

MAX PLANCK FOUNDATION  
FOR INTERNATIONAL PEACE AND THE RULE OF LAW

# Comparative Manual on Federalism in Somalia





**Max Planck Foundation for  
International Peace and the Rule of Law**

Managing Directors: Dr. Tilmann J Röder, em. Prof. Dr. Dr. h.c. Rüdiger Wolfrum



**Comparative Manual on Federalism in Somalia**

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*Comparative Manual on Federalism in Somalia*

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This manual has been produced by members of the Sub-Saharan Africa Team of the MPFPR, namely Adem Kassie Abebe, John Dingfelder-Stone, Kathrin Maria Scherr and Jan Amilcar Schmidt.

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## A. Introduction

Despite differences in political, legal, and socio-cultural systems, governmental power in most countries around the world is exercised at different levels. Decentralization of governmental power and administrative services has become a common feature of nation states. Nevertheless, the nature, scope, and legal status of the powers of lower levels of government vary across borders. Broadly defined, federalism is a form of decentralization where the nature and scope of powers of the different levels of government are constitutionally entrenched and where no level of government may unilaterally alter the powers of any of the other levels of government. It is an arrangement where more than one autonomous entities exercise shared- and self-rule over different aspects of the same territorial and political space.<sup>1</sup> The mottos 'out of many one' and 'unity in diversity' best capture the nature of federalism.

While a unitary state structure, with different levels of decentralization, is common around the world, at least 28 countries consider themselves or are broadly considered federations. The list of federal countries includes the United States, Russia, Germany, India, Brazil, Mexico, Canada, and Australia. Given the geographical and population size of some of the federal states, the 28 countries are home to more than 40% of the population of the world. In Africa, the two most populous states, Nigeria and Ethiopia, and the second biggest economy, South Africa, have established a federal form of government. A number of other countries, such as Kenya and South Sudan, have established a decentralized system containing certain features of federal states. Upon the finalization of the federalization process, Somalia will formally join the ranks of federal states in Africa.

Federalism has been adopted within a variety of social, political, economic, cultural and geographical contexts. Some of the federal states are developed, some are developing; some are largely homogenous, other are home to diverse linguistic, ethnic, tribal or religious groups; some are geographically vast, others are tiny islands; some are centralized, others are highly decentralized; some have only two regions, others have had more than 80; some are authoritarian, others are democratic; some have established a presidential system of government, some a parliamentary system, and others have a semi-parliamentary or semi-presidential system; some have adopted a variation of the plurality (majority) electoral system, others have opted for a variation of the proportional electoral system. Federalism may not therefore be exclusively associated with a specific social, economic or political system. Indeed, the capacity of the concept of federalism to fit into a variety of social, political, economic, cultural, and geographical conditions is one of its strengths.

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<sup>1</sup> Dimitrios Karmis and Wayne Norman 'The revival of federalism in normative political theory' in Dimitrios Karmis and Wayne Norman (eds) *Theories of federalism: A reader* (2005) 1.





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Federalism may take several forms and there is no ideal or best form of federal arrangement. In practice, as well, there are differences among federal states in terms of the exact division of powers between the different levels of government; the basis of determining the number and boundaries of the regions; the number of constitutionally recognized levels of government; the representation of the regions in the center; the mechanisms of resolving intergovernmental disputes, and other aspects. This flexibility allows federalism to fit in a variety of contexts. The variation also means that countries should not endeavor to copy each other's systems but can and should attempt to adapt federalism to their autochthonous history, context and existing social and political structures.

Particularly following the adoption of the Transitional Federal Charter in 2004, the federal idea has become one of the most politically salient issues in Somalia. The 2012 Provisional Constitution expressly establishes Somalia as a 'Federal Republic' (Article 1). Beyond the appellation, however, the Constitution does not provide the details that can help define the nature of the federal system. The exact number and size of Federal Member States as well as the vertical division of powers between the Federal Government and the Member States will be determined in the ongoing constitution making process. Indeed, federalism and the extent to which power should be decentralized are some of the most controversial issues in the state building process.

Somalia has historically been organized as a unitary state. As a consequence, locally available knowledge and experience in relation to federalism is limited. There is therefore need to establish understanding and consensus on various aspects of federalism. In particular, it is crucial that those involved in the constitution making and federalization process have a good understanding of the various ways of organizing federal states and of the comparative solutions that have been adopted to resolve common and emerging issues in federalism.

The purpose of this manual is to present a comparative discussion on a range of crucial issues common in countries with a federal state arrangement. The manual provides comparative experiences and does not attempt to provide a readymade answer to any of the difficult questions. It merely identifies and discusses the different options for resolving the questions that may arise in the Somali federalization process. The comparative discussion is intended to inform decisions on the form and combination of institutional arrangements that best fits the aspirations and history of Somalia, and its people and social structures. In particular, Somalia is unique in the fact that it is home to a largely homogenous society organized along mainly clan lines. These unique circumstances require unique choices and approaches. It should be emphasized that the manual does not recommend any particular form of federal arrangement. That choice will, and must, be made by the Somali people and their legitimate representatives.

The range of comparative options in relation to various aspects of the federal system must be read together with the broader constitutional, institutional, and functional structures as well as the prevailing political, historical and social realities. Institu-



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tional choices are not made in a vacuum. Options in each area of federalism may have divergent implications depending on the combination of institutional choices in other areas.

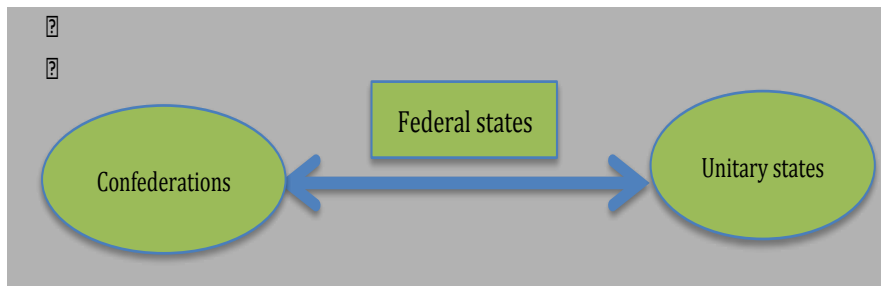
The manual is addressed to those directly involved in the federalization process in Somalia, namely, the parliamentary Constitution Review and Implementation Oversight Committee, the Independent Constitution Review and Implementation Commission, the Boundaries and Federation Commission, the Ministry of Interior and Federalism, as well as the Ministry of Constitution and the Ministry of Justice. The issues covered in this manual should also be of interest to other actors, including existing and future interim regional governments, international partners, the United Nations, and civil society organizations. Once the final Constitution has been adopted, the manual may be helpful to all those involved in the implementation of the Constitution. It will also be useful in addressing new issues and disputes that may arise once the federalization process has been finalized.

#### **Use of terms**

Different federations use different nomenclatures to describe the different levels of government. This manual uses interchangeably the terms **federal**, **central**, and **national** to refer to the authority exercising the powers of the federation. It also uses interchangeably the terms **region**, **constituent unit** and **province** to refer to the units that constitute the federation. **Local**, **district** or **municipal** governments are used interchangeably to refer to the lower levels of government organized within the regions or provinces. The terms **nation**, **state**, or **country** are employed to refer to the overall nation itself.

## **B. Forms of states**

Since the emergence of the nation state as a prominent national and international actor, states have organized themselves in a range of ways. The most common state structures have been unitary, federal and confederal arrangements. The following illustration shows a continuum of the three common forms of government systems.





## I. Confederations

A confederation is a system of government formed by sovereign states for the purpose of achieving common economic, political, security or other interests. It is an

**In a confederation, the constituent governments retain their sovereignty. The common government is a creation of and accountable to the constituent states.**

association or league of sovereign states with limited powers to achieve specified and common goals.<sup>2</sup> The states retain their full sovereignty and may unilaterally withdraw from the confederation. The main characteristic of a confederation is that the common government is subordinate to and dependent for its powers and resources on the constituent government.

The common government only has such powers and institutions as the sovereign member states agree to delegate to it. Similarly, the confederation does not have an independent source of revenue and mainly depends on the contributions of the member countries.

Moreover, the common government does not have any direct connection to the people, i.e. it is the member countries, not their citizens, which constitute and are represented in the common government. Nor do the decisions of the confederation directly affect the people. The decisions of the confederation will only bind the people if each member country chooses to domesticate such decisions.

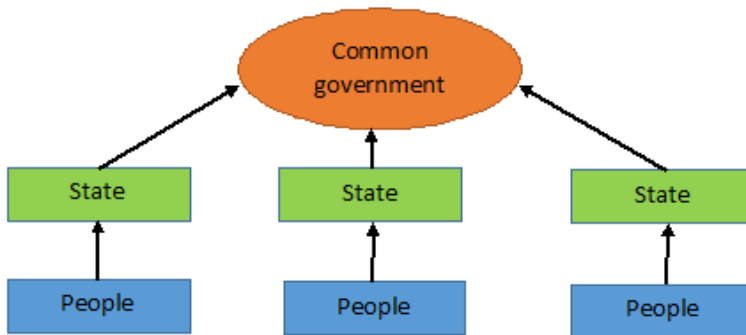
Two of the oldest federations, the United States and Switzerland, were initially confederations. Today, confederations are not common. Although the Constitution declares the United Arab Emirates (UAE) as a 'federal state', it has a largely confederal form. Considering the significant power of the constituent units, it may be considered to be the only contemporary confederation. Supreme executive and legislative power rests with the Supreme Council of Rules, composed of rules of the seven Emirates constituting the Union. The unicameral federal legislature merely serves as a consultative body to the Supreme Council. Nevertheless, the constituting Emirates are not officially recognized as independent states. The UAE therefore has a federal-confederal hybrid arrangement. Another possible example is the European Union (EU). Members of the EU retain significant powers over their domestic and foreign policies. In addition, the EU relies on fiscal transfers from the members. These are common features of confederations. Nevertheless, the EU makes laws that are directly applicable in the member states. It also has a directly elected parliament and a judicial body enforcing the supremacy of EU laws. These are features of a federation. Like the UAE, therefore, the EU is best described as a federal-confederal hybrid.

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<sup>2</sup> Martin Diamond 'What the framers meant by federalism', in Robert A Goldwin (ed) *A nation of states: Essays on the American federal system* (1961) 27.



## Structure of confederal arrangements



## II. Unitary states

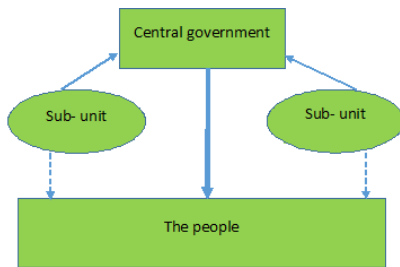
A unitary state involves a system where government authority is exercised as a unit under the overall power of a single government. The majority of countries around the world have a unitary form of government arrangement. Nevertheless, highly centralized unitary states are not common. Governments of unitary states often establish, for reasons of administrative convenience or efficiency, administrative sub-units, or even lower levels of government, sometimes in their constitutions. These lower level administrative units may not be represented in the central government and the central government may for any reason abolish or restructure the administrative units, or any lower levels of government, or alter their powers.

As such, the main characteristic of a unitary state is not the existence of a single level of government, or the level of decentralization of power. It is rather the discretionary legal authority of the central government to unilaterally establish or abolish lower levels of administration, or modify their powers. Any lower levels of government or sub-units in a unitary state are subordinate to the central government and are established and abolished at the will of the central government.

**In unitary states, the sovereignty of the state is undivided. Lower administrative units or regional governments, if any, are the creations of and may be abolished by the central government.**



### Decentralized unitary state



### Centralized unitary state



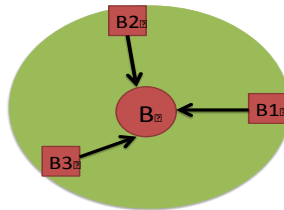
*NB: The broken arrows indicate that the sub-units may or may not be directly accountable to the people, while the solid arrows indicate direct accountability.*

The establishment of lower administrative units or levels of government in unitary states is the discretion of the central government. The central government also determines the powers of the lower levels of administrative units or government. Based on the nature of powers of lower level governments or administrative sub-units, decentralization in unitary states may take different forms.

- First, the central government may simply **deconcentrate** or disperse its facilities or service outlets to reach out to people in all parts of the country. The outlets are part of the central government and do not have distinct institutional personality. **Deconcentration** is the weakest form of decentralization that simply involves the establishment of functional branch offices or outlets. The central government does not establish new levels of government. For instance, in some countries, passports are issued only in the capital city. With a view to reach out to the periphery, the government may establish offices that issue passports in selected regional cities.

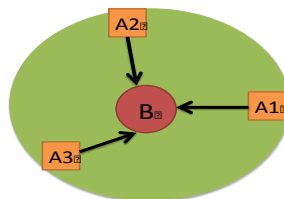


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*NB: The similarity of colors shows their identities overlap. The full arrows indicate the accountability of the regions to the center.*

- Second, the central government may establish lower levels of government that are distinct from it and **delegate** some of its powers to the lower levels, in a typical principal-agency arrangement. The lower level governments as well as their powers are subordinate to, and may be altered at the discretion of, the central government. The central authority is responsible for the exercise of power by lower level governments and may therefore provide direct instructions, which may be detailed, to lower level governments and even override or modify their decisions. Nevertheless, lower level governments may enjoy some level of discretion in implementing the guidelines or instructions.

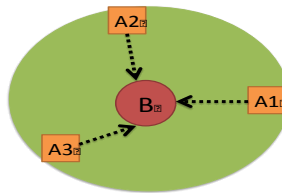


*NB: The fact that the regions have different colors shows their distinct identity. The full arrows indicate the accountability of the regions to the center.*



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- The most robust form of decentralization in unitary states involves **devolution**. Devolution requires the existence of lower levels of government with direct accountability to the people. There is therefore some kind of political decentralization in devolved systems. Nevertheless, the lower levels of government may in addition be accountable to the central government. Once authority is devolved, lower levels of government exercise their powers autonomously and largely take responsibility for their exercise of power. The central government may not override or alter the decisions of the lower levels of governments. It may provide broad policy directives or guidelines, but does not interfere in the day-to-day activities of the lower levels of government.

