

2018 State of
Accountability

September 1

2018

With a lot of promises made, little has been done to improve
accountability since our last report.

More of the usual

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Executive Summary

The election of Mohamed Abdullahi Farmaajo on 8 February 2017 was exciting as Farmaajo seemed to be the friendliest candidate for accountability. However, the President took little interest in governing and ceded much authority to his Prime Minister. The PM, as a veteran in the corruption campaign of the former president, put anticorruption in the backburner. By rhetoric, accountability became the centrepiece of his talking points. However, he extensively used bribery to buy political opponents with funds raised by siphoning off of Banadir Regional Administration funds and bags of money originating from a Gulf country.

When bribery and co-optation did not work against all critics, outright repression and silencing became the tools of choice. Mogadishu was on the brink of collapse multiple times in 2017 and 2018 due to the policies adopted by the PM with the support of the President.

While the PM was busy repressing Mogadishu, the President focused on undermining the federal system after the regional governments failed to fall in line with the government on the Qatar-Gulf crisis. This culminated in the removal of one regional president and no-confidence motions prepared in the other regions. The moves seem to have had the opposite effect, and the federal government is less influential today with the regions than it was when the power play started.

On institution-building, the federal government has done nothing to build the constitutionally-mandated organs of government that are essential to the formation of the Somali state. These include the Constitutional Court, which could have arbitrated between the federal and regional governments; the anticorruption commission, which could have seized stolen property; and the Judicial Service Commission, which must exist in order to reform the judiciary.

The priority of the executive seems to be to have unchecked power. To that end, they have removed the speaker of parliament and installed their own; removed the chairman of the High Court, and installed their own; removed members of the High Court, and installed their loyalists. All three arms of government are currently firmly under control of Villa Somalia.

The executive is further attempting to cement its authority through the constitutional review, which should produce more power to the centre and less for the regions for it to reach their expectation. If that happens, it will only cause more gridlock and further destabilise the Somalia state formation process.

President Farmaajo is not known to have personally benefited from financial misappropriation. However, all his major anticorruption promises have been unfulfilled. He still has an opportunity to leave a shining legacy if he takes the recommended steps towards accountability.

Introduction

The current report is late by more than four months. This is because it was originally set to publish as the government reached its one year anniversary. However, due to the upheavals in Mogadishu and government lethargy to answering some of our queries, verification took a little longer than we had expected.

The report focuses on the federal government and the promises made by its leaders to change the tradition of corruption that had become normalised by previous governments. However, we quickly learned that normalisation had taken an even higher degree when we confronted a senior government official with a social media personality who was openly showing \$70,000 that he had been given by the PM: 'That money is allowance', we were told. Apparently, as long as one does not personally use the money but gives it to a third party for political purposes, the current government does not recognise it as corruption.

We hope that this report is a wake-up call to President Farmaajo and that he changes course. He still has an opportunity to leave a good legacy.

Methodology

The findings in this report are based on information gathered by the marqaati-run Somalia Accountability Feedback Mechanism, which has received more than 600 verified reports from office holders and members of the public in all corners of Somalia since our last report. Additionally, more than 50 key informants have been interviewed in events held by marqaati.

Political Corruption

President Mohamed Abdullahi Farmaajo came to power following marqaati's anticorruption campaign to shed light on the corruption perpetrated by the former administration, therefore making anticorruption the defining factor of his candidacy. Additionally, he made the following promises:

1. That he would end the custom of the government forcing electoral delegates and paying money to support a particular candidate for office.
2. That he would end the practice of disempowering the parliament and using it as a rubber stamp.
3. That he would end the tradition of using millions of dollars to depose and install new administrations.
4. That he would make anticorruption the first priority of his government.

It is important to look at what has happened since President Farmaajo took power in order to assess the extent to which he managed to achieve his goals.

Political Freedom under the Federal Government

In 29 March 2017, the cabinet appointed by Prime Minister Hassan Ali Kheyre was approved by the parliament. Due to the prevailing political situation, the PM tried to buy loyalty by giving some influential MPs up to \$100,000. After six months, and with a no-confidence vote in the works, the PM changed his tactics. One was either for the administration or against the state itself.

