



## PUNTLAND LOCAL GOVERNMENT ELECTIONS: IMPLICATIONS AND PROSPECTS FOR THE PUNTLAND PARLIAMENTARY AND PRESIDENTIAL ELECTIONS



### BACKGROUND

For the first time since its establishment 25 years ago, Puntland State of Somalia concluded the first local government elections based on universal suffrage. This long-awaited dream of Puntland citizens had been tried many times in the past, with each attempt failing for a variety of reasons: time, lack of civic education, lack of trust and so on. On 25 May 2023, the citizens of 30 districts in Puntland finally went to the polling stations to elect their local councils. The elections were lauded by many local and international stakeholders as peaceful, free and fair.

These local government elections were preceded by a test run of the one-person-one vote (OPOV) system in three districts— Eyl, Qardho and Ufeyn— in 2021. These pilot elections, which were the first, was designed to assess the readiness of Puntland to transition from a clan-based electoral system to a democratic system based on universal suffrage. Despite the success of these three local council elections, further local council elections in other districts stalled for a considerable time, due to President Deni' s change of circumstances as he bid for the presidency of the Federal Government of Somalia in May 2022. This delay led to many observers doubting the possibility of completing the remaining district council elections.

The phased process of conducting local government elections was embarked upon after an agreement was reached between various political actors, which mainly included political associations, the state government and the Transitional Puntland Electoral Commission (TPEC). The initial phase involved voter registration, which was first undertaken in the Bari, Karkaar and Gardafui (currently named Raas Asayr) regions, with similar campaigns reaching the areas of Nugaal, Mudug, Sanaag and Haylaan. The total number of registered voters in the 33 districts mounted to 387,094 Puntland citizens (TPEC, 2023). It is worth mentioning that the voter registration process took place smoothly in all regions, except Nugaal, where local militias disrupted the training of the registration staff on 6 February 2023, one day before the registration campaign was planned to begin. Upon completion of the voter registration process, the TPEC announced that local government elections would take place on 25 May 2023.

The distribution of voting cards started immediately in all regions. A total of 319,507 voting cards were distributed in the 30 districts; 22,709 cards were not collected (TPEC, 2023). The total number of registered voters included the three early elections districts.

Before election day, between the nights of 16 and 24 May, opposition forces violently attempted to block the transportation of election materials and ballot boxes to other districts from Garowe. This resulted in the deaths of four security officials, two of whom were police officers escorting the ballot boxes. On 25 May 2023, local government elections nonetheless took place in 30 of the 34 districts, in which 181,181 citizens voted (TPEC, 2023). This was not the case in three districts in the Nugaal region (Garowe, Dangoroyo and Godobjiraan) in Nugaal region where the electoral process was suspended on 24 May due to security concerns posed by opposition militias; as well as Laasqoray where there were security concerns due to Al Shabab presence. The conduct of elections in these three districts is pending political agreement.

The transition to a OPOV electoral system in Puntland has been somewhat volatile and fraught with obstacles. It is anticipated that opposition politicians and forces will oppose the upcoming parliamentary and presidential elections in a similar manner because they are uncertain of the overall effects that the local government elections on May 25, 2023, will have on those elections, whose mandated terms of office expire in less than six months. While most political actors are now supportive of the local government election process, the timing and modality of the parliamentary and presidential elections, along with the proposed opening of the constitution, continues to provoke controversy. As long as this issue remains unresolved, it threatens to generate political disputes that could derail the entire process. It is against this backdrop that this briefing paper aims to analyse possible scenarios around these processes and to provide options for managing the forthcoming parliamentary and presidential elections.

### OPENING THE STATE CONSTITUTION FOR AMENDMENT

Debate on amending the constitution of Puntland has been gaining traction for the past few years. Although the procedural rule of amending the state constitution is not rigid, past attempts have met stiff resistance from politicians, citizens, opposition, and some members of parliament (MPs). Opponents argue that any alteration to the state constitution will open up discussions on a range of controversial issues and set a precedent for subsequent governments to amend the constitution to align with its interests.