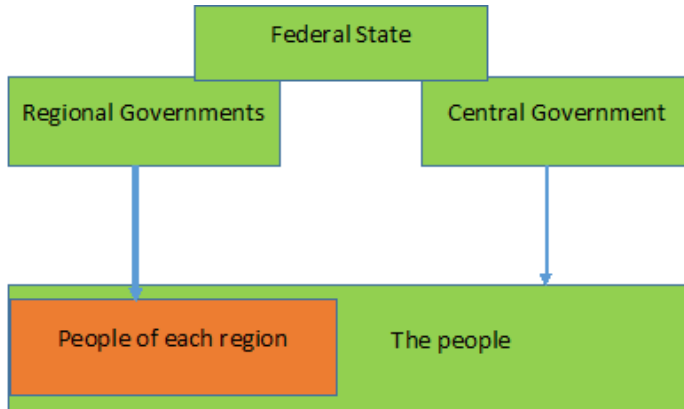


*NB: The fact that the regions have different colors shows their distinct identity. The broken arrows indicate the limited accountability of the regions to the center*

Deconcentration is a common feature of all unitary states. Most unitary states combine deconcentration with a degree of delegation. Some unitary states may reflect characteristics of deconcentration and devolution. In the case of delegation and devolution, the decentralization may take political forms such that the people directly elect and hold accountable lower level government officials. It may also take policy forms when lower level governments determine policy in certain areas, such as education, local infrastructure, or policing. Where there is fiscal decentralization, lower level governments directly spend funds and resources. Lower level governments may also be authorized to raise funds through taxes, fees and other tools.



### III. Federal states



A federal form of state is an arrangement where at least two levels of government exercise constitutional power over the same territory and people. The different levels of government are not accountable to each other. Rather each level of government obtains authority directly from the people and has autonomous constitutional powers, including revenue-raising and spending powers, to make and implement policies on certain constitutionally prescribed matters.

The central feature of federal states is not the existence of at least two levels of government, or the degree of decentralization of powers. It is rather the fact that the powers of each level of government are constitutionally outlined and may not be unilaterally

**In federal systems, sovereignty is divided between at least two spheres of government. Each sphere of government has genuine constitutional autonomy and obtains its legitimacy and powers directly from the constitution and the people.**

modified by any of the governments. Indeed, some unitary states, such as Kenya and the United Kingdom, have established lower levels of governments and may be more decentralized than some federal states. Nevertheless, in devolved unitary states, such as the United Kingdom, the powers of the lower levels of government may in theory be modified or even rescinded at the will of the central government.





## **1. Formation of federal states**

Federal states are formed through different processes. While the processes of federalization in each state are unique, it is possible to broadly categorize such processes as aggregation or disaggregation.

### ***Aggregation/Coming-together federalism***

In some cases, a federal state is formed through the aggregation of previously independent entities that come together under a federal arrangement, hence coming-together federalism. The previously independent entities agree to cede some of their powers to a newly established central government. Nevertheless, the central government will not be accountable to the original entities. It is rather accountable directly to the people. That is, each level of government will obtain its legitimate authority and is accountable to the people in relation to its constitutionally defined powers. A federal form of government created through aggregation is often formed after a confederation failed to achieve common goals.

For instance, the United States was transformed into a federal state after the confederation established by the then 13 independent nations did not deliver on economic and security objectives due to the weak powers of the common government. The 13 nations then decided to form a federal government with stronger powers and an independent resource base, which 37 other states would subsequently join. Similarly, the Swiss federation was initially established as a confederation by the then independent cantons and was transformed into a federal government in the 19<sup>th</sup> century. The German federation evolved through a similar process.

### ***Disaggregation/Holding-together federalism***

Most federal states are formed through a process of disaggregation. In this case, a previously unitary state is transformed into a federal state. This process is referred to as holding-together federalism in the sense that, rather than disintegrating into many independent nations, the unitary state establishes or recognizes regional governments and devolves powers to them. The federal arrangement may be the ultimate culmination of a (de facto and de jure) history of decentralization of powers and institutions. All the federal states in Africa, namely Nigeria, Ethiopia and South Africa, were formed through a process of disaggregation from previously unitary states.

### ***Mixture of aggregation and disaggregation***

Some federal states are formed through a combination of aggregation and disaggregation. Here, previously independent nations come-together to form a federal state. At the same time, some or all of the independent nations undergo internal splits to form more than one constituent unit.

A good example is Canada, which was formed through the aggregation of the former colonies in British North America, namely, Nova Scotia, New Brunswick and the United Province of Canada. The United Province of Canada subsequently disaggregated to



form two provinces, Ontario and Quebec. Six other provinces later joined the Canadian federation.

### **The formation of the Somali federation**

The Somali Federation is mainly a result of disaggregation of a formerly unitary state. Nevertheless, considering the level of independence that, for instance, the autonomous region of Puntland has been enjoying since its establishment in 1998, its entrance to the federation may constitute a form of aggregation with the rest of Somalia (the same holds true for the self-declared independent Republic of Somaliland, if and when it joins the Somali federation). As such, the Somali federalization process reflects elements of both aggregation and disaggregation.

## **2. Forms of federalism**

Federal states may be organized in a variety of ways. Based on the nature and extent of the vertical division of powers and intergovernmental cooperation and power sharing, it is possible to distinguish between dual and cooperative federalism.

### ***Dual federalism***

Dual federalism involves clear divisions of powers between federal and regional governments. Each level of government has its own legislative, executive and judicial organs and therefore enacts, interprets and implements its own laws and policies. There are no or very few explicitly established concurrent powers that require continuous collaboration and coordination. Dual federalism is often common in federal states that were formed through a process of aggregation. The Constitutions of Canada, Australia and the United States arguably originally established dual federalism, as they do not anticipate any major area of concurrent powers. Nevertheless, the complexity of political, economic and social life means that a clear-cut division of powers is often impractical as there are a number of matters that necessitate intergovernmental cooperation and collaboration. Indeed, the different levels of governments in the three countries are increasingly cooperating on various issues and courts have generally approved such evolving arrangements, despite the lack of a clear constitutional basis.

### ***Cooperative federalism***

Cooperative federalism involves high levels of collaboration and cooperation between the various levels of government. It is common among federal states that were formed through a process of disaggregation. Cooperative federalism is characterized by extensive concurrent powers that necessitate continuous and official collaboration between the different levels of government. The South African and German Constitutions are founded on principles of cooperative federalism with significant levels of shared powers. Federal constitutions providing for extensive concurrent powers may require the establishment of entities to coordinate intergovernmental relations.



### ***Administrative federalism***

Administrative federalism is a specific form of cooperative federalism whereby the central government mainly enacts broad policies and the regions administer and implement such centrally enacted laws and policies. The central government relies on regional administrative apparatus to execute its laws and has very few administrative agencies. The lower level governments have limited policy autonomy. The Constitution of Germany gives effect to principles of administrative federalism. Nevertheless, in addition to making policies in few areas, the regional governments are involved in central policymaking through the second chamber of parliament.

Cooperative federalism has the advantage of flexibility and systematic and continuous engagement. Nevertheless, it requires high levels of collaboration, goodwill, and compromise, which may be hard to achieve, especially where the political party that controls the central government does not also control regional governments. The lack of goodwill and compromise may lead to conflict, gridlock and delay in decision-making on crucial areas. Dual federalism, on the other hand, allows each level of government to exercise its powers largely independently of the other. As a result, it requires significant resources to fund the administration of parallel federal and regional institutions. Dual federalism may test the increasing need for continuous intergovernmental cooperation.

The Provisional Constitution of Somalia does not outline the detailed division of powers between the Federal Government and the Member States. The extent and scope of exclusive as well as concurrent powers of the two levels of governments will only be clear once the Final Constitution has been adopted. Whether or not the Federal Government will establish most or all of its administrative institutions, or whether it will mainly rely on administrative institutions of the Member States will also be determined in the Final Constitution. Nevertheless, the Provisional Constitution establishes a number of principles to foster cooperation and collaboration among the various levels of government (Article 50). To this effect, the Constitution requires the establishment of a number of arrangements to promote vertical and horizontal intergovernmental cooperation and collaboration. For instance, the Constitution requires the regular convening of an annual conference of executive heads of the Federal Government and the Federal Member State governments (Article 51). It also requires regular meetings between the Presidents of the Federal Member States and high-ranking officials to discuss issues that affect their territories (Article 52).

### **3. Purposes of federalism**

The purposes federalism is meant to achieve are many and varied and depend on the specific context and origins of the federal arrangement.

Identifying the purposes behind the decision to establish a federal state is crucial as it informs the overall division of powers as well as the restructuring of the state (the



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number, size and boundary of the regions). The origins and purpose of the federal arrangement also inform intergovernmental relationships in practice as well as the judicial interpretation of such power-relations.

#### ***Functional reasons***

In federal countries established through a process of aggregation, the main purpose of the federal arrangement is to boost common security and defense and to enlarge the common market for their products (functional reasons), while maintaining significant levels of self-government. For instance, the United States and the Swiss Federation were established only after the confederal form of government the previously independent nations had established did not achieve the intended result in terms of robust common defense and a broader common market.

#### ***Democratic reasons***

The main trigger behind federalism through disaggregation is the enhancement of self-governance, political participation and accountability (democratic reasons). By allowing the lowest level of government to decide on and implement policies mainly affecting its residents, federalism realizes ideals of self-determination. The people of each region have the authority to empower and hold accountable those designing and implementing regional laws and policies. Federalism also allows the people to directly participate in the decision-making process immediately and significantly affecting them. Furthermore, the establishment of several levels of governments creates more opportunities for individuals to hold government offices. In this regard, political offices at the regional level may be used as stepping-stones for political career at the national level.

#### ***Preference matching***

By enhancing self-government, federalism allows lower levels of governments to tailor their decisions based on the needs and desires of the people, i.e. each level of government will be able to match its priorities with the preferences of the people who are mainly affected by the decision. For instance, in a centralized unitary state, the government may prioritize education as a matter of national policy. Nevertheless, in some local areas the main urgency may be the establishment of a health center, or water facilities, or irrigation installation rather than the building of a school. Federalism allows each level of government to pursue its policy priorities.

#### ***Limiting authoritarian centralization of powers***

Federalism may also limit the authoritarian centralization of power by a small group of powerful elites at the central level. By decentralizing power, federalism diffuses central authority and facilitates the emergence of local elites who are likely to be more responsive and accountable to local demands than national elites. Dissatisfaction with national political elites may particularly be strong in linguistically, ethnically, or religiously diverse countries.



### ***Accommodating diversity in a single polity***

Federalism allows a small, relatively homogenous cultural, ethnic or religious community to 'preserve and promote much of its unique identity within a federal sub-unit, while nevertheless enjoying the advantages of being part of a larger, more economically powerful state or super-state', with which it may share some common history or affiliations.<sup>3</sup> By allowing national and regional elites to constitutionally share powers and resources, federal arrangements can facilitate the coexistence of multiple and overlapping identities and allegiances and potentially diffuse tension and conflict among the groups. To this extent, federal arrangements can help accommodate competing ethnic or religious claims and may serve as a peace accord in countries suffering from ethnic or religious conflict. The fact that group autonomy is guaranteed constitutionally and cannot be unilaterally altered by the central government makes federalism more attractive than other forms of decentralization within a unitary state to such groups.

#### **Federalism:**

- **Enhances self-governance, political participation, responsiveness and accountability;**
- **Allows regional and local entities to match their services with the specific demands of their residents (preference matching);**
- **Can limit authoritarian centralization of power;**
- **Can facilitate the coexistence of multiple and overlapping identities and allegiances and potentially diffuse tension and conflict among the groups.**

### **Triggers of federalism in Somalia**

The main reason behind the move towards the federal decentralization of powers in Somalia appears to be the dissatisfaction and disillusionment with the extreme centralization of power and authoritarian tendencies of previous regimes. Decentralization/federalism is seen as an alternative to the unitary system, which is for historical reasons associated with the marginalization of regions outside the capital territory. Experiences with authoritarianism have induced lack of trust in central political elites and institutions, which were often perceived to have been dominated by individuals from a few clans.

The demand for federalism also emanates from the desire to enhance local political participation and decision-making and to ensure local representation in regional and national governance. Federalism is seen as an enabler of local governance where the locals themselves elect and hold accountable local political elites, in contrast to the

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<sup>3</sup> Dimitrios Karmis and Wayne Norman 'The revival of federalism in normative political theory' in Dimitrios Karmis and Wayne Norman (eds) *Theories of federalism: A reader* (2005) 8.



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previous practice where central government officials appointed local officials. Federalism is therefore seen as more compatible with principles of democratic governance.

The unitary state was also associated with a system where public services and major business activities were concentrated in the capital territory and its surroundings. As a result, individuals living outside the capital had to travel long distances to obtain basic government services. The support for federalism is associated with the expected geographical decentralization of government power as well as public services.

Demands for decentralization and federalism also trace back to the unique political organization of Somali society, namely, the clan system. The highly non-centralized, fluid and nonhierarchical organization of Somali society into clans and kinships appeals towards a political organization of the nation reflecting these socio-political realities. Federalism is therefore not completely alien to the social, historical, and political structures of Somali society.

#### **4. Potential advantages and disadvantages of federalism**

The advantages and disadvantages of federalism may be seen from the perspective of centralized unitary states or the establishment or maintenance of smaller independent sovereign nations.

Federalism limits the extent to which particular groups can manifest and give effect to their diversity, which would theoretically be unlimited if each region maintains its sovereignty or chooses to leave the federation to establish an independent nation. By forming a federal state, the regions are foregoing an opportunity to become full-fledged members of and actors in the international arena. The main advantages of federalism over disintegration or the maintenance of independence is the desire to establish a robust defense and security and a bigger common market. By allowing regions with common history or identity to come or stay together while devolving significant authority on a range of matters, federalism enables them to reap the benefits of unity without significantly undermining their autonomy or diversity. Moreover, loose alliances and confederations often create collective action problems, allow free riding and tend to be unstable.

From the perspective of centralized unitary states, federalism gives effect to principles of self-governance, political participation and accountability. To this extent, federalism is arguably more compatible with democratic principles than unitary arrangements. On the other hand, federalism establishes a number of levels of government, which requires enormous amounts of resources to run, i.e. administrative costs tend to be higher in a federal form of government. Nevertheless, with the increasing popularity of decentralization in almost all unitary states, the transformation to a federal arrangement may not entail significant administrative costs. Moreover, federalism may provide local elites with the platform to request more powers and ultimately seek secession or independence. Nevertheless, extreme centralization of pow-



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er may trigger secessionist movements, while genuine decentralization of power under a federal arrangement may appease calls for secession.

The following table provides a summary of the main potential benefits and challenges of establishing a federal arrangement. It should be noted that most of the benefits could also be achieved through a process of decentralization within a unitary state. The unique advantage of federalism lies in the fact that it ensures the constitutional protection of the powers of all levels of government.

