpractices; one suggestion by some respondents is that they should be barred from contesting again for political seats for a period an agreed and reasonable number of years

- Initiate the review of all electoral laws culminating in the production of a consolidated set of laws

- Ensure that they promote a vibrant multi-party system

- Ministry of Interior should conduct a census & issue citizenship cards as per the citizenship law

- Appoint women to be members of NEC

Political Parties

- The political leaders must ensure that the aspirations of the people are channeled into goodwill for growth and stability

- Advocate for and support the review of all electoral laws to ensure they promote a vibrant multi-party system

- Improve internal party democracy and decentralized leadership

- Ensure that party agents are appropriately selected, trained and monitored during electoral periods

- Inspire the public in democratic principles in order to reduce clan appeal

- Prepare women and youth for positions of leadership within party structures and as candidates for elected office

- Nominate women to be members of NEC

- Refrain from campaign strategies and messages that appeal to ethnic or regional differences

- Focus on issue-based policy and platform development and ensure wide dissemination of these documents to the public

House of Representatives

- Review all electoral laws to ensure they promote a vibrant multi-party system and produce a consolidated set of laws that can guide all elections. Re-drafting & completion of existing gaps in the Electoral Laws

- Electoral boundaries need to be drawn in such a way that they provide equal value to each vote in order to ensure effective representation.

- Improve capacity of members in law making

- Prioritize fundamental review of the Constitution and the Electoral Law

- Promote the formulation and enacting of laws providing quotas for women in all elected national institutions

House of Elders (Guurti)

- Support the review of all electoral laws to ensure they promote a vibrant multi-party system and accept the consolidated laws passed by the House of Representatives

- Produce & agree on constituencies and lower level districts (demarcation, sizes, seats)

- Support fundamental review of the Constitution and the Electoral Law

- Agree to the institution of clear distinction between the Legislative and Guurti roles/responsibilities in order to reduce the parallel power of the Guurti with the legislative

- Electoral boundaries need to be drawn in such a way that they provide equal value to each vote in order to ensure effective representation.

- Appoint women to be members of NEC

- Accept and support the clarification required for the election of the Guurti

- Support and search for an agreed formula for the mandate extension powers of the Guurti

The Judiciary

- Improve independence of the courts both by the selection process and financial autonomy

- Enhance the skills of judiciary personnel

- Create an effective mechanism for compliance and enforcement of electoral laws

- Improve trust of the opposition parties and public in the judiciary

- Combat corruption in the Courts

Civil Society Organizations (CSOs)

- Enhance the capacity and commitment to carry out civic and voter education campaigns through all phases of the electoral process

- Organize and host candidate debates in coordination with media and political parties

- Improve nationwide coordination, networking and cohesiveness of the civil society

- Promote the participation of women and youth in all stages of the electoral process

- Reach rural areas

- Become more deeply involved in post-election activities – continuing democratization activities – not just restricted to election time

- Develop understanding of constitutional, legal and electoral frameworks in order to advocate for electoral reform, as needed

- Promote professional media conduct during the election period

- Advocate for the ratification of election laws that reinforce peaceful and credible electoral processes

- Promote election dialogue platforms and carry out conflict mitigation initiatives

Media

- State-owned media should serve as a public resource and operate free of political bias and in the public interest including during the electoral contest

- All media should adopt ethical standards and professional guidelines requiring unbiased, accurate and equitable news coverage of political parties and electoral candidates

- The Media should provide robust coverage on voter education to ensure citizens understand voter registration and polling day procedures

Domestic and International Observers

- Provide adequate training for domestic observers

- Create partnerships and coordinated efforts, to the fullest extent possible, among groups and within coalitions

- Observe and report on all aspects of the electoral process

- Improve coverage, particularly in remote rural areas

- Enforce codes of conduct for all election observers

- Work with other stakeholders to ensure peaceful and credible elections

The International Community

- Transfer capacity to local electoral institutions, in order to ensure that the country's electoral institutions have the capacity to manage future elections on their own. Without such transfer of capacity, elections will falter once international support begins to decline

- Promote efforts to prevent, mitigate, and prevent election violence

- Provide resources for institution-building/reform, training/ capacity-building

- Support political institutions, particularly political parties and the Parliament which requires significant capacity building

- Promote democracy and good governance in Somaliland.

