

# Constitution Project



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**PROJECT:**  
Constitution Project

**PREPARED BY:**  
Khalif Farah  
Debbie Wandera

**PROGRAMME:**  
Governance and Rule of Law

**REPORT PERIOD:**  
Q3 - 1 July to 30 September 2012

**DATE SUBMITTED:**  
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**STATUS:**  
Final

**DONORS:**  
USAID  
Sweden  
European Commission  
Norway  
Peace Building Trust Fund

## CONTEXTUAL ANALYSIS

### FEDERAL LEVEL

The convening of the 825 member National Constituent Assembly on the 25th of July and the adoption of the Provisional Federal Constitution on the 1st of August was a significant step towards achieving the tasks of the road map to the end the transition in Somalia. Several hurdles created by the politicians delayed the NCA which was originally planned to be held on the 12th of July as per the agreement of the road map signatories. The NCA delegates adopted the new constitution with a landslide vote, 96% of the 645 delegates present voted in favor of the new constitution with only 2% voting against it. Following the adoption of the new constitution, the Transitional Federal Charter ceased its existence and the formation of the new institutions are governed by the Provisional Federal Constitution of the new Federal Republic of Somalia.

### PUNTLAND

Puntland's participation in the final stages of the constitution-making process was instrumental in legitimizing the new provisional constitution which was passed by the National Constituent Assembly on 1 August. Their insistence on selection of the elders and delegates representing clans in Puntland by Puntland government was a major hurdle that threatened to paralyze the process. Puntland also pushed some provisions in the final draft of the constitution to ensure that federalism and powers of member states are clearly stated in the constitution. This caused some frictions with the other players in the process. Some of these contentious provisions in the draft constitution which was strongly pushed by Puntland such as the participation of the Upper House of parliament in the election of the President was dropped by the new parliament as the creation of this House was not feasible at the time of presidential election.

### SOMALILAND

Somaliland did not participate in the constitution making process. However, the Provisional Federal Constitution adopted by the National Constituent Assembly (NCA) in Mogadishu on the 2nd of August 2012 allows Somaliland to retain its autonomy if the independence policy is altered.

## RESULTS

FL	Indicator	Number of delegates attending the National Constituent Assembly (NCA)	G
	Result	825 delegates attended the NCA	
	Comment	645 delegates were present during the vote on the constitution: 621 (96%) voting 'Yes'; 13(2%) voting 'No'; and 11 (1.7%) abstaining.	
FL	Indicator	Number of thematic working groups facilitated during the NCA	G
	Result	10 NCA thematic groups were facilitated discussing the main chapters of the draft constitution	
	Comment	NA	
FL	Indicator	Number of participants per thematic working	G
	Result	On average 82 delegates participated in each thematic working group	
	Comment	NA	
FL	Indicator	Number of moderators and reporters engaged in NCA proceedings	G
	Result	12 moderators and 10 reporters deployed to facilitate NCA proceedings	
	Comment	NA	
FL	Indicator	% of women new federal parliamentary members	R
	Result	14% of the new MPs are women	
	Comment	This percentage falls below the 30% target	
FL	Indicator	Number of recognized participants in the elders conference	G
	Result	135	
	Comment	Participants in the elders conference nominated the 825 NCA delegates and 275 MPs	



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## ACTIVITY HIGHLIGHTS

### FEDERAL LEVEL

The project provided technical, financial and logistical support to the historic adoption of a provisional constitution by a majority vote of the NCA delegates. However, the minimum women's quota was not achieved in the NCA (potentially attributable to the patriarchal nature of Somali society).

### PUNTLAND

The project supported the participation of the elders and delegates from Puntland to attend the elders' conference and the NCA. The project also supported the members of the Technical Facilitation Committee (TFC) and Technical Selection Committee (TSC) from Puntland to travel to Mogadishu and support the adoption of the constitution and selection of MPs.

