



SOMALI LIKEMINDED CIVIL SOCIETY

**SOMALI LIKEMINDED CIVIL SOCIETY POSITION ON THE PROPOSED 2016
ELECTORAL MODEL AND WOMEN'S EQUITABLE POLITICAL
PARTICIPATION IN THE ELECTORAL PROCESS**

**MEMORANDUM ON MODALITIES AND PROCEDURES FOR ELECTING WOMEN
PARLIAMENTARIANS UNDER THE 30% RULE**

JULY 2016

'THE SOMALIA WE WANT AND ASPIRE TO: SOMALI LIKEMINDED CIVIL SOCIETY REFERENCE GROUP

PREAMBLE

WE, members of the Somali Likeminded Civil Society mentioned hereunder, representing diverse sectors from all over Somalia, Somali Diaspora together with human rights and gender champions, and likeminded experts from the Eastern Africa region;

HAVING continuously engaged in and with Somalia's peace and state building processes over the last two decades; which engagement continue to be on issues of constitution making and review, rebuilding of governance institutions including the three arms of government (Parliament, Judiciary and Executive), peace, security, women's political participation, child protection, gender based violence, migration, youth radicalization; and, economic development and social sector service delivery, including humanitarian assistance in partnership with regional and international agencies;

RECALLING that in the course of our engagements in and with the peace and state building processes as above, we strongly advocate for an inclusive, consultative and participatory Somali society based on the letter and spirit of the founding principles set out in Article 3 (4) and (5) of the Somalia Provisional Federal Constitution as well as relevant regional and international treaty instruments to which Somalia is State Party;

RECALLING further that as a direct result of our persistence on inclusion of women, youth, minorities, persons with disabilities, Diaspora and other vulnerable groups as a principle during engagements with the various peace and state building organs and platforms, including: the Article 29 of the 2004 Transitional Federal Charter that provided a quota of 12 per cent reserved seats for women in the Transitional Federal Parliament, which was not fully honored at 7% and later on degraded to 5% by the end of transitional Parliament in 2012; the Garowe Principles I (2011) and Garowe Principles II (2012), which committed to securing 30 percent reserved seats for women as members of the National Constituent Assembly (2012) and the parliament (sworn in August 2012), which was again betrayed with women only managing 25% of the National Constituent Assembly and a paltry 14% of the Federal Parliament after the clan elders reneged on appointing women for most of the anticipated seats in Parliament due to their long history of non-commitment to enabling women's participation in public and private spaces in Somalia; the 2013 Somali Compact/New Deal and Road Map that mainstreamed gender as a cross-cutting issue in development but never fulfilled this in deed as gender disparities persisted throughout its implementation; Vision 2016 and the PSG, especially PSG 3.

DISMAYED that in spite of the agreement and documentation of the principle of 30% women participation as above, the political leadership has failed to demonstrate political will in its implementation across the board; leading to the current glaring unequal representation of women in governance institutions and developmental processes where for instance in the outgoing parliament of 275 there are only 38 women and one Cabinet Minister. However, in the last two months there are signs of goodwill on the part of the key stakeholders, with some efforts being made to assure the 30% women representation is realized through the formation of FEIT and appointment of Goodwill Ambassadors. Such efforts need to translate into action.

HAVING strongly voiced our disdain for the continued exclusion of women, youth, minorities, persons with disabilities, Diaspora and other vulnerable groups through pronouncements in various communiqués

including '*Somali Likeminded Civil Society Position on Proposed 2016 Electoral Model and Women's Equitable Political Participation in the Electoral Process: Position Paper*', 1st July 2016, '*Critique of the 2016 Electoral Model and Process*', 1st June 2016, '*Likeminded Somali Civil Society Declaration and Action Platform for Securing and Enhancing the Gains of State Building of the Federal Republic of Somalia - DAP 2015*' issued after a '*Likeminded Civil Society Consultative Platform*' workshop held under IIDA/SWA Project; and '*Setting the Pace for Good Governance*' held in Mogadishu between 19th and 23rd July 2015;

RECALLING our various in-depth consultations on the 30% affirmative action principle with a cross-section of state and Non-State Actors including the consultative workshop organized and held in Nairobi between 17th and 20th February 2015 by IIDA and SWA under the theme '*Development of Legislative Framework for Somalia's Electoral System and Human Rights Practice*';

APPRECIATIVE of the work and efforts of the Committee on Realization of 30% Somali Parliamentary Seats for Women; and

DETERMINED to ensure that this time round women are not defrauded of their constitutional entitlement to 30% representation under the 2016 Electoral Model and process as happened in the past; and, subsequent to our Position Paper issued on 1st July 2016 titled '*Somali Likeminded Civil Society Position on Proposed 2016 Electoral Model and Women's Equitable Political Participation in the Electoral Process*' -