Advantages of federalism	Disadvantages of federalism
<p><b>Regions as laboratories of democracy and governance:</b> By allowing the making and implementation of policies at different levels, federalism may encourage innovation, healthy competition and experience sharing in terms of democratic, social and economic policies. The potential risk of experimenting with policies is lower at the regional than the national level. The impact of policy failures at the local level will be limited, while successes can be emulated.</p>	<p><b>Duplication and conflicts:</b> The fact that policies are made at different levels may lead to duplication of government policies and functions, inefficiency, incompatibilities and even conflicts.</p> <p>Federalism may also encourage a-race-to-the-bottom where each level of government attempts to attract investment and skilled individuals by undercutting vital standards, such as environmental or labor standards.</p>
<p><b>Limits abusive centralization of power:</b> By constitutionally dividing powers, federalism may minimize the risk of the emergence of a strong and unaccountable central government. Constitutionally empowered regions can serve as a check on the powers of the central government.</p>	<p><b>Blurs democratic accountability and creates possibility of misuse of power:</b> In a federal arrangement, it may be hard to attribute failures to a particular level of government and each level of government may blame the other, creating problems of democratic accountability. Alternatively, a level of government may dubiously claim credit for successes that are actually attributable to actions of another level of government.</p>
<p><b>Enhances responsiveness:</b> Federalism entails the emergence of power-bases and institutions at local levels that are likely to be more responsive and accountable to the demands and preferences of the local people.</p>	<p><b>Decentralization of corruption:</b> The existence of various levels of government may expand opportunities for corruption.</p>
<p><b>Accommodates diversity and lessens the chances of conflict:</b> Federalism can help accommodate diversity in a single nation. Each group can have significant autonomy in determining its social, economic and political fate, while sharing powers in making policies at the central level.</p>	<p><b>May lead to the disintegration of the state and the creation of regional minorities:</b> Autonomous regions may use their newly acquired powers and resources to push for more powers and even separation from the federation. Federalism may also give regional elites the platform to exacerbate tension among the diverse groups.</p>



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	Federalism may also create minorities within the regions, thereby transferring, rather than solving, the diversity problem.
<b>Spreads the burden of government:</b> Federalism leads to the establishment of various levels of government and allows them to focus on the provision of specific services tailored to the preferences of the immediate local beneficiaries, which can lead to specialization.	<b>High costs of administration:</b> Federalism may lead to the establishment of a high number of government offices, which raises the cost of running the government, thereby cutting the pool of resources for infrastructure and investment. Moreover, local governments may not have the necessary personal and technical capacity to use their available resources, leading to wastage.

#### **5. Common features of federal states**

Decentralization of government power is not itself a sufficient indicator of the federal character of a nation. A number of unitary states have established decentralized government systems. Indeed, some unitary states may be more decentralized than federal states. Certain fundamental structures and institutions serve as indicators to determine whether a state has adopted a federal or merely a decentralized unitary system.

##### ***At least two levels of government***

First and foremost, a federal state assumes the existence of at least two levels of government genuinely autonomous from each other but exercising authority over the same territory and obtaining legitimacy and authority directly from the people. In some federal states, such as Ethiopia, the United States and Canada, the federal constitution only expressly establishes and empowers the national government and the regions. In such cases, the internal organization of the regions is left for regional constitutions.

In most federal states, each region (as well as the government of the capital city, when it is established as a region or a special federal district) has the exclusive power to establish, abolish or modify lower levels of government, and to determine their number, structure, and boundaries. Similarly, the powers, roles and responsibilities of local governments are limited to those granted to them by the regional constitution and laws. The various aspects of local governments may be regulated either in regional constitutions or through regional laws, or both. The structure and mandate of local governments may therefore vary from region to region. For instance, the regions decide whether there will be only one level of local government below the regional level (e.g. districts), or whether there will two or more (e.g. counties and municipalities/towns). Most of the provinces in South Africa and Australia, for instance, only recognize one level of local government below the provincial level, while most of the regions in Ethiopia and the United States have recognized two levels of government below the regional level.





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In a few federal states, such as Nigeria, South Africa, India, and Brazil, the constitution recognizes and empowers a third level of government, the local/district level. In South Africa, some of the powers of local governments are outlined in the National Constitution. In such cases, the provincial government may expand but not take away such powers.

The Provisional Constitution of Somalia clearly establishes the Federal Government and Federal Member States. It also recognizes local governments as part of the Member States. Nevertheless, it leaves the decision on the number and boundaries of districts to laws to be adopted by each Federal Member State, subject to the approval of the House of the People (Article 49(4)). It is not clear whether the determination of the structure, powers, roles and responsibilities of districts is also subject to the approval of the House of the People as the provision only refers to the 'number' and 'boundaries' of districts. Moreover, the Constitution does not exclude the possible establishment of intermediate regional administrations between the Member States and the districts. As such, some or all the Member States may, for instance, recognize the pre-1991 administrative regions as intermediary structures between the Member States and the districts. Such an approach may be suitable for the bigger Federal Member States.

#### ***A written constitution entrenching the vertical division of powers***

The second common element of a federal form of government is the existence of a written constitution that specifically allocates powers and resources to each level of government. The alteration of the power relations between the different levels of government is generally subject to constitutional amendment, which often requires a more stringent requirement than the procedure for the enactment of ordinary federal legislation. Most importantly, the vertical division of powers is not normally subject to unilateral modification.

If the central government can unilaterally modify the powers of the regions, the state has a decentralized unitary system. If the regions can unilaterally modify the powers of the central government, the system constitutes a confederation. For instance, despite the high level of decentralization in the United Kingdom, the absence of a constitutional guarantee of the powers of the regions, such as the Scottish Parliament, which establishes the Scottish Government, means that the United Kingdom is a merely devolved unitary state, rather than a federal state. The central government may theoretically reduce the powers of, or even abolish, the Scottish Parliament.

#### ***Representation of the regions in the central government***

A federal form of government normally also provides for the representation of the regions in central policy making. This is often, but not always, done through the establishment of a second chamber of parliament, which is involved in the enactment of



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laws at the federal level, especially laws affecting the regions.<sup>4</sup> The manner through which the members of the second house are elected, the interests they are intended to represent, and the proportionality of the representation of the regions differs in different countries (see part G below).

#### ***Mechanisms for intergovernmental cooperation and dispute resolution***

A federal form of government involves the constitutional division of powers between the central government and the regions and amongst the regions. Such division of powers may and does lead to disagreements and disputes. The disagreements can often be resolved through political means. Federal states often have formal and informal intergovernmental mechanisms to coordinate activities and resolve differences. In the absence of political settlement, however, the constitution should establish a framework through which the disputing governments can peacefully resolve their differences. The most common intergovernmental dispute resolution mechanism is through resort to the highest courts. Nevertheless, a few countries have established non-judicial mechanisms of resolving inter-governmental disputes (see part H below). In decentralized unitary states, the powers of lower level governments depend on the will of the central government. As such, disputes, if any, are resolved through the central government.

The Provisional Constitution of Somalia satisfies all the common elements of a federation. It is a written Constitution that:

- Establishes and guarantees the powers of the Federal Government and the Federal Member States;
- Establishes the Upper House to ensure the representation of the people of Member States, including in constitutional amendment process; and
- Provides for mechanisms of intergovernmental cooperation and dispute resolution, including the Constitutional Court.

### **C. Federal restructuring (territorial federalism)**

One of the basic features of federal states is the existence of constituent units with recognizable internal boundaries. In federal states that are formed through a process of aggregation, where formerly independent units come together under a federal arrangement, the former independent units largely maintain their boundaries.

On the other hand, in federal countries that are formed through a process of disaggregation, where a formerly unitary state is transformed into a federal state, the boundaries of the regions have to be delimited. Unitary states that become federal

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<sup>4</sup> Nevertheless, some small federations, such as the Federated States of Micronesia and Saint Kitts, have not established a second chamber. Moreover, Venezuela abolished the Upper Chamber in 1999.



states have to decide on the substantive criteria as well as the process of delimiting the regional boundaries.

The demarcation of internal boundaries in federal states can be complicated and controversial. This section explores from a comparative perspective the different substantive grounds that may inform the demarcation exercise, the procedures of giving effect to the substantive standards, and the institutions tasked with applying the substantive and procedural criteria to determine regional boundaries. It also identifies and discusses critical issues that must be considered while drawing regional boundaries.

### **I. Substantive criteria for delimiting regional boundaries**

The drawing of regional boundaries in a federal state is a rational exercise that requires the establishment of clear and logical substantive criteria that will inform the size, number and borders of the regions. These criteria can be different in different federal states and are informed by the motivations and objectives that led to the establishment of a federal form of government. For instance, in states where a federal form of government was established with a view to enhance ethnic accommodation and self-governance, ethnicity will play an important role in the determination of regional boundaries.

#### **The most common boundary demarcation criteria include:**

- **Historically established and recognizable boundaries;**
- **Administrative capacity and functional efficiency;**
- **Social, historical and economic ties; and**
- **Socio-cultural factors (group identity).**

In practice, boundary demarcation is not an exact science and the creation of boundaries is a political process involving a compromise amongst the major social, political and economic forces.

#### **1. Historically established and recognizable regional boundaries**

The existence of historically recognizable regional boundaries can provide a concrete basis for delimiting regional boundaries. Regional boundaries are easily identifiable in cases where previously separate units come together to create a state. In such cases, the federation can simply maintain those boundaries. Nevertheless, even in cases where a federal state emerges from a previously unitary arrangement, it may be possible to identify historically recognizable boundaries. In Spain, for instance, historical boundaries are a necessary but not sufficient condition for the formation of autonomous communities. The 1978 Constitution recognizes the 50 provinces, which were created for administrative purposes in the 19<sup>th</sup> century. The Constitution allows two or more adjacent provinces with common historical, cultural and economic charac-



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teristics to agree to form autonomous communities, subject to approval by the Spanish Legislature. In principle, no single province may become an 'Autonomous Community'. Nevertheless, the National Legislature may allow individual provinces with 'historical regional identity' to form autonomous communities. In addition, insular provinces with very little common characteristics with their adjacent provinces may be granted autonomous status. Similarly in Iraq, only Kurdistan is constitutionally recognized as a region. Other regions may only be formed based on the boundaries of previously existing governorates.

The Provisional Constitution of Somalia provides that the boundaries of Federal Member States should be based on the boundaries of the administrative regions, as they existed prior to 1991 (Article 49(5)). Unlike in Spain, the Constitution does not anticipate possibilities where a single administrative unit may be established as a Federal Member State. As such, all administrative regions must merge with other regions either voluntarily, or through the decision of the Federal Parliament based on recommendations of the Boundaries and Federation Commission. The Constitution does not seem to anticipate a possibility where any of the pre-1991 regions may be divided between two or more Federal Member States. Deviations from the constitutional requirement of conjoining at least two regions may be necessary and be justified under unique circumstances, considering shifting political and clan alliances and post-1991 transformations. Any such deviations should in principle be legitimized through a constitutional amendment.

Under the Provisional Constitution, regions that have not been merged with other regions to form a Federal Member State are put under direct administration of the Federal Government for a maximum period of two years, which has already lapsed. The Constitution is not clear on what will happen after the lapse of the two-year period. In Spain, regions that have not voluntarily merged with other regions to form a state continue to be administered by the central government. In contrast, the Constitution of Iraq requires the provision of broad administrative and financial powers to regions (governorates) that have not been merged to form a constituent unit, allowing them to manage their own affairs based on the principle of decentralized administration.

## **2. Administrative capacity and functional efficiency (economic factors)**

In some federal states that have emerged out of a unitary state structure, administrative capacity and functional efficiency are crucial in determining the number and size of member states. Functional efficiency may also inform decisions to change existing or historical boundaries with a view to reduce their historical relevance and future impact. In South Africa, for instance, the current nine provinces were carved out of four recognizable regions that were promoted during the apartheid regime. The main purpose behind the demarcation exercise was to ensure efficiency in establishing sustainable resource bases, redistributing resources, delivering services and equalizing the different regions. As a consequence, the demarcation of the boundaries of the nine provinces that emerged was a highly technocratic exercise. An expert Commis-



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sion of Delimitation/Demarcation prepared proposals on the number, size and boundaries of provinces. The proposal of the Commission to create nine provinces, which was finalized within a few weeks, was slightly modified and approved by the representatives of the political parties (the Negotiating Forum).

In the Somali Provisional Constitution, administrative capacity and functional efficiency have not been expressly included as criteria in delimiting the boundaries of the regions. In the absence of capacity considerations, some of the newly created states may not be able to raise sufficient revenues, to deliver important services and infrastructure, and to formulate and implement complex social, economic and political policies. The capacity, resources, and infrastructure of the proposed Federal Member States should therefore be recognized as a critical guide to the decisions of the Boundaries and Federation Commission. As such, even if two or more administrative regions may wish to merge to become a Federal Member State, their administrative capacity and functional viability should be assessed before approving the merger.

#### **3. Socio-cultural factors (group identity)**

In some federal states, the overriding principle of political and state organization may be nationality (race), ethnicity, language, religion, tribe, clan, or other group identity. In cases where these groups are geographically concentrated, the size and boundaries of the member states of the federation may depend on the settlement patterns and consent of the ethnic groups. Under the 1995 Constitution of Ethiopia, for instance, ethnicity is the main basis of political organization. As a result, the nine constituent units are mainly delimited based on settlement patterns, identity, language, and the consent of the people concerned. The same criteria are used in resolving boundary disputes between the constituent units.

The Provisional Constitution of Somalia does not recognize clan or tribal identity as the basis of political and state organization. In fact, the Provisional Constitution clearly stresses the oneness and indivisibility of the Somali nation and its citizens (Article 8). Nevertheless, the Constitution does not appear to preclude the Member States from relying on tribal settlements patterns in determining the number and delineating the boundaries of the districts.

#### **4. Social, historical and economic ties**

Historically established regional boundaries and ethnic/tribal settlement patterns are likely to reflect social, historical and economic ties. Nevertheless, even in the absence of such regions, it is possible to identify existing social and economic ties between specific people of neighboring areas. Ignoring such ties in the establishment of regional boundaries may disrupt existing relationships, which may create regional tension and continuous demands for readjustment. Such ties may often be connected to natural geographical features such as rivers, mountains, and deserts. It is therefore advisable that the Boundaries and Federation Commission should conduct studies to identify existing community ties, as may be determined based on factors such as



transportation and trade patterns. The outcome of such a study may particularly inform exceptional decisions to deviate from the principle that the boundaries of Member States should be based on pre-1991 administrative boundaries.