According to Article 139 of the Puntland constitution, constitutional amendments can be proposed by one-fifth of the house of representatives, the cabinet or at least 5,000 citizens. Once a proposal is made, parliament sets up a committee to analyse the proposed amendment, after which the committee presents its suggestion to the parliament on whether or not to proceed with consideration of the constitutional amendment. Parliamentary approval of the committee suggestion requires a 50 plus one vote. Subsequently, parliament conducts public awareness activities of no less than thirty days to inform the public about the approved constitutional change. Following this, the parliament should approve the amendment by a two-third majority vote.

The current momentum towards constitutional amendment was initially demanded by 7 political associations<sup>1</sup> on 29 November 2022 to remove the limits on the number of official political parties that can be formed after the first local elections are concluded. Article 46 of the Puntland constitution stipulates that the three political associations receiving the highest number of votes will become the state-level political parties. These three political parties will then dominate the state political spectrum for the next ten years, with only these parties permitted to compete in local and parliamentary elections. It is worth noting that the government initially refused to accommodate the request by the political associations to remove limits on the number of official parties. The government eventually accepted the proposal to better ensure greater clan inclusivity in upcoming elections.

As a result, the cabinet meeting of 5 May 2023 proposed to increase the three official political parties to five and to make changes to Article 46 and related provisions in the state constitution. Consequently, a day later, the speaker of the parliament appointed a five-member advisory committee to advise parliament on the proposed amendment of the state constitution. The timing on the part of the government to make these changes (which it initially opposed) created doubt and triggered fears amongst citizens and opposition groups that the sudden change in positions was due to an effort to seek a term extension for the current administration. The move was opposed by a range of influential political figures, including former Puntland state presidents and Somali prime ministers who hail from Puntland, leaders of three key political associations (Mideeye, Youth and Horseed), independent politicians and the Puntland Political Forum (a loose alliance of politicians and 2024 presidential candidates formed on 3 January 2023). These opposition figures claim that the current administration is not eligible to make changes to the state constitution since its tenure is coming to an end on 8 January 2024. The forum also blames the state president of using this strategy as a pretext to extend his term, calling on him to refrain from acts that may undermine the unity and stability of the region.

At the same time, the refusal of opposition groups to support the proposed constitutional changes is based on discrediting government democratization initiatives. To achieve this, the opposition appears to have adopted the following three strategies:

- **Preventing that elections, including through mobilising security forces, to take place in the three Nugaal districts whose citizens are registered voters:** This undermines the credibility and inclusivity of elections, which is also reinforced by the fact that elections are not held in the Sool and Cayn regions due to Las'anod conflict but elections took place in Sanaag region. This lessens and demeans claims about the intended representativity and inclusivity of the elections.
- **Resisting the proposed amendment to Article 46 of the Puntland constitution:** This would prevent the incumbent president and administration from accommodating more political parties than the current three, thus challenging the integrity of the democratisation process and the clan and regional representation of Puntland political parties. Above all, it serves to rally more allies and sub-clans to the opposition to hinder the president and prevent the democratization process moving forward.
- **Disagreeing with the timing of the government proposal to amend the state constitution:** There is a wide range of influential actors, including independent commentators, researchers, politicians, and members of the political and civic organisations, who in theory support increasing the number of political parties in Puntland from the current limits of three. Nonetheless, they do not agree with the timing of the proposed constitutional change by the current government. Instead, the opposition wants a broader constitutional reform, which includes the following points:
  - a. political parties to emerge from the parliamentary elections (not the municipal elections) and qualify based on whether they can earn votes over a certain threshold percentage;
  - b. to change the certification validity of the parties from ten to five years; and
  - c. to change the current parliamentary system to a presidential one in which voters elect the president directly. The latter is rooted in the belief that this would reduce the likelihood of corruption and vote buying that is otherwise possible in the parliamentary system, whereby the 66 members of the state parliament are likely to switch parties based on clan and financial motivations—against the interests of their own parties.