Share hereunder proposal on modalities and procedures for realizing the 30% women representation in the Federal and States' parliaments with the Federal Electoral Implementation Team (FEIT), Committee on Realization of 30% Somali Parliamentary Seats for Women, the National Leadership Forum (NLF), the general Somali public through the media and the international community:

A. INTERPRETATION OF 2016 ELECTORAL MODEL GUIDING PRINCIPLES

The interpretation in this part gives effect to paragraph 4 (a) of the final communiqué of the National Leadership Forum (NLF) dated 12th April 2016 which provides that the 2016 electoral process shall be uniform. Our understanding of the Guiding Principles for implementation of the 2016 Electoral Model adopted by the Somalia National Consultative Forum (SNCF) and the National Leadership Forum (NLF) and endorsed by the international community through the UN Security Council are that: -

1. The process should not only be transparent and accountable, but must be seen to be transparent and accountable in the eyes of the Somali people so as to meet legitimacy principle and threshold.
2. The women's seats should not be less than 30% but nothing prevents the % to be higher.
3. The 30% women representation only applies at the selection of Federal parliament representation.
 - The appointment of delegates of the Electoral College should be undertaken using mix proportional representation method. This is informed by the fact that both men and women are usually involved and their votes carry equal weight in terms of voting. If the electoral law was ready both men and women would have been eligible to vote. It therefore goes without saying that the selection of delegates must reflect the same and the best method to arrive at that is using mixed proportion representation.
6. There has to be a distribution/sharing of seats mechanism that is acceptable and uniform for all clans for all positions; and

7. The clan-based position must have a regional and geographical spread representation where applicable.

B. GENERAL RULES FOR ELECTION OF MEMBERS OF FEDERAL AND STATE PARLIAMENT

These rules are made pursuant to the provisions of paragraphs 4 (a) of the final communiqué of the NLF dated 12th April 2016 and 6 of the Terms of Reference of the Federal Electoral Implementation Team (FEIT) on the dictum of uniformity of the 2016 electoral process.

1. Electoral constituencies shall be the clans and minorities' clans; each of which shall also be an Electoral College composed of 51 electors.
2. The Electoral Colleges shall be constituted on the ratio of 50-50-gender parity and this parity must be maintained throughout the elections. Where for one reason or other a vacancy occurs, the replacement must be of the same gender as the previous member.
3. Membership of Electoral College shall have the following criteria and basis: -
 - a) Mixed proportional representation
 - b) Must be a member of the clan
 - c) 50 delegates to determine one position
 - d) Be aged 18 and above
 - e) Have no past criminal record,
 - f) Be of integrity
 - g) Be of sound mind
 - h) Not a candidate in the election
 - i) Not a civil servant
 - j) Consider geographical spread of the clan
 - k) Be ready to participate in the electoral process.
4. The elections shall be held simultaneously on the same day, during daylight; and within a time period specified by FEIT or SEIT as the case may be.
5. The elections for women members of both houses of Parliament shall take place first then be followed by those of the other seats.
6. The elections venues must be secured by security agencies and be accessible to all, including candidates and their agents, accredited members of local, regional and international media and local, regional and international observers.
7. The process must take into account diversity and geographical spread;
8. Not more than one candidate may be elected from the same family and candidates cannot transfer from one electoral seat to another once they have been registered for that seat and their names printed on the ballot paper; and
9. Should a seat falls vacant after election, the same electoral process shall be undertaken to fill it.
10. All candidates, their agents and campaigners, traditional clan elders, state officials including security agencies, members of the media, FEIT and SEIT officials, local, regional and international observers and entities engaged in the electoral process must subscribe to the Electoral Code of Conduct under oath prior to commencement of elections.

C. GENERAL CRITERIA FOR QUALIFICATION FOR ELECTION AS MEMBER OF FEDERAL AND STATE PARLIAMENT (ARTICLE 55 (1) (a) (b), PROVISIONAL FEDERAL CONSTITUTION)

All persons seeking to be elected as members of Parliament at Federal and States level must fulfill the following: -