## **II. Modalities/process of creating regional boundaries**

Once a state has selected the factor or combination of factors that should provide overall guidance in drawing regional boundaries, it may employ different strategies to give effect to it. While some countries follow a bottom-up approach in defining regional boundaries, others implement a highly top-down approach. The strategy selected is often influenced by the substantive standard that guides the demarcation exercise. For instance, in countries where administrative efficiency is the primary purpose of establishing a federal state, a top-down technocratic demarcation may be the most suitable. On the other hand, referenda and consensual arrangements will be more important in states that have chosen ethnicity or other group identity as the basis for determining regional boundaries. Nevertheless, in all cases, demands for legitimacy and ownership require the consultation of the people and thoughtful consideration of their views.

### **1. Bottom-up approaches to determine or modify regional boundaries**

With the increasing recognition of popular participation as a necessary precondition for a legitimate and effective public decision, some states employ referenda and local initiatives to determine the boundaries of regions. In Ethiopia, for instance, in addition to settlement patterns, the consent of the people concerned is important in determining whether they will become part of one region or another. Similarly, several referenda have been conducted in South Africa to redraw municipal and sometimes provincial boundaries, in addition to other constitutional requirements. Moreover, the Ethiopian Constitution anticipates procedures through which the legislative council of a concerned ethnic group may request the establishment of a new region. In such cases, direct popular referendum is required to approve or reject the proposals of the legislative council.

Local initiatives are necessary for the formation of autonomous communities in Spain. Under the Spanish Constitution, adjacent provinces with common historic, cultural and economic characteristics, island territories and provinces with historic regional status may voluntarily accede to self-government and form an autonomous community. The right to initiate the process towards the establishment of an autonomous community lies with the concerned provincial councils and two-thirds of the municipalities whose populations represent at least the majority of the electorate of each province. This threshold must in principle be achieved within six months of commencing the process. The final decision lies with the Spanish Legislature. If an initiation fails, it may in principle only be repeated after five years. In addition, once created, autonomous communities are not allowed to merge to form a bigger autonomous community.



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Similarly, under the Iraqi Constitution, one or more governorates (provinces composed of districts, sub-districts and villages) may become a federal region if one-third of the council members of each governorate or one-tenth of the voters in each of the governorates intending to form a region requests it, and if the request is approved in a referendum. The region of Kurdistan is recognized as a federal region by the Constitution itself.

The Provisional Constitution of Somalia does not define the working methods of the proposed Boundaries and Federation Commission. Nevertheless, there is nothing in the Provisional Constitution that prevents the Commission or the Federal Parliament from engaging the people and even organizing referenda, with the help of other institutions, such as the Independent Electoral Commission, before making recommendations on the delimitation of the boundaries of the future Member States, although this will require enormous resources and may face logistical difficulties. The organization of a referendum may be particularly important in areas claimed by different administrative regions. For instance, although the South African Boundaries Commission was not expressly required to involve the public, it held a number of public hearings and received written submissions from a range of stakeholders. While the Provisional Constitution does not expressly deal with the possibility of establishing new Member States or of readjusting the boundaries of existing States, the consent of the people may be important in such processes.

## **2. The establishment of expert commissions to delimit regional boundaries**

In countries where historically established regions do not exist or when the historically established regions are out of favor, and where functional efficiency is the most important driver of the federalism project, the establishment of expert commissions can be very helpful. A good example of the involvement of an expert commission is the delineation of the boundaries of the provinces in South Africa. The nine provinces were established based on the recommendations of a fifteen-member expert Commission of Delimitation/Demarcation of Provinces. The Negotiating Forum, which was composed of the representatives of the different political groupings, endorsed only with minor changes the recommendations of the Commission, which were based on broad criteria.<sup>5</sup> Similarly in India, the constituent units were formed based on the recommendations of a small group of experts, which widely consulted the people. The recommendations of the experts were largely adopted.

The Provisional Constitution of Somalia similarly requires the establishment of a Boundaries and Federation Commission to provide recommendations on the number and boundaries of Federal Member States to the Federal Parliament. The Commission

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<sup>5</sup> The main criteria were: historic boundary considerations, such as the existing four provinces, homelands, local governments, development regions; rationalization of existing structures, such as homelands, provinces and regional governments; administrative considerations to ensure that each province will be properly served; cost effectiveness; minimizing inconveniences to people as much as possible; minimizing dislocation of services; demographic considerations; development potential and possible economic points; cultural and language realities; and other relevant considerations.



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is an independent and impartial body whose composition must be inclusive and representative of all geographical regions of Somalia (Article 111E(4)). The Constitution does not outline the mode of operation of the Commission. Such details are outlined in the Law establishing the Commission and in the internal rules of the Commission itself.

### **3. Political negotiation and compromise**

Often, the proposals of expert commissions are subject to political compromise and negotiation. Indeed, in both South Africa and India, as well as in Somalia, the final power of approving the number and boundaries of the constituent units lies with political organs. This allows politicians to accommodate the demands and interests of the dominant social and political forces. Political compromise and negotiation is therefore an integral part of the boundary demarcation process.

Sometimes, political negotiation and compromise may be the principal driver of boundary determinations. In Ethiopia, for instance, the final Constitution carved out nine regions and the capital city from previously existing fourteen administrative regions. Most of the determination of the boundaries and number of the regions was done based on discussions behind closed doors between the different factions that overthrew the previous regime. The extreme politicization of boundary delimitation may lead to the undue dominance of transient powers and the establishment of disparate or unviable states.

## **III. Some critical issues in boundary delimitation**

The decision on the number and boundaries of constituent units must take several factors into account. Although any one of the substantive criteria identified above may be the principal standard, often the demarcation process involves a combination of factors and considerations. Below are some of the issues that should inform the decision on the number, size, and boundaries of regions.

### **1. Number and size of constituent units**

There are no hard and fast rules on the exact number of constituent units. Historically, federal states have had from just two to more than 80 constituent units. The establishment of several small units may lead to the non-viability of the units. If the units are too many and too small, they may not be able to deliver services and perform other essential functions. This leads to fragmentation and excessive reliance on the federal government that will undermine the independence of the units and broadly the federalism project. In addition, the existence of many constituent units demands enormous resources to support their extensive administrative apparatus, thereby reducing resources for public investment and social services.

On the other hand, the creation of too few and too big regions may create strong centrifugal forces ultimately endangering the federation. Historically, federations with few constituent units have tended to be unstable. This is particularly true in cases





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where the size or resources of some of the regions may upset the political balance between the central government and the regions but also amongst the regions. One of the reasons that led to the secessionist Biafra war in Nigeria in the 1960s was the fact that Biafra was too big with the capacity to challenge economically and militarily the central government. Indeed, the immediate cause of the war was the attempt to divide the existing four big constituent units to twelve. One of the four, the Eastern Region, opposed the division and declared an independent state of Biafra, which was rejected by the central government, which subsequently suppressed the insurrection.

The Boundaries and Federation Commission of Somalia should therefore endeavor to establish a reasonable number of Federal Member States big enough to manage and maintain their independence but not too big to threaten the stability, continuity and territorial integrity of the federation.

## **2. Functional viability and administrative capacity**

Functional viability and administrative capacity may in itself be the main criteria for demarcating regions. Nevertheless, this criterion has relevance in almost all situations. Whichever criteria are used to guide the demarcation of regional boundaries, the functional viability of the regions must be an important concern. Although the wishes of the people and regional elites are important, demarcations should still have regard to the efficiency and viability of the regions. The failure of one or more regions to administer themselves and deliver services might necessitate the reworking of the demarcation, which can create continuous challenges. It is therefore important to consider the capacity of the regions to raise sufficient funds, to attract necessary human resources, and to develop their infrastructure.

Overall, the demarcation of regional boundaries is a serious exercise that requires the consideration of different factors. The Provisional Constitution of Somalia establishes the Boundaries and Federation Commission to undertake the internal delimitation, which is a precondition for the federalism project. Nevertheless, the Constitution does not provide for detailed substantive criteria to guide the demarcation of the boundaries of the Federal Member states. For instance, it is not clear how voluntary mergers will be initiated and approved (through popular referenda or the decision of the regional authorities or clan leaders?). Moreover, the Provisional Constitution is not clear on whether the merger should always be voluntary or whether the Commission can also decide to merge two or more regions regardless of their wishes. It is also not clear whether voluntary mergers should always be accepted, or whether the Commission may reject voluntary merges based on legitimate reasons.



## D. The vertical division of powers in federal states

One of the first decisions that drafters of a federal constitution generally make is whether the constitution will only provide for the powers of the central government and the regions and leave the establishment, structure and powers of local governments to the regions, or directly establish and determine the powers of all three levels of government. Once a decision has been taken on the exact number of levels of government, the next logical question is how to vertically distribute legislative, executive and judicial powers to the different levels of government. While the central government almost always has its own legislative, executive and judicial powers, the regions, and where they exist local governments, may not necessarily have judicial powers.

**Table: Vertical division of powers**

Level	South Africa			Germany			Somalia		
	Legis-lative	Ex-ecutive	Judi-cial	Legis-lative	Ex-ecutive	Judi-cial	Legis-lative	Ex-ecutive	Judi-cial
Fed-eral	✓	✓	✓	✓	✓	✓	✓	✓	✓
State	✓	✓	✗	✓	✓	✓	✓	✓	?
Local	✓	✓	✗	✓	✓	✗	?	?	?

There are no simple formulas to determine the exact distribution of powers. The variation in the division of powers across federations attests to the lack of consistency in this regard. All stakeholders must, taking into account the specific prevailing circumstances, negotiate the distribution of powers.

In principle, matters that cannot be undertaken by the regions, or require uniform countrywide regulation, or may entail significant externalities to other regions are often given to the central government. According to the principle of subsidiarity, the central government should normally have such powers as are necessary to achieve the shared objectives of the federation and when the centralization of power may produce significant advantages that may not be achieved independently by the regions. Other powers should be granted to the regions.



Under the Provisional Constitution of Somalia, the Federal Government has exclusive powers over certain conventional federal matters: national defense, foreign affairs, nationality and immigration, and monetary policy (Article 54). Other than these powers, however, the Constitution does not outline the detailed division of powers. It rather leaves the issue for further negotiation and agreement between the Federal Government and Member State governments. The principle of effectiveness will guide the overall division of powers and resources between the two levels of government (Article 50). As noted above, the Constitution does not determine the number, boundaries and powers of district/local governments. This determination is left to regional laws.

The following sections discuss the different ways of dividing powers and resources in federal states. It must be noted that constitutional provisions concerning the vertical division of powers do not always provide clear answers in specific cases. Accordingly, the main responsibility of clarifying the division of powers and resolving disputes over such division belongs to the organ in charge of interpreting the constitution and resolving intergovernmental disputes. In most federal states, such as South Africa, Nigeria, and Germany, the power to resolve intergovernmental disputes belongs to the highest federal court. Exceptionally, the power of resolving disputes on the division of powers and other intergovernmental powers may be granted to a political organ, as is the case in Ethiopia, where the House of Federation, the second house, has the ultimate power to resolve constitutional disputes.

### **I. Division of legislative powers**

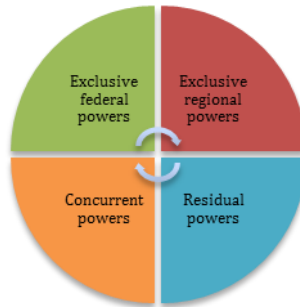
One of the main features of federal constitutions is the existence of categories of powers. The list of powers may either be incorporated in the provisions of the constitution, or be included as an annex in the form of schedules or tables. In general, federal constitutions deal with four categories of powers:

- Exclusive federal powers;
- Exclusive powers of the regions;
- Concurrent/shared powers; and
- Residual powers.

In countries where local governments are established in the federal constitution, the list also includes the powers of these local governments.



## Categories of legislative powers in federal states



### 1. Exclusive powers

The exclusive list of powers allows each level of government to exercise authority independently of the other level/s of government. Exclusive powers are interpreted to also include implied powers. Implied powers are powers that are directly linked to, or otherwise necessary for the implementation of, or naturally related to, an expressly granted power. Implied powers are often controversial and require the intervention of constitutional adjudicators, often the courts.

### 2. Concurrent and joint powers

Concurrent powers relate to matters over which two levels of government have shared policy-making powers. Each level of government may either be empowered to exercise autonomous powers over certain aspects of the same matter, or the two levels of government may exercise the power together or jointly over the same matter. Concurrent powers may also be divided in such a way that the federal government only enacts broad framework legislation while the regions enact the details to give effect to the framework legislation (e.g. South Africa, Brazil). Framework legislation was a peculiar feature of the German federation prior to 2006, where the increasingly detailed contents of framework legislation led to resistance from the regions and its eventual abolition.

In cases of concurrent powers, rules must be established to govern instances of double regulation and of differences and conflict. In general, the principle of federal prevalence applies. The principle ensures that the regions do not undermine national policies by enacting contradictory laws. Nevertheless, regional laws may in some instances prevail over federal laws. For instance, in Canada, regional laws prevail over federal laws on pension issues. In Germany, the Constitution contains a list of subject matters under concurrent jurisdiction in relation to which the regions are authorized



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to adopt laws that can deviate from and will prevail over federal legislation. In addition, in some instances, the exercise of concurrent powers by the Federal Government of Germany is subject to the requirement that the law must be necessary for the establishment of equivalent living conditions throughout the federal territory or the preservation of the legal or economic unity of the federation.

In some countries, the rule of federal prevalence may apply even if there is no conflict between the laws of the different levels of government. The presence of a federal law over a subject matter invalidates provincial laws on the same subject matter, i.e. there cannot be double regulation. In most federations, such as Nigeria, Germany, Brazil, Australia, and Switzerland, the rule of prevalence only applies in case of actual conflict of specific laws. As such, the laws of both levels of governments may regulate a matter as long as the laws do not contradict, i.e. there can be double regulation.

The South African Constitution provides that, in case of conflict, national legislation prevails over provincial legislation if the national legislation is intended to achieve constitutionally outlined purposes, including in particular economic unity, national security and the provision of equal opportunity or equal access to government services. If the national legislation is not intended to achieve these purposes, provincial law prevails over national law. It must be noted that laws, including provincial laws, on matters falling under concurrent jurisdiction must be referred to the National Council of Provinces for approval before they may prevail over other laws.