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Appendix 1: SWOT Analysis

Electoral framework & international standards

STRENGTHS	WEAKNESSES
•Generally comply with international and regional standards, with few exceptions •the legal frameworks required for all four Elections were in place in time: successful •Clearly spells out the powers and functions of NEC •Code of Conduct filled the gaps	•Article 83: Guurti extension –power •Article 9: which limits the number of political parties to three •Article #58: on the House of Guurti election undefined •Many gaps, loopholes and incomplete laws •Lack regulation/ interpertation framework •One time use laws: House of the Representatives •Constituency demarcations inconsistent • Hast formulation of laws
OPPORTUNITIES	THREATS
•Formation of National EL Review at the appropriate- long before elections are due •Formulation of consolidated legal foundation for elections •Legislations to complete the gaps •Constitutional review	•Lack of independence of the judiciary •Clans interest diluting Laws •Reliance on international mediation •Postponement of elections • prioritization of sequence of institutional elections; Presidential preceding local

National Electoral Commission

STRENGTHS	WEAKNESSES
•Election preparations and advanced planning: •'Independent' •Team work (NEC2) •Impartiality •Integrity •Efficiency in electoral logistics	•Poor voter registration •Inadequate voter education (rural) •Poor Staff Training •Dependence on International funding •Selection process is too political (clan influence) • Lack of gender Justice
OPPORTUNITIES •Improve selection & screening process •Improve budgetary allocations •Provide appropriate training for all staff •Collaborate with CSOs to deliver effective public awareness • Further training of Commissioners • Conduct National census	THREATS •lack of adequate financial resources •Dependence on international community •Poor management of Electoral malpractice •Absence of credible conflict resolution system • existence of loopholes of voter register

Incumbent Government

STRENGTHS	WEAKNESSES
•Ensured legal frameworks for all elections •Set up credible NEC -except NEC2 •Created an impartial electoral security system •Facilitated intern & domestic election Observers •Free private media •Respected the independence of NEC (1 & 3)	•Postponement of elections •Reluctant funding for NEC •Political parties had no equal access to national media •No appropriate mechanisms for fair resolution of electoral disputes. • Shortage of political will
OPPORTUNITIES • Take steps to fully fund elections •Initiate Electoral Law review & completion •Ensure independent and free media. •Ensure that all political parties have equal access to national media. • MOI to conduct census & issue citizenship card as per citizenship law	THREATS •Postponement of elections •Lack of Electoral Law reform & completion •Deployment of national resources for political ends •Lack of independent judiciary & conflict Resolution system

Political Parties

STRENGTHS	WEAKNESSES
•Actively promote and participate in multi-stakeholder dialogue platforms •Commit to peaceful actions at all times •Sign and enforce codes of conduct, • Inspect voter rolls during display periods •Openly accept the results of credible and democratic elections.	•Did not advocate for the reform of electoral system or laws • Campaign strategies and messages that appeal to clan or regional differences • Did not focus on issue-based policy and platform development • did not practice internal democracy, and centralized leadership •Low women representation/decision-making. (lack of quota system) • Lack of secure funding base
OPPORTUNITIES •Ensure that party agents are appropriately selected, trained and monitored during electoral periods. •Inspire the public in democratic & reduce clan appeal •Prepare women and youth for positions of leadership within party structures and as candidates for elected office.	THREATS •Lack of provisions for the inclusion of women • Shielding party members or supporters who engage in election offenses from appropriate and fair legal action. •Clan interest & influence

House of Representatives

STRENGTHS	WEAKNESSES
•Enacted acceptable legal frame works for the 4 Elections •The electoral framework is perceived to be legitimate • The electoral system helps the electoral quality •Constituency structure reasonable and broadly accepted	•Consolidated legal foundation was not made available for all elections • The legal frameworks were approved in haste •Incomplete local council and Parliament election laws • Inadequate capacity to draft and enact laws
OPPORTUNITIES • Improve capacity of members in law making •To prioritize fundamental review of the Constitution and the Electoral Law • Re-drafting & completion of existing gaps in the Electoral Laws • quotas for women	THREATS •Lack of agreed constituencies and lower level districts (demarcation, sizes, seats) • Interference from the Guurti and Executive branches • Absence of women and minorities • Clan interest