1. Meet the criteria set out in Article 58 of the Provisional Federal Constitution on Membership Criteria for the Federal Parliament, except for the requirement of being a registered voter; namely in order to be eligible for membership of the Federal Parliament of the Federal Republic of Somalia, a person must:
 - (a) Be a citizen of the Federal Republic of Somalia, of sound mind, not younger than the age of 25 and have registered intention to stand as candidate in the 2016 elections with the Federal Electoral Implementation Team (FEIT) in the case of Federal Parliament and relevant State Electoral Implementation Team (SEIT) in the case of State Parliament;
 - (b) Not have formally renounced or had their citizenship suspended by a court or other order by a lawful authority in the last five (5) years preceding the date of 2016 elections;
 - (c) Have a minimum of secondary education or demonstrable compensating equivalent experience in leadership.
 - (d) Be of Muslim faith.
 - (e) Come from the sponsoring clan and have demonstrated continuous connections, including residency, with community issues and development work.
 - (f) Knowledge and sensitivity to issues concerning women, youth, persons with disabilities, minorities and other vulnerable groups.
 - (g) Be of integrity
 - (h) Have no past criminal record, including involvement with violent extremism;
 - (i) Have shown passion for and interest in women's issues
 - (j) Is not a serving member of the public service i.e. not a public servant. For the purposes of this requirement, members of the judiciary, security, semi-autonomous agencies and diplomats are public servants.
- (2) Before the candidature of a person is accepted, the FEIT or SEIT shall, as the case may be, verify whether the candidate meets the criteria set out above.
- (3) A person shall not be disqualified purely on the basis of suspicions or hearsay; and the FEIT or SEIT as the case may be shall verify the accuracy of allegations against candidates before making a decision on whether or not to disqualify a person.
- (4) A person who is disqualified may petition the Independent Dispute Resolution Mechanism (IDRM) in the first instance and the superior court if not satisfied with the determination of IDRM.

D. MODALITIES AND PROCEDURES FOR ELECTING WOMEN PARLIAMENTARIANS UNDER THE 30% RULE

1. It is proposed that at the end of the 2016 electoral process, the Federal Parliament (House of the People **(Article 55 (1) (a), Provisional Federal Constitution)**) shall have representation desegregated as follows: -

1.1 Composition by gender of total membership

- A minimum number of female MPs = 83 being 30% of 275
- A maximum number of male MPs = 192 being 70% of 275

TOTAL NUMBER OF MEMBERS OF FEDERAL PARLIAMENT = 275 BEING 100% OF 275

TOTAL NUMBER OF ELECTORS/VOTERS FOR WOMEN'S SEATS FOR THE HOUSE OF THE PEOPLE = 3800 + 500 = 4,300 ELECTORS/VOTERS

AGGREGATE OF ELECTORS/VOTERS FOR HOUSE OF THE PEOPLE = 4,300 + 9,600 = 13,900
ELECTORS/VOTERS (MEMBERSHIP OF ELECTORAL COLLEGES COMBINED)

1.2 Composition by clan and minority of total membership

- Total number of MPs for:
 - Hawiye = 61
 - Darood = 61
 - Dir = 61
 - Digil-Mirifle = 61

Sub-total for major clans = 61 x 4 = 244

Total number of MPs for minority clans = 31 x 1 = 31

TOTAL NUMBER OF MEMBERS OF FEDERAL PARLIAMENT INCLUSIVE OF ALL CLANS = 275

1.3 Composition by gender representation from clans and minorities

- Total number of female MPs for:
 - Hawiye = 19 being 30% of 61
 - Darood = 19 being 30% of 61
 - Dir = 19 being 30% of 61
 - Digil-Mirifle = 19 being 30% of 61

Sub-total women Members of Federal Parliament from major clans combined = 19 x 4 = 76 being 30% of 244

- **Sub-total number of male MPs from major clans = 168 (being 244 – 76 female)**

- **Sub-total number of female MPs for minority clans = 10**

- **Sub-total number of male MPs from minority clans = 21**

- **Sub-total of female and male MPs from minority clans combined = 31**

GENDER AGGREGATED COMPOSITION OF FEDERAL PARLIAMENT = 275

2. It is proposed that the following electoral procedure be adopted in arriving at the 83 women members of the Federal Parliament: -

2.1 Women who wish to stand for election as members of Parliament from shall apply in writing and pay 30% of the requisite candidacy registration fee to the FEIT or SEITs as the case may be, declaring their interest in being elected. The applications must be received within the time period set out by the FEIT or SEITs as the case may be.

2.2 The FEIT and SEITs will short list a maximum of four (4) candidates for each of the clan or minorities' reserved seats using the General Criteria set out in Part B above as follows –

Shortlisting of women candidates for major clans' clusters:

- Hawiye = 19 Seats x 4 = 76 shortlisted women candidates
- Darood = 19 Seats x 4 = 76 shortlisted women candidates
- Dir = 19 Seats x 4 = 76 shortlisted women candidates
- Digil-Mirifle = 19 Seats x 4 = 76 shortlisted women candidates

Total shortlisted candidates for major clans combined = 76 Seats x 4 Candidates = 304 shortlisted women candidates.

Shortlisting of women candidates for minorities' clusters:

Minorities = 10 Seats x 4 = 40 shortlisted women candidates

Total shortlisted candidates for minority clans combined = 10 Seats x 4 Candidates = 40 shortlisted women candidates.