Internet trolls that had been used against individuals were turned on political critics of the government. The troll army and their directors seem to have popularised the term *Qaran Dumis* - - 'those who want to destroy the nation' -- to describe all government critics; in short, anyone not blindly supporting the administration is considered a traitor. There is little mention of *Qaran Dumis* on Facebook from 1 January 2016 to the election of Farmaajo on 8 February 2017. It spiked after 17 December 2017 when the government took action against politicians involved in mobilising support for the no-confidence motion against the administration. The attorney-general requested that the immunity of two leading opposition MPs be lifted; they were accused of being involved in the treasonous act of being bankrolled by a foreign country to destroy the nation. It is correct that some MPs were paid to sign on to the no-confidence motion just as the administration was paying others to not support it.

As an easy target with no immunity from prosecution, the government chose to attack the home of Abdirahman Abdishakur and arrest him on the same charges as the aforementioned MPs. He was also involved in the mobilisation of the no-confidence vote. The attack on the politician was clearly meant as a warning to all political players in Mogadishu: there was no space for political discussions and activism. Speaking to marqaati, a high-level government source said that the drama was meant to disrupt opposition efforts to mobilise during the parliament recess.

Hotels were ordered not to host any gatherings without prior approval from the security ministry. This in essence meant that any gathering had to be neutral or in direct support of the administration. While this had the effect of consolidating apparent government control, the tactic backfired as meetings and mobilisation continued in private homes and abroad.

Deposing the Speaker

The then-speaker of the House of the People, Mohamed Osman Jawari, was unwilling to let the administration lift the immunity of the accused MPs. Additionally, he refused to sign on to an agreement to ensure that he would support the President and PM in any no-confidence motion. This made him a target for removal by the administration. In March 2018, following the reopening of Parliament, the PM, under the direction of the President, mobilised MPs to help remove Jawaari and install an individual who would fall in line with the executive. As had become the norm, MPs were paid to sign the no-confidence motion.

The administration tried to strong-arm the Parliament, removing the parliamentary guards from the Parliament and putting in their place a partisan force loyal to the PM. This escalation almost sparked infighting, as clan militias already angry at the government entered the city. It was only the opposition elite interested in preserving the state that stood between Mogadishu and renewed fighting. While Jawari is to be commended for his decision to leave rather than be the catalyst for war, marqaati has credible reports that he was paid by the executive.

Having removed the speaker, a member of the cabinet, Mohamed Mursal, was elected to replace Jawari. The new Speaker was elected in a corrupt process where the administration helped pay for his votes; due to the limited clansmen allowed to run, it was cheaper than previous elections at \$10,000 per vote in the low end.

Almost all the MPs were each given \$5000 after the election in order to 'thank them' for electing the new speaker. This payment, which has been widely reported in Somali media, has not been accounted for, and appears to have come from the FGS piggybank, which shall be detailed in the section on the Banadir Regional Administration.

Action against the regions

The Federal Government under President Farmaajo is ideologically centralist and has attempted to weaken the power of the regions. It has used its resources to undermine the power of the regional governments and continues to fund regional opposition members that it believes will fall in line with its policies. Following the stated FGS neutrality in the Qatar-Gulf Crisis, the UAE sought to ignore the FGS and increase its dealings with the regions. The FGS saw this as a threat, and chose to remove the regional leaders that did not toe its line.

In September 2017, the president of Galmudug, Ahmed Duale Haaf, was removed by the regional parliament. The FGS heavily funded and paid the regional MPs that removed Haaf. However, rather than consolidate its regional influence, the FGS further caused the erosion of its authority. Regional presidents met in Kismayo in October 2017, created the Federal Member States' Cooperation Council (FMSCC), and refused to recognise the removal of Haaf. The FGS cowed to the regions and accepted Haaf as being the president of Galmugud, although he had indeed been removed.

FGS conduct has directly led to the increasing power of the regions; the FMSCC is the political counterweight to the FGS. Efforts meant to weaken regional power resulted in the weakening of the central power. Moreover, FGS interference in regional elections may also undermine democratisation at the regional level: at least one regional government is considering not holding elections as long as Farmaajo is in power.

Judicial Co-optation

Having consolidated control of the Parliament, the judiciary was the final arm of government that fell to the administration in May 2018 with the removal of the Chairman of the High Court and the appointment of another one by President Farmaajo. The President went further and fired

all members of the High Court and replaced them with others. The lack of consultation on the matter, the manner in which it was done, and the time it was done all point to the president further eroding justice and governance in order to protect himself from prosecution and remove all checks on his power.

While the judiciary is currently the least constitutional arm of government, with many of its institutions missing, any honest judicial reform would start with the completion of the judicial institutions. For the president to remove or name the head of the High Court, he would need to consult with the Judicial Service Commission (JSC) as stipulated in Article 90(j) of the Provisional Somali Constitution.

