

Five Years of Stasis

Accountability In Somalia

marqaati

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Executive Summary

During the five years of the previous Somali administration (2017-2022), the international community was vital in funding the government, covering close to a half of the national budget. This presented it with the obligation to demand accountability of the Somali government, but there is little indication of it having positive influence. Monies were stolen as usual; elections rigged as usual; political opponents harassed and attacked as usual; and democratisation unimproved as usual.

All the undemocratic actions and corruption was subsidised by the international community, including **\$5,936,316.23** in external assistance that could not be accounted for in 2020 in the audit conducted by the Office of Auditor General (OAG).

While the past five years saw some actions taken against a handful of low and mid-level corrupt officials, it was performative at best as little institutional mechanisms were put in place to guard against systemic corruption.

Government contracts continued to be given to political cronies of those in power, enabled by an opaque procurement process. Not only were kickbacks the norm, but some officials were also reportedly shadow owners of companies to which they awarded contracts.

Ministries, departments, and agencies (MDAs) continued to collect fees and use them at source, contrary to the law. When the Auditor General (AG) reported on MDAs that shared statements with him, he could not find many MDAs willing to share information with him in subsequent years.

To make matters worse, the Public Financial Management (PFM) Act of 2019 was written in such a way as to give MDAs a loophole that allowed them to not share information with the AG if they so pleased. This Act needs to be urgently amended to fix that issue.

Only five MDAs bothered to share financial statements with the AG in 2018 and 2019, showing collection and usage at source of \$3,207,570. Subsequent years saw five embassies share their collection and usage at source of \$1,335,475.46. This total of **\$4,543,045.46** is a very small fraction of the monies being collected and used at source by MDAs, making a mockery of the PFM and the annual budget.

Based on our review of the OAG's reports for the years 2019-21, at least **\$95,804854** was unaudited.

Reflective of the performative nature of institutional building done in the past five years, two commissions that we have been advocating for were created, but without following the correct parliamentary procedure, thereby rendering the effort useless: The Judicial Service

Commission and the Anticorruption Commission were created without senate approval. As expected, they were both disbanded by the new President in October 2022.

Introduction

This report uses the audit reports of the past four years uses in combination with marqaati's own verified corruption reports to provide understanding of the scale and breadth of financial corruption. Additionally, we also look at the institutional mechanisms enabling the perpetuation of the status quo and what was done about it. The report ends with recommendations to address the issues raised.

In the audit report of 2021, there is a disclaimer that the financial statements -- upon which the audit was based -- are not considered complete and fair, which means that the audit reports are to be considered a snapshot into the financial dealings of the FGS. Nevertheless, this limited scope by the OAG has enabled us to see the extent of mismanagement and financial corruption rampant in government institutions. MDAs continued to disregard the OAG and share information whenever they felt like it.

In the 2018 audit report, the OAG states that its management letter to the Accountant General was that the government continued to have parallel accounts to the Treasury Single Account (TSA); there was a lack of full year-end reconciliations; and that there was no submission of annual accounts by MDAs for audit. As could be seen in the audit of 2018 and in subsequent audits, MDAs would share records at will. Everything would be worsened by the Public Financial Act of 2019, which gave MDAs a loophole to avoid sharing financial statements. This brings into question the true intent of that act.

Closing these financial loopholes and corruption-enabling institutional systems are neither in the government's agenda nor in that of its international backers. We therefore expect to continue documenting the same issues we have been seeing in the past five years unless urgent political action is taken. This includes starting with simple tasks such as implementing the law, further empowering the OAG, and enabling accountability through democratisation.

In 2021, the FGS borrowed \$96,365,524 (\$21,992,191 from the CBS; and \$74,373,383 from the IMF). Furthermore, \$13,605,118 was paid in interest to the CBS, which amounts to 62% of the principal.¹ The AG said he is considering a special investigation into the issue; we urge him to give this matter the attention it deserves and will be looking forward to his report.

¹ Office of the Auditor general, "Annual Financial Statements of the Federal Government of Somalia For the year ended 31st December 2021", pg vii and pg 2 (2022). Available online, retrieved on 15 Dec 2022: <http://oag.gov.so/wp-content/uploads/2019/09/Annual-Financial-Statements-of-the-Federal-Government-of-Somalia-2021.pdf>

Constitutional accountability

It is more than 10 years since the Provisional Somali Constitution was adopted in Mogadishu by hundreds of representatives from the clans. The provisional Constitution included many deadlines for setting up vital institutions such as the Judicial Service Commission, the Constitutional Court, and the Anticorruption Commission. Successive governments have chosen not to create these institutions, choosing to ignore the Constitution, and harming their own legitimacy.²

The Somali government, capitalising on the security situation and the need the international community has for it to create a semblance of security in the country, can function largely because of foreign largesse. For the past two years, on average, more than half of the government's budget was foreign assistance. The EU alone provided 55 million USD over four years in budgetary support. These foreign donors have an obligation to hold the Somali government financially accountable as they give it hundreds of millions of their taxpayers' monies.