### SOMALILAND

No project activities were implemented in Somaliland during Q3.

## PARTNERSHIPS

In collaboration with the United Nations Political Office for Somalia (UNPOS), the project took the technical lead and worked closely with the principal signatories of the road map, TFC, IFCC, and Committee of Experts in reviewing the Consultative Draft Constitution (CDC) before it was finally adopted. The project also worked with the Prime Minister's Office and Minister of Constitution to facilitate the NCA convention and deliberations on the constitution in accordance with established protocols.

The project worked with the Joint Implementation Unit set up by the TFG to manage the NCA and the UNDP Operations Unit to provide procurement support for timely delivery of goods and services required to convene the NCA. The project further collaborated with other UN agencies, namely, the United Nations Support Office for AMISOM (UNSOA) and United Nations Mine Action Somalia (UNMAS) on security and provision of equipment to the NCA. Internally, the project partnered with the Civilian Police Project and Poverty Reduction and Environmental Protection Programme on security and support to the NCA secretariat, respectively.

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## PEACE AND CONFLICT

The Technical Selection Committee's exclusion of some MPs nominated by elders due to alleged involvement in Somalia's past conflict caused a stalemate in parliamentary and presidential elections. There were also allegations that some of the elders representing clans were not genuine, hence the potential for conflict and contested legitimacy of the leaders nominating the MPs. However, the disputes arising from the nomination of MPs and delegates to the NCA were locally resolved without external involvement.

Although the process leading to the adoption of the constitution and election of the parliamentarians was fraught with many problems, the Somali leaders and international community have hailed the outcome of the elections, hoping that this will lead to a new era of peace and tranquility in the country.

## GENDER

Despite strong lobbying by woman's groups and the international community, the minimum quota (30%) allocated to women by the protocols and agreements of the signatories was not achieved with only 14% on the TSC, 15% in the NCA, and 14% in the parliament. On a positive note, the TSC, co-chaired by a woman, strongly lobbied with the traditional leaders to nominate women MPs which they did although it fell short of the required number.

The election committees that oversaw the election of the speaker and president were also led by women whose effective leadership ensured smooth and peaceful elections inside Somalia for the first time in over 40 years. This is a testimony to women's leadership potential and their ability to manage sensitive political processes.

## UPCOMING QUARTER

The new parliament's first agenda item as stated by the new speaker is to review the constitution. UNDP has already deployed a senior expert requested by the speaker to help the new parliament in the review. A new parliamentary support project is also under development and will be launched soon. UNDP is coordinating with NDI and AWEPA to conduct an induction for the new parliament in Mogadishu.



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## REFLECTIONS / LESSONS

The project could have done better in accommodating more civil society groups and citizens into the process although the security and political environment in Somalia was difficult to achieve inclusiveness in the process.

A joint UN approach during the NCA resulted in greater synergies and maximization of resources. In addition, donor involvement at an early stage ensured adequate funding which facilitated the NCA. The NCA itself was not perfect, but it was a significant step towards ending of the transitions and conducting elections. The project appreciates that the donors had seized the political momentum to get the NCA to take place despite the many uncertainties and hurdles by the politicians.

Although a provisional constitution has been delivered, the job is not yet done. There is an implied need for further civic education during the implementation process. The fact that the minimum 30% quota for women in the new parliament was not achieved calls for advocacy to change perceptions and attitudes towards women's role in politics and society in general. The parliament needs to connect with the Somali populace as they embark on reviewing the constitution to make the constitutional review process as inclusive as possible. They will have to learn from the previous experience and bring on board those who felt alienated from the process in the past.

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### CUMULATIVE PROJECT FINANCIAL SUMMARY

APPROVED BUDGET	5,726,983
TOTAL (DISBURSEMENTS + COMMITMENTS)	4,481,271
BALANCE OF FUNDS	1,245,712
% DELIVERY (AGAINST APPROVED BUDGET)	78%