### **3. Residual powers**

Residual powers refer to powers that have not been expressly or impliedly granted exclusively or concurrently to either level of government. Given the limits on human capability to anticipate and regulate all matters, residual powers are significant even in countries where the constitutions contain detailed allocation of powers. There are no general rules as to which level of government should have residual powers. In some countries, particularly those formed through a process of aggregation, residual powers are often granted to the regions (e.g. Germany, Nigeria, Australia, the United States and Switzerland). Other federal countries grant residual powers to the central government (e.g. India). In Ethiopia, residual powers are granted to the regions, except in relation to residual taxation powers. Residual taxation powers are allocated on a case-by-case basis through a two-third-majority decision of the joint session of the House of Peoples' Representatives and the House of Federation.

Constitutions often allow the delegation of some powers from the central government to the regions, or vice-versa (e.g. Ethiopia, South Africa) through mutual agreement. Such agreements complement the strict constitutional distribution of legislative powers among the different levels of governments.

Although the exact division of legislative powers differs across federations, it is possible to identify some common trends or patterns in the distribution of powers. For instance, the central government often has exclusive powers over currency, defense,



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and foreign affairs, while regions have exclusive powers over culture and lower level education, although the federal government may enact framework legislation.

**Table: Patterns in the distribution of some (legislative) powers within federations<sup>6</sup>**

The following indicates tendencies regarding the allocations of powers across most federations:

- ‘Concurrent’ means both orders can make laws on its own in a defined area;
  - ‘Joint’ means the two orders make concurrent decisions together;
  - ‘Shared’ means each order has some legal powers over different aspects of the same sector (e.g. education) and decisions are made independently.
- 
- ✓ **Currency:** always federal;
  - ✓ **Defense:** always federal (but constituent units in the United States and Australia have a limited power to maintain militia);
  - ✓ **Treaty ratification:** almost always federal; but constituent units in some countries have limited treaty making powers;
  - ✓ **External trade:** usually federal; occasionally concurrent, joint, or shared;
  - ✓ **Interstate trade:** usually federal; occasionally concurrent, joint, or shared;
  - ✓ **Intrastate trade:** usually constituent unit; sometimes concurrent;
  - ✓ **Major physical infrastructure:** usually federal; sometimes concurrent, joint or shared or constituent unit;
  - ✓ **Primary/Secondary education:** usually constituent unit; occasionally concurrent; rarely federal;
  - ✓ **Post-secondary education and research:** no clear pattern;
  - ✓ **Income security:** mix of federal, concurrent, joint, and shared;
  - ✓ **Pensions:** either concurrent, joint, shared, or federal; rarely constituent unit;
  - ✓ **Health care:** usually constituent unit; sometimes concurrent, joint, or shared;
  - ✓ **Mineral resources:** no clear pattern;
  - ✓ **Agriculture:** no clear pattern;

<sup>6</sup> Taken from George Anderson *Federalism: An introduction (Forum of Federations)* (2008) 24-25.



- ✓ **Environment:** usually concurrent or joint; rarely constituent unit;
- ✓ **Municipal affairs:** usually constituent unit; occasionally joint, or shared;
- ✓ **Court system:** usually joint or concurrent; occasionally federal, rarely constituent unit;
- ✓ **Criminal law:** no clear pattern;
- ✓ **Police:** usually shared; occasionally concurrent or joint, rarely federal or constituent unit;
- ✓ **Customs/excise taxes:** almost always federal; sometimes concurrent;
- ✓ **Corporate and personal income taxes:** usually joint, shared, or concurrent; sometimes federal;

## II. Division of executive powers

It is possible to identify two broad ways of dividing powers between the central government and the regions, particularly based on division of executive powers. While both the central and regional levels of governments almost always have their own separate legislative organs, executive functions may be integrated.

### 1. Dual federalism

The dual executive model involves the exclusive allocation of separate powers to the different levels of government without or with very little overlapping or concurrent powers. Each level of government establishes its administrative institutions to implement its policies and laws. The dualist model essentially involves the presence of parallel administrative institutions at the federal and regional levels. Hence, the institutions of the central government are present throughout the territory of the nation and directly implement the programs of the central government. Dual federalism particularly characterizes the oldest federations such as the United States and Canada, which were formed through a process of aggregation.

Nevertheless, even in the absence of formal shared powers, in practice, it is hard to achieve a neat separation as most issues have national, regional and even international aspects. Hence, there is often need for *de facto* concurrent or shared exercise of powers when both spheres of government have different powers that bear on the same constitutional or legal issue.<sup>7</sup> There is therefore a practical need to coordinate the activities of the different levels of government.

### 2. Cooperative or integrated federalism

The cooperative or integrated model anticipates broad shared competences and overlaps of power and administrative institutions. In areas of concurrent powers, the

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<sup>7</sup> George Anderson *Federalism: An introduction (Forum of Federations)* (2008) 22.



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federal government mainly enacts framework legislation while the details are left to regional laws. In addition, regional administrative institutions may implement the laws and policies of the central government. As a result, the central government may have very few noticeable administrative organs or civil service. A good example of the integrative division of executive powers may be found in South Africa and Germany. The arrangement in Germany has in particular been described as ‘administrative federalism’ partly because the central government mainly enacts laws and policies while the regions mainly implement those laws and policies, in addition to making their own laws and policies on limited subject matters.

### **3. Intergovernmental cooperation under the Provisional Constitution of Somalia**

The Provisional Constitution of Somalia does not clearly outline the division of powers between the Federal Government and the Member States. Nevertheless, it establishes principles of cooperation and collaboration to guide the relationship between the two levels of government (Articles 50-53). Each level of government is required to respect the limits to their constitutional powers and to strive to establish and sustain a relationship of mutual cooperation and support in the spirit of national unity. Similarly, the Constitution requires each level of government to inform other governments concerning their activities and policies, which may impact other levels of government or regions. Member States should also adopt policies that facilitate the planning and implementation of joint development activities. Whenever disputes arise, they must attempt to resolve them through dialogue and reconciliation, subject to constitutional and other legislative standards.<sup>8</sup>

The Constitution also allows Federal Member States to establish *non-binding* cooperative agreements amongst themselves or with the Federal Government, subject to the Federal Constitution and constitutions of the relevant Member States (Article 52(2)). It is not clear why the Constitution does not allow the adoption of *binding* agreements between Member States and with the Federal Government on issues over which they have exclusive jurisdiction subject to constitutional limitations, and perhaps with the consent or supervision of the Federal Government. The non-binding nature of any such agreements may weaken their value and credibility, undermining their usefulness. In some federal countries, such as Canada, and Switzerland, formal binding agreements are allowed among the regions as well as between the federal government and the regions.

### **III. Division of judicial powers**

A federal system of government is characterized by multiple sources of law, including laws made by the central government, laws made by the regions as well as laws made by local authorities. Federal constitutions must determine the court system that can

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<sup>8</sup> In case of failure to resolve inter-governmental disputes, the Constitutional Court has the final power to resolve them (Article 109C(1)(e)).





guarantee the smooth and effective resolution of disputes arising under the different sets of laws. While each federal state has developed its own specific court structure, three common prototypes may be identified: the **dual\separated**, the **integrated** and the **unified** court structure.

### **1. The dual court structure**

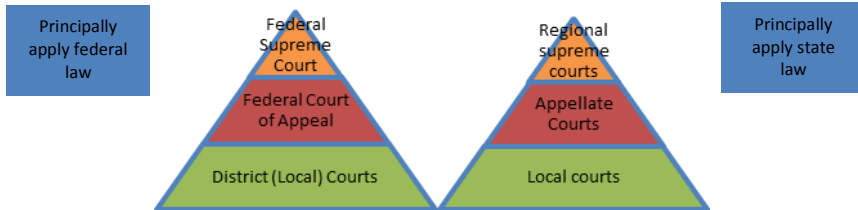
In countries with a dual court structure, both the central government and the regions have their own court system, from the highest court to the lowest. Regional courts apply the laws of and are financed and administered by their respective regions (and occasionally local governments), whereas federal courts apply federal law and are financed and administered by the federal government. The dual court structure does not preclude instances where federal courts apply regional laws and vice-versa. Nevertheless, in principle, the courts of each level of government have the final say on the interpretation of their laws.

In some federations, final decisions of regional courts may under certain circumstances be appealable to the highest federal court. In Ethiopia and Australia, the highest federal court can review decisions of all courts, including decisions of regional supreme courts on matters based on regional laws. In others, such as the United States and Argentina, the highest federal court may only review decisions of regional courts where the matter involves the validity of federal laws, or the compatibility of regional laws with federal laws. In cases arising under regional law, judgments of the highest regional courts are final. In addition, federal constitutions normally require regional courts to recognize and to enforce decisions of federal courts and courts from other regions. If refusal is allowed, the conditions for refusal are generally outlined clearly.

The dual court structure ensures more regional independence and variety as it allows the regions to be creative in designing the structure of courts considering their unique circumstances. Each region appoints its own judges to interpret and apply regional laws. However, the relations between the federal courts and regional courts may be complex and duplicative. Moreover, the dual court structure may require significant human and material resources, which may not be available in countries in transition. Some countries with dual court structures, such as Ethiopia, have adopted innovative solutions where regional courts exercise the jurisdiction of federal courts until such time as the federal Parliament establishes federal courts in the regions. The Federal Government of Ethiopia covers the costs associated with the exercise of the delegated jurisdiction. The Australian Constitution similarly allows the Federal Parliament to vest federal judicial powers in regional courts.



## Dual court structure in the United States



*NB: Federal courts do apply state law under certain circumstances and vice-versa. Nevertheless, each level has the final say on the interpretation of its laws. In addition, because the regions determine the structure of their courts, there are some regional differences in their structure.*

## 2. The integrated court structure

In federal countries with integrated court structures, all levels of courts have the power to entertain cases based on federal as well as state laws. All cases can reach the highest court through the normal appeal procedure. Each level of courts is financed and administered by different levels of governments. For example, in Nigeria, the Federal Government establishes the Federal Supreme Court, the Court of Appeal and other federal courts, including Shari'ah and customary courts and courts for the Federal Capital Territory of Abuja. The Federal Government also appoints the judges of these courts. In addition, each region has a High Court and lower courts, including Shari'ah and customary courts, whose judges are appointed by the regions themselves. Nevertheless, all decisions of regional courts are in principle appealable to the Court of Appeal and the Federal Supreme Court.

In Germany, the federal government administers the Federal Constitutional Court and Federal Supreme Courts, while other courts are financed and administered by the regions, which also appoint their judges. In principle, the highest regional court has the final say on the interpretation of regional laws, while cases involving federal laws may be appealed to the highest federal court. Nevertheless, in relation to federal criminal cases that fall under the first instance jurisdiction of the lowest regional court, the last court of appeal would be the highest regional court. Claims before the Federal Constitutional Court can involve both federal and regional laws.

Canada has similarly established a unique form of integrated court system. Issues that arise under federal law and appeals from decisions of federal tribunals are handled by federal courts. Regional courts handle cases based on regional laws and challenges based on the Canadian Bill of Rights. The federal government appoints judges of all superior courts, including regional trial and appellate courts. In addition, the Federal Supreme Court can review decisions of all courts, including regional courts.

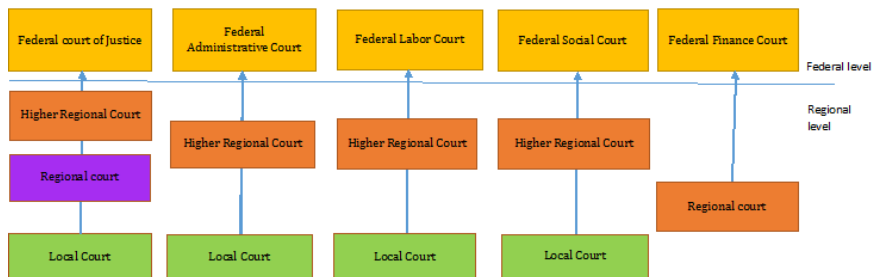


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Nevertheless, the regions can establish lower levels of courts and appoint and pay the judges.

An integrated court system usually raises fewer jurisdictional conflicts. Compared to a dual court system, the integrated system may also be cost efficient, as generally it entails fewer courts and judges. Nevertheless, the system may potentially undermine the principle of regional self-government, especially if the highest federal court can review decisions of regional courts based on regional laws.

### **Structure of the Courts in Germany**

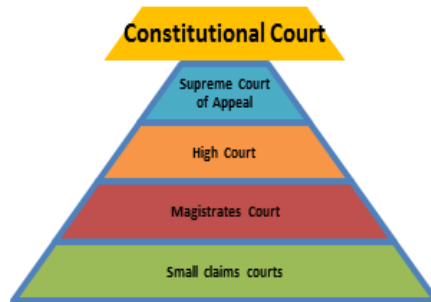


### **3. The unified court structure**

In the unified court system, federal states have a single court structure administered by the federal government. The courts apply federal as well as regional laws. The unified court system is essentially the same as the court system in unitary states. In South Africa, for instance, the court system is composed of a single court hierarchy with the Supreme Court of Appeal as in principle the highest court on non-constitutional matters and the Constitutional Court as the highest court on constitutional matters. The Constitutional Court is also the final court on non-constitutional matters if the case raises an arguable point of law of general public importance. All the judges are appointed by the central government, which also administers and finances the courts. The unified court structure is the least complicated and least costly court system. It also has the advantage of creating uniform and consistent application and interpretation of laws. Nevertheless, it denies the regions the authority to appoint the judges that will interpret and apply the laws made by their legislative organs, thereby potentially undermining the principle of self-government.



## The unitary court structure in South Africa



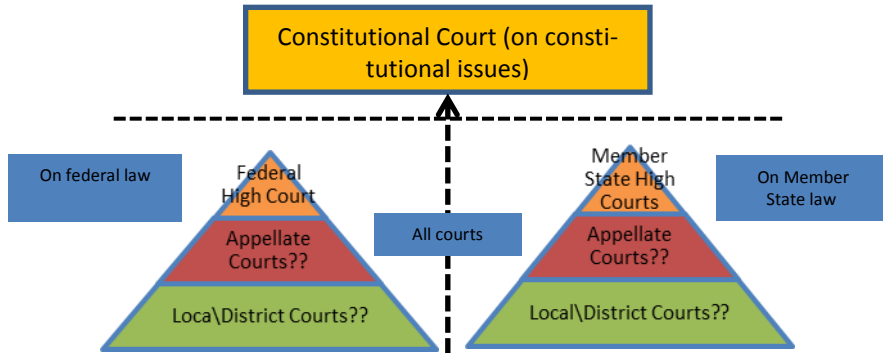
### 4. The court structure in Somalia

The Provisional Constitution only establishes the Constitutional Court and the highest courts at the Federal and Member State level (Article 108). On the one hand, this provision appears to imply the establishment of a dual court structure with a separate Constitutional Court. On the other hand, the Constitution empowers the Federal Parliament to determine the structure of courts (Article 105(2)). Article 105(2) is not clear whether it is referring to the structure of federal courts only, or also courts of Member States. Under Article 120, the Constitution only refers to the establishment of legislative and executive branches of Member States through their constitutions.

