

**Flygtningenævnets baggrundsmateriale**

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## Somalia

**Country:**

Somalia

**Year:**

2018

**Freedom Status:**

Not Free

**Political Rights:**

7

**Civil Liberties:**

7

**Aggregate Score:**

7

**Freedom Rating:**

7.0

**Overview:**

Somalia has struggled to reestablish a functioning state since the collapse of an authoritarian regime in 1991. The country's territory is divided among an internationally supported national government, the Shabaab militant group, a semiautonomous government in the Puntland region, and a separatist government in the Somaliland region. No direct national elections have been held to date, and political affairs are dominated by clan divisions. Amid ongoing insecurity, impunity for human rights abuses by both state and nonstate actors is the norm. However, citizens have experienced modest gains in civil liberties in recent years as the government and international troops have reclaimed territory from the Shabaab.

**Explanatory Note:**

The numerical ratings and status listed above do not reflect conditions in Somaliland, which is examined in a separate report.

**Political Rights and Civil Liberties:**

## POLITICAL RIGHTS: 1 / 40 (+1)

### A. ELECTORAL PROCESS: 0 / 12

**A1. Was the current head of government or other chief national authority elected through free and fair elections? 0 / 4**

Under a 2012 provisional constitution, the president is elected by a two-thirds vote in the Federal Parliament to serve a four-year term. In February 2017, legislators who were not freely elected themselves chose Abdullahi as president after two rounds of voting, rejecting the candidacy of incumbent president Hassan Sheikh Mohamud. Abdullahi then nominated oil executive Hassan Ali Khayre as prime minister, and he was confirmed by Parliament in early March.

**A2. Were the current national legislative representatives elected through free and fair elections? 0 / 4**

Limited elections for the Federal Parliament were held between October 2016 and February 2017, as the security situation and other factors precluded direct national elections. Members of the 54-seat upper house were elected by state assemblies, while the lower house was elected under a system in which 135 clan elders chose 275 electoral colleges, each of which comprised 51 people and elected one lawmaker. Corruption reportedly played a major role in the elections.

**A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 0 / 4**

The electoral framework in use for the 2016–17 elections did not provide for universal suffrage. The balloting was the result of an ad hoc process based on lengthy negotiations among the country's main clans.

**B. POLITICAL PLURALISM AND PARTICIPATION: 1 / 16 (+1)**

**B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 1 / 4 (+1)**

Legislation signed in 2016 allowed the first formal registration of political parties since 1969. The National Independent Electoral Commission developed a registration process following the recent elections, and in December 2017 it announced the successful registration of seven parties.

**Score Change: The score improved from 0 to 1 due to the formal registration of political parties for the first time in several decades.**

**B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 0 / 4**

Although there was an orderly transfer of power between the outgoing and incoming presidents in February 2017, there has been no clear division between governing and opposition forces under the clan-based political system, and the lack of direct elections prevents any grouping from gaining power through democratic means.

**B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 0 / 4**

Ordinary citizens are largely unable to participate in the political process as voters, and the clan-based electoral process in 2016–17 was reportedly distorted by vote buying and cases of intimidation and violence.

**B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 0 / 4**

The current political system is designed to ensure some representation for the country's many clans, but the prevailing "4.5" formula gives the four largest groups eight out of every nine positions, marginalizing all other clans. The system is also dominated by clan leaders, who do not necessarily represent the interests of their respective groups.

Women's political participation is limited by cultural constraints and hostility from incumbent elites. The 2016–17 electoral framework called for women to hold a minimum of 30 percent of the seats in Parliament, but the actual share after the elections was 24 percent in each house.

## **C. FUNCTIONING OF GOVERNMENT: 0 / 12**

### **C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 0 / 4**

The government, which is not democratically elected, has little practical ability to implement its laws and policies even in parts of the country it nominally controls. Its basic operations remain heavily dependent on international bodies and donor governments.

### **C2. Are safeguards against official corruption strong and effective? 0 / 4**

Corruption is rampant in Somalia, including in the security sector, and state agencies tasked with combatting it do not function effectively. Impunity is the norm for public officials accused of malfeasance.

### **C3. Does the government operate with openness and transparency? 0 / 4**

Government transparency is limited. Officials are not required to make public declarations of their income and assets, and oversight procedures for public contracts are not well enforced. There is no law guaranteeing public access to government information.

## **CIVIL LIBERTIES: 6 / 60 (+1)**

## **D. FREEDOM OF EXPRESSION AND BELIEF: 3 / 16**

### **D1. Are there free and independent media? 1 / 4**

Somalis have access to relatively dynamic radio and online news outlets. However, while the provisional constitution calls for freedom of the press, journalists face harassment, arbitrary detention and fines, and violence from both state and nonstate actors in practice. At least two journalists were killed in separate suicide bombings in 2017, according to the Committee to Protect Journalists. Proposed reforms of a problematic media law signed in 2016 remained under discussion during the year.

### **D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 0 / 4**

Nearly all Somalis are Sunni Muslims, though there is a very small Christian community. The provisional constitution recognizes Islam as the official religion, requires presidential candidates to be Muslims, and forbids the promotion of any other faith, but it also includes clauses promoting religious freedom and forbidding discrimination on the basis of religion. Blasphemy and “defamation of Islam” are offenses under the penal code. Religious minorities and dissenters generally keep their beliefs and practices out of public view. In areas under its control or influence, the Shabaab use violence to enforce their interpretation of Islam and a crude version of Sharia (Islamic law), including execution as a penalty for alleged apostasy.