Continuing to fund the Somali government without demanding that it reforms and creates sound institutions that ensure good governance and accountability is endorsing its actions. Every election delayed, every penny stolen, and every injustice committed is endorsed by any donor that does not push for positive democratic change in Somalia.

Year	External Assistance	Internal revenue	Total	Assistance in %
2018	111,914,824	183,418,823	295,333,647	37.89
2019	108,117,144	229,683,759	337,800,903	32.00
2020	285,593,117	211,233,845	496,826,962	57.48
2021	221,348,402 ³	251,553,595 ⁴	472,901,997	46.80

Election schedules

The elections were delayed by more than 15 months because of a multitude of reasons: political elites failing to agree on an election format – whether direct elections or indirect elections –

² Former President Farmaajo created the JSC and the Anticorruption Commission without following the constitutional procedure – he seemed to do something without doing it. Unsurprisingly, both Commissions were shut down by his successor.

³ This represents 146,975,019 in external assistance and 74,373,383 in loans from the IMF.

⁴ This includes 21,992,191 in loans from the CBS.

and the former president trying to extend his term by two years. As the country lacked mechanisms to address this crisis, a limited armed uprising engulfed the capital.

There needs to be an immovable election date for the country and an independent electoral commission that organises elections without the input of political leaders. The lesson from the past three elections is that the political leaders will do anything to postpone elections.

The FGS intervened directly, using military force, with state-level elections in Galmudug and Southwest State, succeeding in installing loyalists; manoeuvred politically in HirShabelle to install a loyalist; used seven million dollars in Puntland, to no effect; and destabilized Jubbaland in a failed bid to remove the incumbent regional president there. The then-FGS President seemed to be interested in not only installing loyalists in FMSs, but also in concentrating power in Mogadishu.

The political and constitutional crises of the past five years were rooted in the failure of three institutions: the parliament, the judiciary, and the security forces. The parliament became a rubber-stamping authority after its leadership was removed by the executive in a power struggle in 2018. As the country descended into constitutional disorder, there was no judiciary to adjudicate constitutional matters as it lacked the independence to do so. Likewise, the security forces were unprofessional and personally loyal to whoever is in power.

The judiciary is appointed by the executive because there exists no independent judicial service; similarly, security and defence commanders are appointed by the executive without parliamentary oversight or approval. This creates a system without accountability; the political leadership is unafraid of breaking the law and using illegal force against political opponents because security commanders and judges are personally loyal to them.

Revenue collection and usage at source

Revenue collection and expenditure at source is common practise across many ministries, departments, and agencies. A sample list MDAs that marqaati has received complaints from, and which collect and use funds on site are as follows: the ministry of transportation; the ministry of education; the ministry of health; the ministry of security; the ministry of interior; the immigration department; the Criminal Investigation Department (CID) of the Somali Police Force, and most Somali embassies.

The OAG receives voluntary financial statements from MDAs because the PFM Act of 2019 does not require these entities to report for auditing. Nevertheless, the limited cooperation by MDAS has shown the scale of collected and expended funds that are going unreported.

The 2020 audit report did not include any financial statements from MDAs except three Somali embassies that collected and expended \$277,925.46 at source of collection. The OAG notes that the PFM act requires that all funds be deposited at the Central Bank, but the embassies are clearly ignoring that law. Furthermore, the OAG implies that the PFM's silence on MDAs submitting their financial statements had caused the MDAs and the Banadir Regional Administration to not submit their financial reports for audits.

In the 2021 audit, only two embassies shared their records, showing \$1,057,550 in collections and expenditure at source.⁷

Total funds that were found to be collected and utilised at source from 2018 to 2021 was **\$4,543,045.46**. As stated, this is a gross undervalue because – as the OAG itself concedes – only a few MDAs are willing to share financial records. And every year, the number of willing entities decreases, especially as there is no legal basis for enforcement.

Understatement of surplus

Understating cash on hand while failing to deliver it to the subsequent financial year has become the norm and is apparent every year. However, the Accountant General has re-stated understated monies as surplus funds into the opening balance every year before 2020. The fact that both 2018 and 2019 understated funds were accounted for in the subsequent audits is a cause for alarm that the understated funds in 2020 are gone forever, and that it is not an accounting error.