<sup>1</sup> Youth PA, Horseed PA, Ifiye PA, Mideeye PA, Mustaqbal PA, Runcad PA, and Sincad PA

Nonetheless, on Tuesday 25 July, the Puntland parliament voted to approve the constitutional amendment, with 50 out of 54 members present voting for the change. The final changes agreed including increasing the number of political parties to nine, and to enable the direct election of the president and vice-president. Members of the opposition have already rejected the change and it remains to be seen whether it will be accepted and from the basis of the elections going forward.

## ESTABLISHMENT OF PUNTLAND ELECTORAL COMMISSION

In alignment with the constitution of Puntland, after the successful conclusion of local government elections, the Puntland Electoral Commission (PEC) is slated to replace the current Transitional Puntland Election commission (TPEC), the work of which ended with the May 2023 local elections. Despite the fact that TPEC's mandate was to end with the holding of the local government election on March 25, it will remain operational while waiting for the suspended three Nugaal districts' elections, the certification of political parties after the Supreme Court approves the election result, and until PEC is formed, to whom they will hand over the office. The PEC is responsible for administering the parliamentary and presidential elections. The PEC is composed of nine members whose term in office is six years, with three members to be appointed by the executive branch, three members by the legislature and one member each from the top three political parties in Puntland.

Introduced in January 2015, the PEC law delineates the functions, powers, and responsibilities of the election commission, as stipulated in Article 112 and Article 113 of the state constitution. The establishment of the PEC is a prerequisite for the organization of parliamentary elections based on the OPOV system. At the same time, the establishment of the PEC depends three other factors:

1. approval of the results of the recent local government elections by the supreme court; and
2. consensus around the recent constitutional amendments; and
3. certification by the TPEC of the number of political parties that arise from the aforementioned processes. It is also important to keep in mind that the changes to Article 46, recently endorsed, will impact Article 112 and Article 113, which deal with the PEC and the procedures for its establishment.

This means that the establishment of the PEC is contingent on the constitutional amendment— or lack thereof. If the constitutional amendment proceeds as planned, the establishment of the PEC will certainly be delayed until the process of reviewing Article 46 is complete. If the amendment is halted, however, the PEC can be formed as early as possible (presuming the other two requirements have been fulfilled).

The formation of the PEC is surrounded by sensitive issues that need to be dealt with cautiously. In particular, the emergence of political parties is a critical factor for the public, who believes that it is not wise to practice exclusionary politics, where only three political parties would monopolize state politics for a ten-year period.

## PARLIAMENTARY ELECTION MODEL

During the last session of the Puntland parliament stating in October 2023, the most pressing issue of the day was the election model that would be used to elect the house of representatives. Traditionally, the state parliament issues a constitutional annex suspending some articles of the Puntland constitution; notably, Article 60 and Article 44. Both articles stipulate that member of the Puntland parliament should come into office through OPOV elections. Due to prevailing circumstances at the time, however, parliament has allowed the continuation of the clan-based election model, justifying this decision on the grounds that the Puntland government is unable to hold democratic elections.

There is great uncertainty over the election model to be used in the 2024 parliamentary election since the situation is now different than in the past because of the local government elections that bring about state-level parties. Parliament faces a dilemma and must make some hard choices between pushing for OPOV democratic elections, on the one hand, and staying with the status quo of the traditional clan-based model, on the other. Each model would create cascading effects and challenges. Without doubt, whatever model is chosen will impact the political landscape of Puntland in coming years.

### Traditional clan-based elections

The first model is the traditional 66-member clan-based parliamentary elections that Puntland has been using for the last two decades. In this system, traditional elders select the members of parliament (MPs), assigning these members to specific sub-clans following power-sharing formulas that each clan has agreed upon. The 66 members of parliament then elect the state president in a secret ballot. Although this model is based on consensus, sole authority nonetheless rests with the highest traditional elder of the clan. If parliament opts to retain the status quo, this will assuredly undermine the gains made toward the transition to democracy that Puntland has recently achieved. More pragmatically, however, the traditional system is simple and has been tested in the past. Therefore, it does not require a lot of time to decide who will represent the clan. In 2004, traditional elders and the state government agreed to form the 66-member state parliament with less than two weeks before the 8 January 2005 presidential election.