However, the JSC cannot be created because its members comprise individuals from, among other institutions, the Chair of the Constitutional Court and the Chair of the Human Rights Commission. As these two institutions do not currently exist, the JSC cannot be created. And, by extension, no judges can be appointed or removed. The government has to prioritise institutional building over politics.

Constitutional progress

President Farmaajo had promised that he would accelerate the constitutional review process; however, with the current constitution still mostly unimplemented, any review would most likely remain unimplemented. And with time running out, institution-building has not been prioritised by the current government.

While most of the constitutionally mandated institutions have not been created since the constitution was adopted, we have identified the ones pertinent to accountability that have not been created yet. These include:

1. The Constitutional Court. This court is essential in challenging government laws and resolving FGS and FMS disputes.
2. The Judicial Service Commission (JSC) without which judges cannot be appointed or dismissed. This commission is relevant to the building of many other institutions.
3. The Human Rights Commission. It needs to be created before the JSC can be created as the chairman of this commission is in the JSC.
4. The Anticorruption Commission. This commission has the power to investigate corruption and seize stolen assets. Not creating it would have been less criminal than if it is created without its full constitutional powers, as some in the current leadership plan to do.
5. The Office of the Ombudsman; the Ombudsman can be appointed at the recommendation of the JSC. This office is essential in empowering the public and creating a venue for them to report government mistreatment and seek justice.

Ignoring the constitution in the electoral process

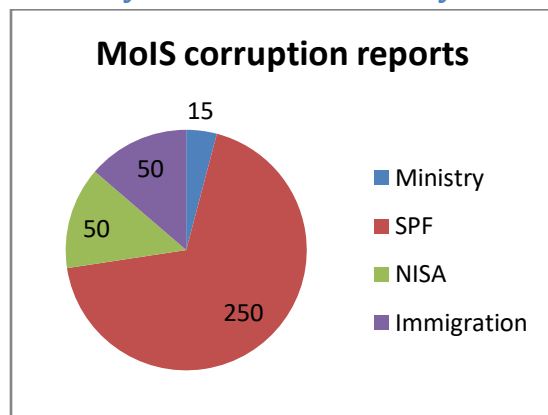
According to Article 59(2) of the Provisional Somali Constitution, members of the parliament's House of the People who lose their membership are to be replaced by the runner-up. While a political decision was made to hold elections for vacated positions, it has no bearing on the constitution which remains the law of the land. All the elections held since President Farmaajo took power are illegal.

Likewise, payment of bribes was normalised in all the elections held for vacated parliamentary posts.

Corruption in the Ministries

Corruption reports from the FGS ministries have been received by marqaati at an almost similar pace as in the period covered in our last report, suggesting that there has been no change in culture with the change in government.

Ministry of Internal Security



Under this ministry come the Somali Police Force, the Immigration and Naturalisation Directorate (IND), and the National Intelligence and Security Agency, some of the most-reported departments in corruption allegations. This is mostly because of the contacts the public has with them on a daily basis at the checkpoints in Mogadishu. We received 365 reports of corruption at the various offices of this ministry.

Additionally, the ministry was the most incompetent in terms of work attendance. The minister was away from the office for almost three months in a six-month period in 2017.

SPF and NISA

SPF and NISA have security checkpoints across the capital; these are used to extort monies from motorists driving public service vehicles and cargo trucks. When there is a security lockdown, extortion is expanded to the private motorists. Marqaati witnessed a pregnant mother with two children refused to drive if she did not pay \$50 to the NISA officers manning the Marinada Junction in Abdiiaziz district.

Extortion at the checkpoints is not limited to the public; some of the reports we received detail how officers 'ask' low-level government ID-holders for \$1; those that refuse to pay would not be permitted usage of the road in the future: they would be told only high-level officials are allowed to use the road.

The SPF-run Criminal Investigations Department (CID) has also been implicated in the extortion of the public. Individuals seeking to get a passport would be made to wait for longer than usual unless they pay a \$10 bribe to the officers handling the vetting process. Others use brokers to facilitate the process, and don't go to the CID to have their fingerprints taken. They receive their letter of good conduct; someone else is fingerprinted in their place.