Guurti

STRENGTHS	WEAKNESSES
• Endorsed most of electoral Laws in timely fashion • The electoral framework is broadly perceived to be legitimate • The electoral legislation be implemented	•Consolidated legal foundation was not made available for all elections • The Guurti election Law is not yet developed •Presidential extension power cause discord • Parellel power with the legislative
OPPORTUNITIES	THREATS
• Produce & agree constituencies and lower level districts (demarcation, sizes, seats) • Support fundamental review of the Constitution and the Electoral Law • distinction between the Legislative & Guurti roles/responsibilities	• Continued absence of Guurti Election law •Collusion with the incumbent government • Obstruction of sensitive laws enacted by the legislative •Clan interest & influence

Judiciary

STRENGTHS	WEAKNESSES
•There are qualified personal in the higher court structure • Confirms & legalizes elections results • Swear in elected officials •All cases brought in front of the courts are resolved fairly •Seats are taken only by those persons properly elected	•The judiciary is not independent •Lack of trust in the judiciary by the opposition parties •Courts are susceptible to corruption •Lack of resources and skills • Selection & appointment process influenced by the executive
OPPORTUNITIES	THREATS
• Improve independence of the courts both by the selection process and financial system • Improve skills of the judiciary personnel • Create an effective mechanism for compliance with the law and enforcement of electoral rights	•Lack of an impartial and non partisan dispute resolution mechanism can lead to political chaos • Lack of separation of powers harms democracy though lack of oversight

CSOs

STRENGTHS	WEAKNESSES
• Advocate for the ratification of election laws that reinforce peaceful and credible electoral processes. •Promote election dialogue platforms and carry out conflict mitigation initiatives. •Advocate for the ratification of appropriate election laws	• Does not carry out civic and voter education campaigns through all phases of the electoral process • Does not organize and host candidate debates in coordination with media, political parties and candidates. •Poor nationwide coordination & networking
OPPORTUNITIES • Promote the participation of women and youth in all stages of the electoral process. •Improve nationwide networking. •Reach rural areas •Become more deeply involved in post-election activities	**THREATS** • Inadequate understanding of constitutional, legal and electoral frameworks in order to advocate for electoral reform, as needed. •Division along political party lines

Media

STRENGTHS	WEAKNESSES
• Private media relatively independent • Signed and observed the Codes of Conduct • Fair monitoring of the electoral process • Provided training for journalists and media personnel	•Most media did not provide robust voter education to ensure citizens understand voter registration and polling day procedures. • State-controlled media did not provide equitable and free access for all electoral contestants • Private media also allied to different candidates
OPPORTUNITIES • State-owned media should serve as a public resource and operate free of political bias and for the public interest including in the electoral contest. • All media should adopt ethical standards and professional guidelines requiring unbiased, accurate and equitable news coverage of political parties and electoral candidates	**THREATS** • Inflammatory, biased, and inaccurate coverage of the news, particularly, election processes and results • Unfair & distorted exploitation of the national media

Domestic and International Observers

STRENGTHS	WEAKNESSES
• Adhered to regional and international standards and principles guiding election monitoring • Selected observers on the basis of competence and impartiality • Recruited domestic observers from community-based organizations. •Ensured that international observers are familiar with local laws, customs and culture.	• Did not observe and report on all aspects of the electoral process • Lack of adequate coverage, particularly, remote rural areas • Did not enforce codes of conduct for all election observers.
OPPORTUNITIES	THREATS
• Create partnerships and coordinated efforts, to the fullest extent possible, among groups and within coalitions. • Work with other stakeholders to ensure peaceful and credible elections. • Provide adequate training for domestic observers	• Conducting activities in an impartial and transparent manner. •Biased and inflammatory reporting