The main shortcoming of the traditional clan-based election model lies in its vulnerability to manipulation and corruption.

Popular aversion toward the clan-based power-sharing system (in favour of a more representative approach) is also a reason to be wary of continuing such models. Besides these inherent weaknesses of clan-based elections, another obstacle that has now arisen is who will select the MPs. In the past, this question was straightforward—traditional elders selected the 66 members. Since the first local government elections have been conducted, and a political party system had been partially implemented, it is difficult to expect the formation of the legislative or executive branches of government whilst these political parties play a bystander role.

Another major issue that may ignite controversy in the clan-based election model is the selection of MPs from the SSC region (Sool, Sanaag and Cayn), especially those of the Dhulbahante clan, which is among the major clans that established Puntland in 1998. Since the incursion of Somaliland in the region in 2007, the traditional elders who are mandated to select MPs, including those representing the SSC region, have been wavering in their allegiance to Puntland, and some have claimed, at times, that the SSC region is part of Khatumo state and have withdrawn from Puntland state. Nonetheless, many traditional elders still regarded the SSC region as part of Puntland state and hence selected members from the region to be in the state parliament. As the conflict in Lasanod (the capital of Sool) erupted in early 2023, however, traditional elders in the SSC region united in the request to form of their own federal member state, in effect separating from Puntland. So far this appears to have the tacit acceptance on the part of Puntland state, which would therefore make it unclear, how and whether the 17 members of Puntland state parliament from the SSC region would be chosen under a clan-based model.

#### **Democratic elections based on a multiparty system**

The second model is a continuation of the local government elections, with the three official political parties that emerged from the May 2023 elections competing for the upcoming parliamentary and presidential elections in 2024. The ministry of interior or president Deni have not yet stated to publicly make a commitment to hold parliamentary elections through OPOV elections.

If the option of democratic elections is agreed upon by all stakeholders, the eight political parties will compete for the 66 seats in the state parliament, ideally before 8 January 2024. The main challenge under this scenario is, however, that the time available for fulfilling the various elements necessary to set up parliamentary elections through the OPOV model is far too short. This is especially the case given that the scope of work includes developing a legislative framework for the parliamentary process. Moreover, a second challenge arises from contention over the political parties. Many politicians who have already declared their intention to run for presidency are not members of any political association or future political party.

Yet Puntland has adopted a parliamentary system in which the state president is chosen by the elected parliament. It will be difficult for such candidates to accept this new trend and join an existing political association, though nothing in the constitution obliges running through a PA.

In addition to the timing issue, holding the agreed elections by January 2024 or beyond face a new puzzle concerning the electoral system upon which upcoming elections will be based. This will determine where and how MPs be elected. The electoral model that Puntland adopted in its recent local government elections is based on proportional representation. Although the model has faced criticism from clans and political associations, especially in terms of its impact on distribution of clan seats, it is likely also the most feasible option for the parliamentary elections.

This would require however agreeing what geographic area would constitute constituencies, and how seats are to be assigned to constituencies. The current parliament allocates seats to regions as well as clans, but is often interpreted as an entirely clan-based model. It is also worth noting that Article 44(5) of the Puntland constitution outlines that ‘the law shall limit the number that each region shall have in the house of representatives’ suggesting that parliamentary constituencies should be based on regions.<sup>2</sup>

Thus, the simplest option in terms of where MPs should be elected is a region-based approach using the proportional representation model. Article 44 (5) of the Puntland constitution outlines that ‘the law shall limit the number that each region shall have in the house of representatives’ is a clear indication that the allocation of seats in parliament is based on regions<sup>3</sup>. Therefore, the population of each region should elect the MPs for their region; for instance, eligible voters in the Mudug region should elect ten MPs, voting from among the 8 political parties.