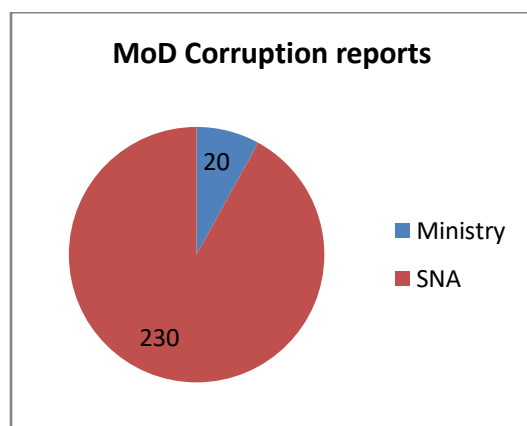
The corruption at the CID is an almost public spectacle, with no attempt made to hide transactions. This does not only hurt public confidence in the government, but is also a major security flaw.

The IND

In the processing of new passports, the IND takes payments for which receipts are issued but not given to the payer, which means that there is no accountability for the payments, and the amount deposited with the central bank is less than what individuals pay. The profits from this scheme are shared out among the top officials of the directorate.

Moreover, applicants are offered the opportunity of receiving their passports in 24-72 hours if they pay a \$50 bribe. As passport publishing goes through many offices and systems, the speedy publishing is known by all levels of the IND bureaucracy and the money is accordingly shared.

The Ministry of Defence



The SNA is positioned in checkpoints in and around Mogadishu, and its troops at the roads continue to profit from illegal taxation and extortion of motorists. Additionally, soldiers continue to sell their guns and ammunition in Mogadishu. Likewise SNA foods such as canned fish, flour, and cooking oil are sold at KM6 in Mogadishu.

In April 2018, following the withdrawal of the UAE training mission from Mogadishu, more than 700 Ak-47s were inundated into the local market by both deserting and active soldiers. Based on interviews with soldiers based at the General Gordon barracks where the looting took place, marqaati assesses that the majority of the weapons were stolen after the government took control and defeated a small mutiny within the camp. Using the mutiny as cover and justification, SNA officers ransacked the armoury.

Ministry of Commerce and Industry

The ministry of commerce and industry is in charge of licensing the companies that work in Somalia. The licence is valid for a period of one year from the time issued and the fee used to be \$300, but after the new minister Mohamed Abdi Hayir Mareye took office he made some changes and gave the printing of licences to Beder printing house. While the government is still charging \$300; however, Beder will charge \$100 for new printing of new licence and \$50 for renewal of licence. Why does Beder have to be involved when the ministry had the capacity to do so and why are they charging this extra money? All indications point to a kickback mechanism in which Beder is giving back to the minister.

Grabbing of public land

President Farmaajo has made good on his promise to combat grabbing of public land; there is no evidence of public land given out by the president up to 1 September 2018. However, the Banadir Regional Administration (BRA) under Tabit Mohamed Abdi gave out land to ECCO, a garbage collection company, without following the legal procedure. The government published public papers suggesting that the former governor of Banadir, Yusuf Hussein Jimale, had been the one who authorised the sale. Nevertheless, all evidence points to Tabit and his team being involved in the illegal sale.

Contracting

Awarding of contracts to cronies of the ruling team has been continued as a custom. The government gives out contracts without following the proper bidding process or if they follow the process, they give it to predetermined companies. Either the company pays some of the members of the committee or it is owned by some of the big officials in the government.

Some contracts are bid for by multiple companies owned by the same group of people, increasing their chance of winning and sometimes ensuring that they win if they are the only group of companies making the bid. Without much transparency in the process and the bidders, it is very difficult to hold the actors into account.

While the government had publicly cancelled about a dozen contractors working since the last administration, it has privately continued to work with most of them. Companies known to give

kickbacks to government officials still hold contracts with government. These range from road construction companies to food and fuel companies that supply some of the security forces.

In addition to this, contracting offices receive kickbacks in the form of contract inflation. For instance, credible sources in the awarding of construction projects by the BRA such as those to Kulmiye, which has completed multi-million dollar road-renovation contracts, report that officials would receive kickbacks from the inflated Kulmiye expenses.

Delivery of services

Contractors would pay individuals in the auditor general's office and the accountant general's office in order for their payment vouchers to be approved by these two offices. Payment would be made regardless of whether or not the contractors met their obligations.