The empowerment of the Federal Parliament to determine the structure of Member State courts may be incompatible with the establishment of a dual court structure (if this is in fact what the Constitution establishes). In particular, it may undermine one of the main advantages of the dual court structure, which is to allow each Member State to establish unique court structures considering their local circumstances. Nevertheless, the federal determination of the structure of Member State courts may ensure uniformity of judicial structures, reducing the potential structural differences and confusion that may result from a dual court structure.



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*NB. If the Member States are given the power to determine their own court structure, it is possible that the structure in each state may be different.*

Although the Constitution recognizes the principles and objects of Shari’ah, it is silent on the possible establishment of Shari’ah courts. It is also not clear whether the drafters of the Constitution anticipated the regular courts would enforce Shari’ah and customary laws. It is generally helpful for constitutions to clearly regulate whether religious courts may be established and by which level of government. This is similarly true with respect to issues of customary law and justice institutions. Prior to 1962, separate Shari’ah courts existed alongside non-Shari’ah courts. The 1962 Organization of the Judiciary Law did not establish separate Shari’ah courts. Instead, ordinary courts were required to apply Shari’ah and customary law in relation to disputes involving personal matters, such as family law and inheritance.

In some federal states, such as Nigeria, the Constitution anticipates the establishment of religious and customary courts but leaves the choice to the regions. As a result, Shari’ah courts have been established at the federal level, and in some but not all the regions. Similarly, the constitutions of Kenya and Ethiopia allow the establishment of Shari’ah courts but limit their jurisdiction to personal and family law issues involving parties who have consented to the jurisdiction of the courts. In Ethiopia, Shari’ah courts have been established at the federal as well as regional level. In some countries, decisions of Shari’ah courts are not subject to review by the regular courts (e.g. Ethiopia); while in others (e.g. Kenya and Nigeria) regular courts may review decisions of Shari’ah courts.

#### **IV. Structure of the prosecution services in federal states**

Federal states also generally need to decide whether the federal government and the regions would have a common unified prosecution service, or whether they will have their own separate prosecution services. A number of federal states have opted for a dual structure (e.g. United States, Ethiopia). Nevertheless, some federal states, such as South Africa and Russia, have opted for a unified prosecution service under the central government.



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In general, the structure of the prosecution service in federal states is mainly influenced by two factors. The key indicator seems to be the structure of courts. The structure of the prosecution service tends to mirror the country's court structure. Countries that have adopted the dual court structure, where the federal government and the regions each have their own separate court systems, also establish **parallel (dual) prosecution services**. For instance, Ethiopia and the United States have established a dual court as well as a dual prosecution system. The Constitution of Nigeria requires the establishment of offices of the attorney general at the federal level as well as in all the regions. Regional attorneys general prosecute offences created by regional legislative assemblies in all courts, other than court-martials. The Federal Attorney General prosecutes crimes created by the federal legislature. In countries with a dual prosecution service, the prosecution service may be organized differently in different regions. The dual prosecution service reinforces the principle of self-determination and enhances the independence of the regions. Nevertheless, it may lead to jurisdictional conflicts and institutional duplication.

Countries with a unified court structure tend to adopt **unified prosecution services**. For instance, South Africa has established a unified court as well as a unified prosecution service under the direction of the National Director of Prosecutions. The unified prosecution structure creates a simplified structure and precludes potential jurisdictional conflicts. Nevertheless, it limits the advantages of allowing each region to establish a prosecution service according to its realities and needs. It also restricts experimentation in terms of institutional design and addressing the challenges of crime. Countries with the integrated court system adopt an **integrated prosecution service**.

Germany has established an integrated court system as well as an integrated prosecution system where the Federal Prosecutor General is attached to the Federal Court of Justice– the highest federal court in civil and criminal cases. The Prosecutor General is involved in all criminal appellate cases before the Federal Court of Justice. Furthermore, the Federal Prosecutor General has exclusive jurisdiction to prosecute certain crimes, such as high treason or criminal offences pursuant to the Code of Crimes against International Law, in the highest regional courts (acting as court of first instance in these matters). Regional prosecutors generally prosecute crimes in all regional courts. It is important to note that the Federal Prosecutor General does not have direct supervisory authority over regional prosecution offices. Nevertheless, the Federal Prosecutor General has the power to take over the prosecution of crimes originally prosecuted by regional authorities if the case involves specific offenses, such as terrorism, organized crime but also murder or manslaughter, if certain criteria (e.g. special significance of the case, threats to national) are met. The Federal Prosecutor General is also responsible for representing the federal government in federal (supreme) courts in non-criminal matters.

In addition to the court structure, the division of powers related to criminal law may influence the structure of the prosecution services. If both levels of government have



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the power to enact criminal laws, a dual prosecution service may be more suitable. On the other hand, if the power to make criminal law belongs exclusively to one level of government, a unified prosecution service may be preferred.

The Provisional Constitution of Somalia anticipates the establishment of the Office of the Attorney General. Nevertheless, it does not outline the functions of the Office. Under the Organization of the Judiciary Law of 1962, the Office of the Attorney General was in charge of, among others, prosecution services. The Constitution is also not clear whether the Member States will have the authority to establish their own prosecution services, or whether all offences, including offences created by the Member States, will be prosecuted by the Federal Government.

## **V. Structure of the armed forces and the police in federal states**

In all federal states, the armed forces are under federal control. Nevertheless, some of the federal states that were formed through aggregation, such as the United States and Australia, allow the regions to establish militia forces. In the United States, regional governors also control a 'national guard' mainly to respond to emergency situations, such as natural disasters, and to be deployed in situations where the regular regional police forces do not have the capacity to ensure peace and order. None of the federal states in Africa allow the regions to establish and manage regular or irregular militia forces.

Similarly, in all federal states, the federal government establishes its own police force to enforce some or all of its laws. In addition, most of the established federal states allow the regions to establish their own police forces to enforce regional laws. In these countries, federal governments are often allowed to use regional institutions to enforce federal laws. The establishment of regional police services arises from the desire to allow the regions to enforce their laws, thereby enhancing their autonomy.

In some federal states, such as South Africa and Nigeria, law enforcement is under the exclusive jurisdiction of the federal government. As such, the regions do not have their own police forces. Nevertheless, in South Africa, the biggest cities, such as Johannesburg, Cape Town, Pretoria and Durban, have established their own municipal police mainly to enforce laws on the roads and regional laws. The fear that regional officials may use regional police forces to advance their personal interests and challenge the authority of the federal government has justified the abolishment of local police forces in Nigeria. Financial concerns and concerns over potential overlap and even conflict of jurisdiction provide additional justifications.



Under the Provisional Constitution of Somalia, the armed forces are under federal control (Article 126). The Constitution guarantees the right of every citizen to be considered for positions in the armed forces without discrimination. In particular, it prohibits discrimination against women. The Constitution does not require that the composition of the armed forces should also reflect the diversity of Somalia, as is the case in, for instance, Ethiopia, Nigeria and Kenya. The Nigerian Constitution requires the establishment of a Federal Character Commission tasked with working out and enforcing an equitable formula, subject to the approval of the National Assembly, for the distribution of all public posts, including in the armed forces of the Federation. It is not clear whether the Federal Member States in Somalia are allowed to manage their own regular militia forces. Nevertheless, Member States are empowered to establish by law their own regional police forces to protect lives and property and to preserve peace and security locally, alone or in cooperation with the federal police force.

## **E. Fiscal federalism**

Fiscal federalism relates to the distribution of revenue (mainly income from taxes and natural resources) and expenditure powers among the different spheres of government. It is essentially about the distribution of wealth and resources in federal countries. The division of powers over financial and natural resources (fiscal federalism) is one of the most controversial aspects of the vertical division of powers. The division of fiscal powers tends to be more flexible than the division of other legislative and executive powers, which makes fiscal issues salient in day-to-day politics in federations.

The distribution of fiscal powers has a direct bearing on the division of other legislative powers. For instance, even though the regions may have significant legislative powers, if the power to raise most of the major revenues belongs to the central government, the regions will depend on disbursements from the center, which may undermine their autonomy. Moreover, fiscal federalism may enhance, or undermine, the economic health of the nation. For instance, competition amongst the regions may lead to a race-to-the-bottom.<sup>9</sup>

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<sup>9</sup> Race-to-the-bottom is a phenomenon where each region attempts to attract business and wealthy and qualified residents by lowering or abolishing regulatory standards on important issues, such as the environment or labor. It is a form of competition that damages the interests of all or most of the regions and their people.





**Fiscal federalism relates to arrangements in relation to certain questions:**

- Which level of government should raise which revenues?
- To what extent can the regions raise money through borrowing?
- Which level of government should control which expenditures?
- How is national revenue to be shared?
- How should revenue from natural resources be shared?

The division of revenue-raising and expenditure powers varies across federations. Nevertheless, scholars have identified certain general principles of division of fiscal powers. Overall, competing principles of the efficient allocation of resources and economic growth, on the one hand, and principles of equity, the preservation of regional balance and political stability, on the other, guide the distribution of fiscal powers.

**Table: Principles guiding fiscal federalism**

<b>Economic efficiency</b>	Fiscal powers should be distributed in a manner that ensures the most efficient use of resources.
<b>Equity</b>	The distribution of powers should ensure that individuals obtain comparable services regardless of their region of residence.
<b>Adequacy</b>	Attempts should be made to ensure that each level of government can raise enough money to cover a substantial part of its spending duties.
<b>Accountability</b>	The level of government that raises revenues should be the one more accountable to the people.
<b>Administrative simplicity</b>	Efforts should be made to reduce the cost of raising and collecting revenue for the region and the taxpayers.
<b>Incentives for innovation</b>	The distribution of fiscal powers should not undermine innovation and healthy inter-region competition.
<b>Predictability and stability</b>	The division of fiscal powers must be such that all levels of governments should have predictable and stable revenues.

Giving effect to these principles requires balancing competing elements. For instance, ensuring the equitable distribution of services may not be compatible with the most efficient use of resources. Different federations give different emphasis to each of these principles. As in the case of the distribution of other powers, the balance of political power influences the balance of distribution of fiscal powers.

**Principles of equity, and effectiveness and accountability will guide the division of fiscal powers in Somalia.**

The Provisional Constitution of Somalia does not regulate the division of fiscal powers. It



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simply provides that the division of powers and resources will be negotiated and agreed upon between the Federal Government and the Member States. Nevertheless, it establishes some important principles that will guide such a division. Hence, the responsibility for raising revenue should be given to the level of government where it is likely to be most effectively exercised (Article 50(b)). Moreover, the Federal Government has the responsibility to ensure that every part of the Federal Republic of Somalia enjoys similar levels of services and a similar level of support (Articles 50(d and f)). There is no principle in relation to the distribution of expenditure responsibilities. Nevertheless, the general principle of effectiveness in relation to the division of powers also applies to the division of spending powers (Article 50(b)).

#### **I. Distribution of revenue-raising powers**

The exact division of revenue-raising powers varies across federations. There is no single best way of allocating revenue-raising powers. Overall, revenue-raising powers tend to be more centralized than expenditure powers. The central government often has access to the most important revenue sources and raises revenue more than it spends. On the other hand, the regions raise less than they spend. For instance, in Nigeria, the federal government raises more than 90% of the total revenue. In the most decentralized federations, such as Canada and Switzerland, the central government raises less than 50% of the revenue. Nevertheless, even in these highly decentralized federal countries, the regions may not necessarily be self-sufficient and often require federal transfers to cover part of their expenditure responsibilities.

In principle, the regions generally should have powers to raise revenue capable of covering the expenditure needs of services that primarily benefit their residents. Similarly, residents of each region or locality should in principle pay for the services that mainly or exclusively benefit them.

**The practice in federal states reveals three categories of tax and revenue sources:**

- **Exclusive revenue sources for each level of government;**
- **Concurrent or joint/revenue sources; and**
- **Intergovernmental transfer.**

The reasons for these related principles are twofold. If the regions depend on the central government for resources, their autonomy may be undermined. In addition, if the regions raise the revenue from their residents, the residents are likely to hold them accountable in relation to their expenditure. Moreover, the diversity of regional tax bases may help ensure that regional revenue does not suffer as a result of fluctuations in the dominant tax base.

Scholars are divided on whether regions should have powers over non-fixed taxpayers and tax-bases. To avoid damaging competition, some economists suggest that the



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regions should only have taxation powers over fixed tax bases, such as real estate tax, while the power to impose mobile tax bases, such as inheritance tax, personal income tax and corporate tax, should preferably be given to the central government, or be shared. For instance, competition among regions in Canada and Australia triggered a downward spiral that led to the reduction of the rate of inheritance tax, and even to the disappearance of the tax base. Other economists consider tax competition and experimentation as one of the advantages of federalism and advise that the regions should have powers including the right to impose taxes on mobile bases. Still other economists recommend that mobile tax bases should be determined by the central government but the regions should be given the power to vary the rate of tax to enhance positive competition amongst the regions.

In addition, it is generally advised that the central government should have taxation powers over tax bases that are unevenly distributed across regions, such as taxes over natural resources, with a view to prevent large regional imbalances.

**Overall, theoretically, the decentralization of revenue raising powers enhances the accountability and responsiveness of the regions to their residents and reinforces their financial autonomy. On the other hand, extreme decentralization can create problems in relation to economic efficiency, and administrative simplicity, which will increase administrative and compliance costs for taxpayers (fears of a 'tax jungle'). It may also lead to disruptive tax competition (the potential problem of a race-to-the-bottom). High levels of tax-harmonization (both vertical and horizontal) may therefore be necessary in countries with highly decentralized tax regimes. Moreover, decentralization of fiscal powers may limit the capacity of the central government to remedy revenue imbalances across regions as required by principles of equity.**

The fact that a particular level of government has the power of raising tax does not necessarily mean that it will administer or collect the tax itself. In line with the principle of administrative simplicity, in most federal countries, taxes, in particular concurrent and shared taxes, are often collected by the federal government and shared with the regions. In a few federal countries, such as Switzerland and Germany, the regions collect all taxes, including federal taxes, which are transferred to the federal government. The regional administration of federal taxes may create practical complications, as the collection procedures in each region may be different, making it difficult and costly for inter-regional businesses to comply with their tax duties.