For instance, understatement of the budget surplus for the 2018 financial year was by \$18,386,732. However, the Accountant explained the discrepancy in the following year and adjusted the statements accordingly.⁸ In 2019, \$796,934.44 was understated, as reported by the OAG.⁹ However, these funds are accounted for in the 2020 audit; the opening balance for 2020 was restated accordingly.¹⁰

In 2020, there was an understatement of **\$5,936,316.23** in the primary financial statements arising from ten FGS entities examined by the OAG; of \$17,978,413.15 in external assistance provided to these entities, \$12,042,096.92 was expended while there was no accounting for the remaining balance.¹¹ There was no explanation for this discrepancy in the subsequent audit and

⁷ Office of the Auditor General, “Annual Financial Statements of the Federal Government of Somalia For the year ended 31st December 2021”, pg vii and pg 4 (2022). Available online, retrieved on 15 Dec 2022: <http://oag.gov.so/wp-content/uploads/2019/09/Annual-Financial-Statements-of-the-Federal-Government-of-Somalia-2021.pdf>

⁸ Office of the Auditor General, “Audited financial statements of the Federal Government of Somalia for the Year Ended 31 December 2019”, pg 2 (2020). Available online, retrieved on 15 Dec 2022: <https://oag.gov.so/2019-financial-audit-reports/>

⁹ Ibid., pg 4.

¹⁰ Office of the Auditor General, “Annual Financial Statements Of The Federal Government Of Somalia For The Year Ended 31st December 2020”, pg 58 (2021). Available online, retrieved on 15 Dec 2022: <https://oag.gov.so/2020-financial-audit-reports/>

¹¹ Ibid. pp 1-2.

no adjustment in the Accountant General’s letter. The Ministry of Planning was the largest culprit, failing to account for \$ 3,061,677.28; it was followed by the Office of the Prime Minister, which could not account for \$2,235,723.65.¹²

In 2021, twelve budgetary entities understated their cash balances by **\$4,826,552**.¹³ As that year saw a breakdown in government authority and the government fighting itself, it is very unlikely that these funds will be accounted for in the next audit report. We are eagerly awaiting the next audit report, to see whether these monies will be re-stated.

Funds not audited by the OAG

In 2020, \$78,894,993.00 of grants provided to the BRA and FMSs were not accounted for as the FMSs did not share financial statements with the OAG, contrary to the PFM Act.¹⁴ And in 2021, the AG was not provided with documents to ascertain whether \$16,909,861 paid to the BRA (\$15,852,993), the Chamber of Commerce (\$528,434), and the Somali Development Bank (\$528,434) were correctly computed. This was part of \$45,850,523 in grants paid by the FGS in 2021 to FMSs. Total unaudited amounts during those three years are at least **\$95,804854**.

Recommendations

Our recommendations have been largely unchanged for the past five years, showing how little has changed over this time. We start with new recommendations, then repost our recurring advice:

1. The international community, especially those that directly fund the government, should make it their priority to push the FGS and FMSs to implement these recommendations. They have an obligation to do so.
2. The OAG should be empowered and given the necessary access and tools to do its work.
3. The electoral commission need be truly independent. Parliament should amend existing election laws to ensure that this commission has its independence, is able to plan for and hold elections on time without waiting for political consensus and is able to budget for its needs as required.
4. An election date for national and FMS elections should be set and amended into the constitution. This date would not be open to discussion by political leaders.

¹² Ibid., pg 2.

¹³ Office of the Auditor general, “Annual Financial Statements of the Federal Government of Somalia For the year ended 31st December 2021”, pg 4 (2022).

¹⁴ Office of the Auditor General, “Annual Financial Statements Of The Federal Government Of Somalia For The Year Ended 31st December 2020”, pg 4 (2021).

5. Security commanders should be approved and be subject to oversight by the parliament. This will make harder the usage of the security forces for political purposes and create a check on executive power.
6. The PFM Act need be amended to require all MDAs to share financial statements with the AG.
7. Failure to abide by the PFM Act should be regarded the serious offense it is.

Our recurring recommendations from last year:

1. Complete creating the still-uncreated accountability institutions, especially the Judicial Service Commission, the Ombudsman's office, and the anticorruption commission.
2. The constitutional review should clearly define the powers of the PM and the President; further clarify FGS-FMS relations and separation of powers; and create a conflict resolution mechanism between FGS-FMS.
3. Individuals implicated in corruption should be fired and prosecuted.
4. Asset declaration of officeholders should be enshrined in law.
5. The financial accountability mechanisms in the FGS should be implemented at BRA as it is a major loophole in the system.
6. The OAG's recommendations should be implemented in full.
7. 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.