The BRA

The BRA is still used as a piggybank by this administration, as the last one did. Following the falling out of the then-mayor Taabit with the PM in late 2017, a [video](#) was posted on Facebook apparently at the direction of the PM or his allies, in which the finances of BRA are laid out and the then-mayor is accused of pocketing the money. It estimates that the BRA monthly income as \$2,305,870 and its total expenses as \$811,750, meaning it was saving \$1,494,120 every month, coming to \$11,952,960 in the eight months when Taabit was mayor. However, only \$186,000 was in the account of the BRA at the end of 2017. This is consistent with what our source at the bank told us, and we therefore conclude that the estimations were generally correct. Furthermore, Marqaati has credible reports from individuals involved in the BRA scheme that the monies were shared with the PM in his political battles in late 2017.

Some of the money taken from BRA has been used to maintain support for the administration at the parliament. Almost eighty MPs have been receiving 'an allowance' of \$3000-\$5000 for at least a year directly from the PM. The monies are not salaries and only government loyalists have been paid. The total is \$240,000 per month on the low end.

It is for this reason that the FGS is unwilling to let the BRA out of its grasp; current and former administrations see it as a cash cow whose financial misappropriation and the resultant ill repute can be kept at arm's length from the FGS. The attempt to increase BRA share of Mogadishu port taxation is meant to increase the amount of money that is siphoned off through BRA. Nevertheless, as the FGS directly controls the BRA, it is responsible for the actions of BRA and its leadership.

Transparency

Reflecting a general trend, the fiscal summary reporting at the finance ministry website was stopped just two months after the new cabinet was sworn in; the last public document is in [June](#)

2017. Nothing has been published in 2018. Likewise, the revenue page of the ministry website has been [empty](#) since it was created.

The PM promised after taking office that he would have his cabinet declare their assets. That promise is still unfulfilled.

Marqaati will publish a quarterly report on transparency in the FGS by institution, based on their sharing of information on government contracts, contractors, expenditures, budgets, replying to queries, whether they have active or reactive information sharing, and time taken to reply.

Accountability

No public asset given away by the former regime has been reclaimed by the current government. Likewise, no one was prosecuted for corruption dating to before the government took power; this was a conscious decision taken by the leadership.

Low-level police officers and seaport officials were arrested in July and August 2018 as Marqaati informed the government that its report would be published soon. We believe that while any action towards accountability is welcome, the government has failed to do the least it could to make sure the President's campaign promises were achieved.

The former head of Khat taxation at the airport built an apartment complex costing millions of dollars behind Hotel Makka Mukarama while being on a \$1,200 salary. This happened as President Farmaajo was in office; the official is still free and not under investigation as of the publishing of this report.

We assess that the president has not personally profited from financial corruption. He has however overseen massive political corruption, lack of accountability, and poor leadership. With the president failing to deliver on any of his major anticorruption promises, we call on him to take steps now to ensure that he does not finish his term with the same reputation as the leaders of the former government.

Marqaati will publish a quarterly accountability index to assess the government ministries based on a set of metrics to determine the vulnerability to corruption and the mechanisms in place to ensure that it does not occur.

Prospects for 2019

With multiple elections slated for late 2018 and in 2019 in the regional governments, the FGS will most likely continue interfering and bankrolling its supposed loyalists. If history is any indication, candidates supported by the FGS will, if they win, continue the game as is now and refuse to cede power to the centre. However, the FGS is already supporting multiple candidates from each region, hedging its bet and trying to punish its regional rivals. This means institutional

building will continue to take the back seat in the FGS as it will be involved in electioneering in the regions and in the capital as federal elections are just around the corner.

The constitutional review set to be complete by 2019 will cause another blow to the functioning of government as the FGS is believed to be attempting to rewrite the constitution in favour of its centralist positions and the weakening of regional authority. This will undoubtedly cause the regions to reject the review, potentially causing a constitutional crisis.

Recommendations

President Farmaajo can still leave a positive legacy if he takes deliberate anticorruption and pro-accountability measures as follows:

- Complete creating the still-uncreated accountability institutions, especially the Judicial Service Commission, the Ombudsman's office, and the anticorruption commission;
- Be truly transparent and provide the public with clear and detailed government incomes and expenditures;
- The 2020/1 elections should be one-man-one-vote as promised;
- The constitutional review should clearly define the powers of the PM and the President;
- Individuals implicated in corruption should be fired and prosecuted;
- Asset declaration of officeholders should be enshrined by law;
- The accountability mechanisms in the FGS should be implemented at BRA as it is a major loophole in the system;
- Somalia's international partners should use their influence in encouraging the FGS to adopt these recommendations otherwise their state building efforts will continue to be wasted.