### **D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 1 / 4**

Limited funding and infrastructure, lack of qualified instructors, and unregulated private education all pose challenges to the country’s educational system. Nevertheless, there are functioning universities in Mogadishu, Garowe, and Bosaso that have improved over time as curriculums have become more developed. Academics reportedly practice self-censorship on sensitive topics. Islamic instruction is required in all schools except those operated by non-Muslim minorities. The Shabaab impose jihadist indoctrination in schools under their control, and children are forced to attend in some regions.

**D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 1 / 4**

Individuals enjoy some freedom of expression in more secure areas of the country, but criticism of powerful figures in the state and society can draw reprisals, and open debate is severely restricted in areas controlled or threatened by the Shabaab.

**E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 2 / 12 (+1)**

**E1. Is there freedom of assembly? 1 / 4 (+1)**

Although the provisional constitution guarantees freedom of assembly, security officials require approval for meetings and demonstrations and have used violence to suppress unauthorized protests. Among other incidents during 2017, police in Puntland killed at least one protester in November while using gunfire to disperse a demonstration against price increases related to a port management deal with a Dubai-owned company. Public protests are not tolerated in areas controlled by the Shabaab. Nevertheless, citizens do assemble in Mogadishu and other urban centers to mark important anniversaries, participate in human rights advocacy campaigns, or protest in the wake of terrorist attacks. While a number of political gatherings were reportedly suppressed during the 2016–2017 election period, conditions appeared to improve under the new government.

**Score Change:** The score improved from 0 to 1 due to the persistence of public assemblies despite police and terrorist violence, as well as reported improvements in the environment for political gatherings after the completion of elections.

**E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 1 / 4**

Local civil society groups, international nongovernmental organizations (NGOs), and UN agencies have been able to conduct a wide range of activities in some parts of the country, but they face difficult and often dangerous working conditions. Regional authorities and security forces have reportedly harassed, extorted, obstructed, and attempted to control NGOs and aid groups, and the Shabaab generally do not allow such organizations to operate in their territory.

**E3. Is there freedom for trade unions and similar professional or labor organizations? 0 / 4**

Although independent labor unions are active in Somalia and have worked to expand their operations and capacity, constitutional and legal protections for union activity are not respected. The Federation of Somali Trade Unions (FESTU) has reported threats, dismissals, attempts at co-optation, and other forms of repression and interference from both government officials and private employers, noting that perpetrators benefit from systemic impunity for such abuses.

**F. RULE OF LAW: 0 / 16**

**F1. Is there an independent judiciary? 0 / 4**

The judicial system in Somalia is fractured, understaffed, and rife with corruption. Its authority is not widely respected, with state officials ignoring court rulings and citizens often turning to customary law or interpretations of Sharia as alternatives. In recent years, the office of the president has removed judges and members of the Judicial Service Commission in contravention of the provisional constitution. President Abdullahi has promised to reform the judiciary, but the chief justice's September 2017 suspension of 18 judges—in what was seen as part of the reform effort—may have also been unconstitutional.

**F2. Does due process prevail in civil and criminal matters? 0 / 4**

Safeguards against arbitrary arrest and detention are not observed by the country's police, intelligence, and military services, whose performance is also undermined by corruption. Clan politics and other external factors often play a role in the outcome of court cases. Military courts routinely try civilians, including for terrorism-related offenses, and do not respect basic international standards for due process.

**F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 0 / 4**

The ongoing civil conflict featured numerous terrorist attacks on government, international, and civilian targets during 2017. In October, a coordinated pair of truck bombings in Mogadishu killed more than 500 people, making it the deadliest such attack in the conflict to date.

Government security services, international troops, and various local militias have also been implicated in indiscriminate lethal violence and the use of excessive force against civilians. Authorities carry out executions ordered by military courts after flawed proceedings. Detainees are at risk of torture in custody, and perpetrators generally enjoy impunity.

**F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 0 / 4**

While the provisional constitution and legal system offer some formal protections against discrimination based on sex, clan, and other categories, they have little force in practice. Women face widespread disadvantages in areas including housing, education, and employment, while members of marginalized clans suffer disproportionately from economic exclusion and violence, including gender-based violence.

LGBT (lesbian, gay, bisexual, and transgender) people generally do not make their identity public. Same-sex sexual activity can be punished with up to three years in prison under the penal code, and individuals accused of such conduct are subject to execution in Shabaab-controlled areas.

**G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 1 / 16**

**G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 0 / 4**

Travel throughout Somalia is dangerous due to the numerous checkpoints across clan and regional territories and the presence of extremist groups in many parts of the country. Security forces and other armed groups commonly extract arbitrary fees and bribes from travelers. More than 2 million people were internally displaced as of 2017.

**G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 1 / 4**

The provisional constitution guarantees property rights, but securing ownership is complicated by a mixture of formal and informal or traditional systems governing land rights. Procedures for registering property and businesses are impeded by corruption and other barriers, and disputes can lead to intimidation and violence. Women do not enjoy equal rights to inherit property and are often denied the assets to which they are legally entitled due to discriminatory cultural norms.

**G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 0 / 4**

Sexual violence remains a major problem, especially for displaced persons, and the authorities' limited measures to combat it have not been effective. Perpetrators include government troops and militia members. Female genital mutilation is widespread in practice despite a formal ban.

Early marriages are common, the Shaabab impose forced marriages with their fighters, and individuals can face strong societal pressure to marry or not marry within certain clans.

**G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 0 / 4**

Child labor and trafficking in persons for the purposes of sexual exploitation or forced labor are common, driven in part by widespread poverty, insecurity, and impunity for criminal activity. Refugees and displaced persons are particularly vulnerable. Children are abducted or recruited to serve as fighters by the Shabaab and to a lesser extent by government and militia forces.

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