**Table: Trends in the division of revenue-raising powers in relation to major taxes:<sup>10</sup>**

<b>Personal income tax</b>	The federal government often has the largest share of income tax, particularly in countries where redistribution is seen as an important social goal. In Belgium and South Africa, the federal government has control over income tax. In Germany, income tax is shared between the federal government and the regions. Nevertheless, many federations allow the regions to levy a personal income tax, often in the form of concurrent powers of taxation (e.g. Canada). In Nigeria, the federal government has access to income tax on its own employees and residents of federal territories, while the regions have the rest. In Ethiopia, the federal government taxes the incomes of federal employees and employees of international organizations, while the regions tax the income of their employees.
<b>Corporate income tax</b>	The central government often has control over corporate income tax as well as its administration, which highly reduces costs of compliance for corporations. But some federations, such as the United States, Switzerland and Canada, allow the regions to access corporate taxes (in which case demands for harmonization are crucial). In Ethiopia, corporate income taxes are jointly levied and collected by the federal and regional governments. In Germany, all income tax is shared equally between the federal government and the regions.
<b>Export-import duties</b>	Almost always federal.
<b>Value added tax (sales and turnover taxes in some countries)</b>	Because of its complexity, VAT is often levied and administered by the federal government (e.g. South Africa, Nigeria and Switzerland). In some federal states, such as Argentina and Ethiopia, it is shared. In Germany, the regions administer VAT, but the revenue is shared between the federal government and the regions. Since the distribution of revenue from VAT is part of the fiscal equalization scheme in Germany, the allocated revenue share per capita may differ from region to region, depending on the financial capacities and needs of the respective states.
<b>Property Taxes</b>	Property taxes are often decentralized to the regions. In some countries, such as South Africa, the tax base is defined by the central government while the local authorities decide the tax rate.

## II. Assignment of expenditure powers

Expenditure essentially relates to the question of which level of government should provide a particular public service. Federations vary greatly in the share of total public expenditure of the federal and regional governments. In centralized federations, such as Malaysia, the central government accounts for more than 80% of the spend-

<sup>10</sup> Based on G Anderson *Fiscal federalism: A comparative introduction* (2010) CUP Chapter 4.



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ing after intergovernmental transfer. In decentralized federations, such as Canada, Switzerland, and Germany, the central government accounts for less than 40% of the spending after intergovernmental transfer.

In principle, the level of government with the power to make a particular policy covers the expenditure necessary for implementing the policy. Normally, spending responsibility follows legislative responsibility. There is therefore a form of dualism in expenditure, which is common in countries with dualist executives. Examples include the United States, Canada, Australia, and most federations in Latin America.

On the other hand, in federal countries with significant concurrent powers and integrated executive systems, where policies are mainly enacted by the central government and implemented by regional governments, the latter covers the expenses, although the central government may transfer funds to cover part of the expenditure. The integrated model is practiced in Switzerland, Germany and South Africa. Nigeria and India have elements of both dualist and integrated administrative models.

The integrated model leads to national and coherent policy and implementation frameworks. Nevertheless, it requires a high level of coordination and may lead to political gridlock. The dual policy and administrative model reduces gridlock but can lead to significant duplication and inefficiency. For instance, if the regulation of agriculture is a concurrent power, both the federal government and the regions may have agricultural offices, as is the case in Canada. Moreover, the federal government may use its powers of federal transfer to influence constituent policies, including on matters falling under exclusive regional competence, thereby undermining their self-governance.

**In principle, the level of government with the power to make a particular policy covers the expenditure necessary for implementing the policy. Nevertheless, in many federations, regions implement policies enacted by the federal government.**

In general, the level that most closely represents the beneficiaries of a public service normally provides that service. Lower level governments generally provide localized services, such as sanitation, local roads, and local security, which primarily benefit their residents and have little negative or positive externalities to neighboring regions. The idea is that local residents will hold the regional government accountable and, therefore, there is a strong advantage in feedback from the local population being served.<sup>11</sup> Because of their closeness, the regional and local government are likely to be more responsive to the demands of their residents. Moreover, where regional preferences for certain services vary, the regions normally provide the services. For instance, expenditures on cultural and language issues are often left to the regions, although the federal government may provide subsidies.

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<sup>11</sup> G Anderson *Fiscal federalism: A comparative introduction* (2010) 10.



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On the other hand, where the service benefits residents from different regions or all the regions, such as national defense or inter-regional infrastructure, the service is often provided by the central government or concurrently. Similarly, some services by their very nature require a countrywide and common policy and practice. For instance, weather services and measurements are often provided by the central government.

Moreover, programs, which have redistributive effect, such as welfare and social safety-net programs, are generally given to the federal government to enable it to ensure comparable level of services around the country. Similarly, the federal government generally controls volatile expenditure bases. For instance, expenditures on welfare programs are likely to change overtime, which may destabilize regional fiscal balance and stability. Moreover, differences in welfare systems may trigger mobility of people from poorer to richer regions. Most importantly, the differences may lead to inequity in the provision of services and undermine the integrity of the federal system. Federal, or at least shared, responsibility in the provision of such services is therefore crucial. Alternatively, the programs may be given effect by the states in accordance with minimum standards established by the federal government.

**Table: Division of expenditure responsibilities on major areas:<sup>12</sup>**

<b>Defense</b> (note that defense does not include policing)	Always responsibility of federal government, although in Australia and the United States, constituent units have the right to spend on their militia.
<b>Health care</b>	Often administered by constituent units, although the central government often enjoys significant influence through its spending, and occasionally legislative powers, especially when health falls under concurrent competence.
<b>Welfare (including unemployment insurance and income security, and social welfare, such as child benefits) and pensions</b>	Often these fall under federal administration, or concurrent administration. In Belgium and Austria, the regions are responsible for social services, including welfare. In India, the regions are responsible for unemployment insurance.
<b>Education and research</b>	Primary and secondary education is almost always administered by the regions, though in some federations they fall under concurrent powers. There is no clear pattern in relation to post-secondary education, although federal governments play significant roles, occasionally exclusive powers, and often through financial support, such

<sup>12</sup> Based on G Anderson *Fiscal federalism: A comparative introduction* (2010) 16-17.



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	as in the form of student support. In South Africa, tertiary education is exclusively federal, while lower level education is concurrent. Federal governments also often lead research spending, although in some federal states, such as Germany, the regions contribute to research spending.
<b>Infrastructure</b>	Major infrastructures are often planned and funded by the central government, although the implementation may be a joint responsibility. Local infrastructure, such as local roads, is usually the responsibility of the regions.

**III. Inter-governmental revenue sharing and transfers**

Revenue raised by each level of government may not always be able to cover its expenditure needs and obligations. In general, the central government raises more money through taxes and borrowing than its expenditure obligations, while regions have more expenditure obligations than the money they raise. This creates vertical imbalances. A horizontal imbalance may also occur where some regions raise more money than their expenditure obligations while others raise less money than their expenditure needs. Unless addressed, these imbalances in revenue may raise inequalities in the standard and level of services provided by each region.

Federal states often provide for the sharing of federally raised revenue and direct fiscal transfers from the federal government to cover part of the expenditures of the regions. Intergovernmental revenue sharing and transfers help to narrow the vertical revenue-expenditure imbalance, to achieve minimum levels of public services in all the regions (redistribution), and to promote federal government objectives. Nevertheless, the manner and importance of such sharing and transfers varies across federations. In some fiscally centralized countries, such as Nigeria and South Africa, tax sharing and federal transfers cover up to 90% of the expenditure needs of the regions. In fiscally decentralized states, such as Canada and Switzerland, tax sharing and federal transfers cover a relatively small (less than 25%) amount of regional expenditures.

The principles guiding revenue sharing and fiscal transfers may be different in different countries. For instance, in Germany, the goal is to achieve reasonable equalization of financial capacities and living standard across the country; in South Africa, the purpose is to ensure an equitable transfer of resources; in Canada, the goal is to achieve reasonably comparable public services at reasonably comparable levels of taxation.

Similarly, in Argentina principles of equity, solidarity, and the achievement of a similar degree of development, of living standards and equal opportunities throughout the national territory guide the sharing of revenue.



**The transfer of funds from the central government to the regions and among the regions enables each region to cover their expenditure deficits. It is also important to ensure that citizens enjoy comparable levels of public service and living standards regardless of their place of residence.**

The details of the sharing and transfer are often outlined in federal law. A number of countries, such as Nigeria, South Africa and India, require the establishment of commissions to recommend the details of revenue sharing. Similarly, in Argentina the sharing of joint revenue is controlled and evaluated by a federal fiscal body whose composition must ensure the representation of the provinces. In some federal states, such as South Africa and Germany, the regions are involved in the determination of the formula of transfer through the second house. In Ethiopia, the House of Federation, composed of representatives of ethnic groups selected by regional legislative councils, determines and regularly revises the formula for federal transfer.

Intergovernmental transfers may take the form of federal tax revenue sharing arrangements, or fiscal transfers in the form of conditional and unconditional grants. Tax sharing is the principal way of federal transfer of money to the regions in Germany, Austria and Nigeria. Canada, Mexico and the United States mainly use conditional and unconditional grants to transfer resources to the regions. A combination of tax sharing and fiscal transfers is used in Australia, Belgium, India, Brazil and Spain.

Tax sharing occurs where money collected from taxes, particularly by the central government, is divided between the different levels of governments based on an established formula. The revenue sharing may apply only in relation to certain taxes (Ethiopia), or to the whole pool of federal tax revenue (South Africa). When the sharing only relates to some of the tax bases, the federal government may engage in what scholars call 'gaming' where it raises the rates on taxes that it does not have to share, while leaving the rate of shared taxes low. This has happened, for instance, in India and has prompted the inclusion of the whole pool of tax in the sharing formula.

In addition, or alternative, to tax sharing, each region may obtain a certain share of the federal revenue. This transfer is often effected through grants that take into account one or all of the following factors: population size and density, per-capita income, level of development of the region, tax efforts or contribution of the region and other factors. Nigeria mainly considers the principles of equality of states, population, and fiscal capacity. India considers all the factors. Pakistan mainly considers population size.

Grants provide a very flexible mechanism to remedy imbalances and achieve the provision of equitable levels of services across all regions. It may be conditional or unconditional, or general or program specific. Conditional grants are particularly common in dualist federations where the federal government has limited powers to adopt framework legislation to guide policymaking at the regional level. General grants allow the regions to decide their expenditure priorities. Conditional grants have been





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criticized as they allow the federal government to use resources to obtain concessions from the regions. In addition, when the conditions for specific program transfers include contributions from the regions, it may potentially skew regional spending priorities.

Federal fiscal transfers are often based on constitutional or legal requirements. In such cases, the federal government has the duty to make the transfers. For instance, in South Africa, the federal government is required to provide equitable shares of the national income to the provinces and local governments. Nevertheless, the federal government may also make specific and discretionary transfers to the regions. Such discretionary transfers are often conditional and may either require certain changes or matching contributions from the regions.

Tax sharing and vertical fiscal transfers mainly address problems of vertical imbalance. Additional redistribution mechanisms may therefore be developed to address horizontal imbalances amongst the regions.

**Intergovernmental transfers may take the form of federal tax revenue sharing arrangements, or fiscal transfers in the form of grants. Tax sharing occurs where the federal government shares money from taxes with regions based on an established formula. Federal grants may be conditional or unconditional, or general or program specific.**

Federations vary in terms of their tolerance of horizontal imbalances. To the extent tax sharing and fiscal transfer arrangements consider horizontal imbalances, they can have the effect of enhancing equality among the regions. Some federal states, such as Germany and Austria, attempt to ensure regional balances through equalization programs. The goal of equalization programs is to bring all the regions to a nationally defined minimum standard. The exact formulas of ensuring equalization are complex and often consider both revenue raising capacity as well as expenditure needs of the constituent units.

#### **IV. Sub-national borrowing**

Borrowing is one of the mechanisms of raising revenue. In general, the central government is allowed to borrow money, although there may be some constitutional or legal conditions, including the prohibition of certain kinds of borrowing involving greater risks or the imposition of caps on borrowing. For instance, in Germany, the budget of the Federal Government and all Federal Member States must in principle be balanced without revenue from (new) borrowings. Nevertheless, the Federal Government may borrow money up to an amount not exceeding a specified proportion of the GDP (currently not exceeding 0.35% of the GDP). Constituent units are not allowed to raise money through borrowing. Exceptionally, both the Federal and constituent unit governments may raise money through borrowing in the event of natural disasters and unusual emergency situation beyond their control.



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The extent and circumstances under which regional governments may borrow money varies across federations. One way of addressing the issue is to allow all levels of government to borrow money depending on their needs with the hope that market forces will ensure responsible borrowing. Nevertheless, federal states have generally avoided this open approach. In some federal states, such as Australia, the conditions under which any level of government may borrow money are outlined through joint discussions and agreement.

In Nigeria, borrowing from both internal and external sources falls under the exclusive competence of the federal government. As such, regional governments may only obtain loans through, or with the approval of, the Federal Government.

In South Africa and Brazil, provinces and local governments may borrow for capital and current expenditures under conditions provided for in national legislation. In Brazil, the Senate determines the limit and conditions for the total amount of regional debts. In Ethiopia, the regions may borrow money only from internal sources and under conditions laid down in federal legislation. Similarly, the regions in India may only borrow money from internal sources. The Indian federal government may guarantee regional loans.

The Provisional Constitution of Somalia does not expressly deal with the issue of borrowing. Nevertheless, Article 124(b) requires the adoption of a Federal Law to provide for a framework for financial management, including possibilities where the Federal Government may guarantee loans raised by Federal Member States. This provision appears to assume that Federal Member States may borrow money. It is advisable that the issue of borrowing by all levels of government is regulated in more detail.

#### **V. Revenue from natural resources**

Natural resources are often not equally distributed in all regions of a country. As a result, income from such resources can create significant horizontal imbalances in regional revenue. The division of revenue from natural resources is therefore a very controversial aspect of fiscal federalism and may even lead to conflict. When administered nationally, natural resources may generate huge revenues important in the financing of equitable services and development nationwide. In particular, in countries where revenue from natural resources constitutes a significant share of the country's GDP, or foreign currency reserves, its impact on the overall economy is significant (e.g. Nigeria and Venezuela). As a result, the federal government of these countries controls natural resources to effectively manage the overall economy, which may not be practical if the regions control the resources. On the other hand, the regional administration of natural resources may enhance accountability to the people who are directly affected by the exploitation of the resource. Moreover, given the fact that natural resources are locally concentrated and immobile, their regional administration is unlikely to create significant administrative difficulties.



There are significant variations among federal countries in how they address the issue of ownership, control and administration, and sharing of revenue from **onshore** natural resources.