- 2.3 Where there will be only one candidate application received for any seat by close of the set time period, the candidate shall be declared the winner and issued with a certificate as the duly elected member for that seat by FEIT or SEITs as the case may be.
- 2.4 Where there will be two candidates for a seat, the Clan Electoral College shall conduct a vote and the candidate who receives the highest number of votes shall be declared the winner on the basis of simple majority and issued with a certificate as the duly elected member for that seat by FEIT or SEITs as the case may be.
- 2.5 Where there will be more than two candidates for a seat, the Clan Electoral College shall conduct a vote and the candidate who receives 50 + 1 % of the votes cast will be declared the winner and issued with a certificate as the duly elected member for that seat by FEIT or SEITs as the case may be.
- 2.6 Where no candidate receives 50 + 1% of the votes cast in the first round, there shall be a second round of voting by the Clan Electoral College for the candidate with the highest votes and the one with second highest votes. The candidate who receives the highest number of votes will be declared the winner and duly issued with a certificate as the duly elected member for that seat.
- 2.7 Any candidate not satisfied with the outcome of the elections may petition FEIT or SEIT for review and if not satisfied by the decision of FEIT or SEIT as the case may be, may file a petition with IDRM and the superior court if not satisfied with the decision of IDRM.

3. The number of electors in an Electoral College for each clan shall be as follows:-

3.1 **Electors/voters for women candidates for major clans' clusters:**

- Hawiye = 19 Seats x 50 electors/voters = 950 Electors/Voters
- Darood = 19 Seats x 50 electors/voters = 950 Electors/Voters
- Dir = 19 Seats x 50 electors/voters = 950 Electors/Voters
- Digil-Mirifle = 19 Seats x 50 electors/voters = 950 Electors/Voters

Sub-total Electors/Voters for women's seats for major clans combined = 950 x 4 = 3800 Electors/Voters.

3.2 **Electors/voters for women candidates for minorities' clans' clusters:**

- Minorities = 10 Seats x 50 electors/voters = 500 Electors/Voters

Sub-total Electors/voters for women's seats for minorities' clans combined = 500 x 1 = 500.

TOTAL NUMBER OF ELECTORS/VOTERS FOR WOMEN'S SEATS = 3800 + 500 = 4,300 ELECTORS/VOTERS

Summary of distribution of seats by Clan, Gender, Minority & Size of Electoral Colleges (Delegates)

CLAN	TOTAL SEATS ALLOCATION BY CLAN	GENDER DISAGGREGATION OF SEATS ALLOCATION		TOTAL NUMBER OF ELECTORAL COLLEGE DELEGATES	GENDER DISAGGREGATION OF ELECTORAL COLLEGE DELEGATES	
		WOMEN	MEN		WOMEN	MEN
HAWIYE	61	19	42	3,050	1,525	1,525
DAROOD	61	19	42	3,050	1,525	1,525
DIR	61	19	42	3,050	1,525	1,525
DIGIL-MIRIFLE	61	19	42	3,050	1,525	1,525
MINORITIES	31	10	21	1,550	775	775
TOTALS	275	86	189	13,200	6,600	6,600

4. It is proposed that for the orderly election of women members of Parliament, venues for the election for each seat shall be located at a reasonable distance from each other.
5. It is proposed that election/selection for the members of the Upper House (***Article 55 (1) (b), Provisional Federal Constitution***) be deferred and held after Member States' parliaments have been constituted; provided that election/selection for women members shall be held first.
6. It is proposed that at the end of the 2016 electoral process, the Upper House shall have representation desegregated as follows: -
 - A minimum of female MPs = 17 being 30% (rounded) of 54
 - A maximum of male MPs = 37 being 70% of 54**TOTAL NUMBER OF MEMBERS OF THE UPPER HOUSE = 54 BEING 100% OF 54**
7. It is proposed that modalities and procedures for the election/selection of women members of the Upper House be the same as those of the House of the People with Regional Assemblies of Member States being the Electoral Colleges.

CONCLUSION

We, the Somali Likeminded Civil Society appreciate the measures taken by the leadership to comply with the principle of separation of powers and avoid conflict of interest in the composition of the 2016 Electoral Model organs as demonstrated by the expeditious reconstitution of the FEIT. Subsequent to this memorandum, we shall shortly share comprehensive proposals on prototype Regulations and Electoral Conduct. As Somali Likeminded Civil Society, we commit to soldier on for the benefit of women and girls of Somalia and will continue urging key stakeholders in Somalia's state-building and peace-building that Somali women must be part and parcel of the various processes; until we achieve the Somalia we want and aspire to.