The second option is to conduct a census to decide the number and distribution of MPs that each region should have. This will not, however, change the regional-based election system unless the constitutional amendment is including a change. Once the census is conducted, the results may change the total number of MPs, and then determine how seats are allocated between regions. However, conducting a state-wide census would be very difficult owing to the technical and financial necessities, as well as time, needed to implement it.

The last option could be a single constituency model, whereby the whole of Puntland is considered one large constituency. After this type of election, each of the three political parties would get the number of MPs that corresponds to its share in the overall vote. The problem with this model is that it can be harder to ensure clan power-sharing is adhered to in party lists, and therefore may be rejected.

<sup>2</sup> Puntland Constitution 2012

<sup>3</sup> Puntland Constitution 2012

## THE CURRENT POLITICAL AND DEMOCRATIZATION TRANSITION IN PUNTLAND

### Possible scenarios going forward

The conclusion of the Puntland local elections and the emergence of three or more political parties would inevitably pave the way for a comprehensive consultation between different stakeholders, including the political parties, traditional elders, the Puntland government, politicians and civil society groups, to discuss parliamentary and presidential elections, along with state politics in general. There are plenty of options and scenarios suggested by opposing, former and current politicians at state and federal level, civil society, and citizens. In no particular order of preference, these include:

1. A timely democratic parliamentary and presidential election through either three or an expanded number of parties.
2. Timely holding of traditional tribal-based parliamentary and presidential elections.
3. A timely holding of parliamentary and presidential elections through a hybrid model of three possible arrangements:
  - a. tribal-and party-based selection models,
  - b. tribal and party-based (selection-election) model in which the elected district councillors in every region will collectively vote for each of the allotted parliamentarians from that region,
  - c. an indirect model of election like that of the recent federal election in which an electoral college of 101 selected members must elect each of the 66 members of the new parliament.
  - d.
4. Timely presidential elections through the traditional selection-based model by the incumbent House of Representatives whose ending term in office is to be extended by one year, as well as a delayed democratic parliamentary election.
5. Delayed democratic presidential and legislative elections through/by;
  - a. a three-month maximum extension of the current administration's term to organise elections,
  - b. establishing an interim administration (either through an election or appointment) with a mandate of six to twelve months to complete the remaining democratisation and electoral processes,
  - c. reorienting the rules governing Puntland's current political and electoral environment to (a) extend the government's term by six to twelve months, (b) postpone the upcoming legislative and presidential elections, (c) approve significant constitutional amendments, (e) permit Political Parties to expand from three, emerge from parliamentary elections rather than municipal elections, and exist for five years rather than ten,

(f) change Puntland from a parliamentary to a presidential system, (g) conduct a statewide census to assess the size and representativeness of the current house of parliament, (h) redistribute seats among Puntland's regions and districts based on their populations rather than a clan power-sharing formula (h) as well as make it legally acceptable for independent candidates to run in elections.

This option's compromise entails delaying the 1P1V-based legislative and presidential elections while extending the current administration's tenure by the amount of time necessary to fulfil the aforementioned legal, electoral, and political prerequisites with the goal of accommodating and motivating the opposition by allowing an extension in the establishment (number, size, birthdate-and-process) of Puntland political parties and giving independent candidates and the previously dubious licensed political associations the chance to run in the postponed or upcoming elections for the district councils, as well as the legislative and presidential offices, and by allowing an extension in the establishment process (number, size, birthdate) of Puntland political parties.

### A POTENTIAL ARRANGEMENT FOR SSC MPS

The following are relevant options that allow the SSC region to participate in the upcoming parliamentary elections, since the current political and security situation does not allow for elections to be held in Sool, Sanaag and Cayne regional districts.

1. As with any other region in Puntland state, representatives from the SSC region would be chosen from their sub-clans by a designated and titled traditional elder.
2. The competing political parties would submit their lists of parliamentary candidates from all three SSC regions and divide the SSC seats among themselves, based on the proportion of votes or seats each party won in other districts. This option applies if the new parliament is elected through the OPOV model using a closed-list model.