**Three essential issues in relation to natural resources:**

- **Which level of government owns natural resources?**
- **Which level of government manages natural resources?**
- **Which level of government receives revenue from natural resources?**

**Offshore** natural resources are often owned and administered by the federal government. Nevertheless, some federal states, such as Nigeria and Australia, have adopted sharing arrangements with the adjoining regions. In Brazil, revenue from offshore resources is shared with adjacent regions and local governments. In Canada, the federal government transfers all the revenue from offshore resources to the regions bordering the producing zones.

### **1. Ownership of natural resources**

The issue of ownership of resources is often sentimental and politically significant. In federations that were created through a process of aggregation, such as the United States,<sup>13</sup> Canada and Australia, the constitution leaves ownership and the control and benefits of natural resources to the regions. In other countries, such as South Africa, Nigeria, and Venezuela, natural resources are owned by the central government on behalf of the people of the nation. In some federations, such as Russia and Pakistan, ownership of natural resources belongs jointly to both the federal and constituent governments. Some federations have opted not to address the issue of ownership and simply regulate the management of natural resources and the sharing of revenues. This was done in the 2005 Interim Constitution of Sudan in relation to the management and distribution of revenue from oil.

### **2. Management of natural resources**

The determination of questions of ownership in relation to natural resources does not necessarily settle the issue of which level of government has the authority to legislate upon the management and control of natural resources, or the sharing of the benefits from the resources. While the issue of ownership is principally a political issue, the efficient and optimal management of resources requires economic considerations. As such, a constitution may confer ownership of natural resources to the regions but provide for the national or dual management of the resources due to capacity constraints at the regional level. For instance, in India, the regions have owner-

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<sup>13</sup> Nevertheless, the federal government owns the resources underneath federal lands. In accordance with the principles of common law, private landowners own natural resources underneath their private land. Similar rules apply in Canada.



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ship over natural resources. Nevertheless, the federal government manages natural resources and receives a large share of the revenue. The power of administration is significant and controversial as it involves determining the actual rights and benefits accruing from the resources.

The allocation of legislative and executive powers over the management of natural resources that are situated exclusively in one region generally takes into account several factors including:<sup>14</sup>

- **Efficiency and capacity:** Which level of government has the ability and capacity to develop and manage the natural resources most efficiently?
- **Equity:** How will a minimum standard of public services be ensured across states or provinces, if resource wealth is located in one or a few regions only?
- **Accountability:** How can we ensure the greatest accountability to the local population with respect to the exploitation of natural resources?
- **National interest:** Is a national regulation over a particular aspect of natural-resource development required? Can a particular function (e.g. management of resources) be treated differently in different parts of the country?

**Ownership of natural resources does not necessarily imply the power of management; and the ownership and/or management of natural resources do not imply exclusive access to revenue from such resources.**

The allocation of executive and legislative authority to regional governments may improve accountability because regional governments can better determine the needs and preferences of their populations. Provincial authorities also have a direct interest in making the most of their region's resources. On the other hand, if the authority to develop natural resources is given to the national government, dominant groups at the center may not have an interest in promoting a particular province's development.

Efficiency and capacity concerns and the desire to develop a coherent and nationwide policy on natural resources may require the allocation of legislative and executive powers to the central government. In particular, the absence of a common national standard may lead to a race-to-the-bottom amongst the regions to attract investment by offering favorable contract terms, such as lower taxes, or undercutting environmental and labor standards. Moreover, the allocation of legislative and administrative powers to the provinces can lead to significant horizontal imbalances in relation to revenue and expenditure capacities. Such imbalances will require substantial inter-governmental transfers and equalization payments to close the gap in living stand-

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<sup>14</sup> Nicholas Haysom and Sean Kane 'Negotiating natural resources for peace: Ownership, control and wealth-sharing' (2009) 15, Centre for Humanitarian Dialogue, Briefing Paper, October 2009.



ards and quality of public services, which may create tensions and resentment amongst the regions.

It should be noted that constitutions might also divide or provide for shared powers over natural resources where natural resources are jointly administered. For instance, the central government may outline the policies and laws for the management of resources while the regions implement the laws and policies. In Ethiopia, for example, the administration of forest resources and low-scale mining belongs to the regions, while the federal government and the regions jointly manage large-scale mining and all petroleum and gas operations. Alternatively, regions may establish an intergovernmental organ composed of representatives of both central and regional governments to determine and implement policies and manage resources. An independent organ that has the trust of all levels of government may fulfill similar functions.

### **3. Sharing of revenue from natural resources**

The power to legislate on and manage natural resources does not necessarily imply that the level of government with such power will exclusively appropriate the revenue from the resources. Indeed, the reasons behind decisions over resource management are often guided by concerns for economic efficiency and capacity, while the sharing of revenue is mainly a result of the desire for political settlement and the equitable distribution of revenue from national resources. In general, the level of government that administers the resources receives a share of the revenue from the resources. Nevertheless, in Pakistan, the federal government administers the resources but the revenue goes to the provinces.

As in the case of all other revenues, the sharing of revenue from natural resources normally takes into account the expenditure responsibilities of the central government and the regions. For instance, the distribution of revenue from natural resources often takes into account the responsibility for funding a large social safety net (e.g. pensions, medical care, unemployment insurance) or subsidies on basic commodities.

**A controversial aspect of revenue sharing is whether the source regions should obtain a special share of the revenue from natural resources, or whether all revenue, including revenue from resources, should be shared through the same distributional rules.**

Perhaps the most controversial aspect of revenue sharing is whether the source regions should obtain a special share of the revenue from natural resources, or whether all revenue, including revenue from resources, should be shared through the same distributional rules. On the one hand, there is the argument that producing regions should obtain a special share as compensation for environmental damage caused by the resource extraction, infrastructural costs associated with servicing the industry, and for investments needed when the resources have depleted. On the other hand,



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source regions already enjoy employment, investment and other economic advantages. The provision of a special share may give them an unfair advantage over the other regions. The source regions may use their fiscal advantage to offer fiscal incentives to attract further investment, businesses and people, which may become economically distorting.

In countries where regional revenue from oil is not considered while calculating the amount of federal transfer to the regions, as is the case in Nigeria and Venezuela, the oil producing regions obtain significant fiscal advantages. Where the federal state has strong equalization arrangements, the advantages of obtaining revenue from natural resources may not lead to horizontal fiscal imbalances.

For instance, in Australia, although the states control the management of and revenue from natural resources, the strong equalization policy reduces its negative impact on fiscal balances.

Nevertheless, having control over natural resources leads to increased self-sufficiency of the resource producing regions. The sharing of revenue from natural resources therefore is best seen from the perspective of the broader fiscal transfer arrangements, such as equalization and federal transfer formulas.

In reality, political culture and tradition rather than the aforementioned theoretical and economic principles determine the level of revenue sharing. In some countries, such as Russia, the principle of derivation applies in relation to the sharing of all revenues. As such, the regions where natural resources are located obtain a share of the revenue from the resources. In Nigeria, the source region obtains at least 13% of the revenue from petroleum resources produced in their territories and the adjacent shallow offshore waters. In Indonesia, legislation requires 15% of oil revenues and 30% of gas revenues to be transferred to the originating regions. Special arrangements for Aceh allow it to receive 70% of oil and gas revenues. Similarly in Brazil, the source regions and municipalities obtain a share of the revenue from natural resources. In Malaysia, the source regions obtain half of the revenue from royalties (but not other revenues from resources).

In other countries, the producing regions obtain no special benefits. In Mexico, for instance, the federal government includes resource revenues with other revenues and the transfer principles do not provide any significant benefits to the oil producing regions. Similarly, in Russia, the producing regions do not obtain any special benefits. Nevertheless, since the principle of derivation applies to all income tax, the producing regions benefit significantly from their resources.

A constitution may allow each level of government to receive certain aspects of revenues from natural resources. For instance, the provinces may collect royalties, contract license-fees, bonuses and excise or production taxes, while corporate income taxes and export charges are maintained at the national level (e.g. Canada). In terms of collection, each level of government may directly collect its revenues. Such approaches may create administrative burdens for compliance.



The Provisional Constitution of Somalia does not regulate the ownership, management and sharing of revenue from natural resources. It rather leaves the ‘allocation’ of natural resources of Somalia for future negotiation between the Federal Government and Federal Member States (Articles 44 and 54). The principle of fairness will guide the distribution of resources (Article 50(e)). The Constitution further guarantees the right of everyone to have a share of the natural resources of the country (Article 25(2)). In addition, Article 45(2) imposes a duty on everyone to participate in the development, execution, management, conservation and protection of natural resources and the environment. The Constitution also requires the Federal Government to conserve the environment and prevent activities that damage the natural resources and the environment of the nation (Article 45(3)).

Alternatively, the revenues may be collected by one level of government, which then transfers the shares of the other level. This second approach requires mutual trust and may create practical concerns regarding the timely and transparent transfer of the funds as well as potential political motivations in the distribution process.

**Table: Ownership, management and revenue sharing of ONSHORE petroleum resources in federal states<sup>15</sup>**

Country	Ownership	Management	Revenue sharing
<b>Argentina</b>	Provinces	Provinces	Provinces/federal
<b>Australia</b>	Provinces	Provinces	Provinces
<b>Brazil</b>	Federal	Federal	Federal/ Provinces /municipal
<b>Canada</b>	Provinces	Provinces	Provinces
<b>Ethiopia</b>	Federal	Federal/Provinces	Federal/ Provinces
<b>India</b>	Provinces	Federal	Federal/ Provinces
<b>Malaysia</b>	Provinces	Federal	Federal/ Provinces
<b>Mexico</b>	Federal	Federal	Federal
<b>Nigeria</b>	Federal	Federal	Federal/states
<b>Pakistan</b>	Joint federal/ Provinces	Federal	Provinces
<b>Russia</b>	Joint federal/ Provinces	Federal	Federal
<b>United States</b>	Provinces/federal /private	Provinces /federal	Provinces /private
<b>Venezuela</b>	Federal	Federal	Federal

<sup>15</sup> Both tables are taken from G Anderson ‘Reflections on oil and gas in federal states’ in G Anderson (ed) *Oil and gas in federal systems* (2010) 378.



**Table: Ownership, management and revenue sharing of OFFSHORE petroleum resources in federal states**

Country	Ownership	Management	Sharing
<b>Argentina</b>	Federal	Federal	Federal
<b>Australia</b>	Federal	Joint	Federal
<b>Brazil</b>	Federal	Federal	Federal/ Provinces /municipal
<b>Canada</b>	Federal	Provinces/joint	Provinces
<b>India</b>	Federal	Federal	Federal
<b>Malaysia</b>	Federal (Borneo Provinces)	Federal	Federal (Borneo Provinces)
<b>Mexico</b>	Federal	Federal	Federal
<b>Nigeria</b>	Federal	Federal	Federal/ Provinces
<b>Pakistan</b>	Federal	Federal	Federal
<b>Russia</b>	Federal	Federal	Federal
<b>United States</b>	Federal	Federal	Federal
<b>Venezuela</b>	Federal	Federal	Federal

## **F. Symmetry and asymmetry in the distribution of powers**

In many federal countries, the constitutional division of powers, including revenue raising powers and powers in relation to natural resources, apply in the same way to all the provinces. In such cases, the distribution of powers is **symmetrical**. Nevertheless, due to different historical, political and economic reasons, constitutions may confer different powers and responsibilities to different regions. In these cases, the distribution of powers is **asymmetrical**. For instance, in Canada, French-speaking Quebec has overtime obtained more powers than the other English speaking regions. For instance, at least three of the nine judges of the Canadian Supreme Court must come from Quebec, while no other region has such a guarantee. Similarly, in Spain, the autonomous communities were established at different times based on negotiations between the central government and aspiring regions. As a result, some autonomous communities, such as the Regions of Catalonia and Basque, have more powers than the other communities.

In addition, even in countries with constitutionally symmetrical division of powers, there may be de facto asymmetry, as is the case where the federal government delegates some of its powers to some of the regions, depending on their capacity and needs. The asymmetrical distribution of powers is also common in decentralized unitary states where some regions, such as those containing identifiable minority groups, are given more powers than others.



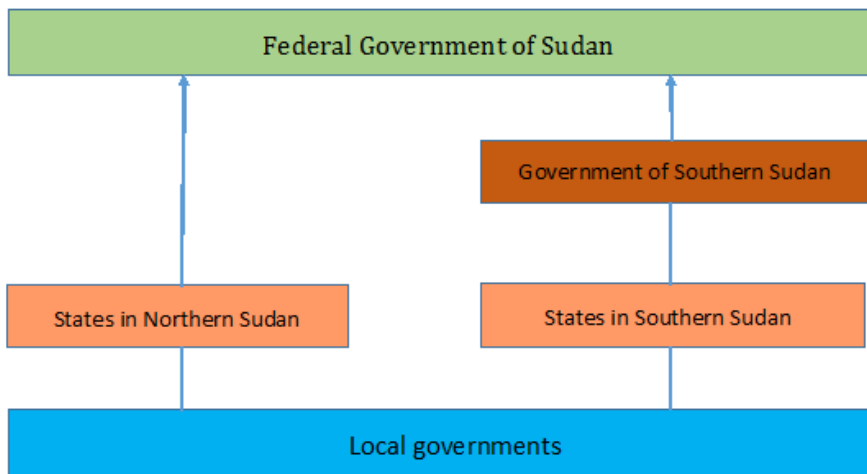


Asymmetrical federalism allows the accommodation of significant social and cultural differences amongst the regions and the distinct and wide-ranging centrifugal forces in the different regions. Nevertheless, it may undermine principles of equal democratic representation and accountability, as some regions will have more powers at the local level than, but equal powers at the federal level with, other regions.

For instance, under the devolved system in the United Kingdom, Scotland has significantly more powers than the other regions, such as Wales. The Scottish Parliament may, for instance, vary national taxes by up to 3% in relation to the Scottish territory.

In addition to asymmetry in terms of the powers of the different regions, some federal constitutions may establish **institutional asymmetries**. For instance, the 2005 Interim Constitution of Sudan established the Government of Southern Sudan, which served as an intermediary between the regions in Southern Sudan and the federal government. There was no similar intermediary government for the regions in Northern Sudan.

#### **Institutional asymmetry in the Interim Constitution of Sudan**



The main advantage of asymmetrical federalism is its capacity to accommodate significant social and cultural differences amongst the regions and the distinct and wide-ranging centrifugal forces in the different regions. Its flexibility allows the use of different standards for dividing powers and responsibilities based on the demands and



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capacity of each region. In the absence of such asymmetry, some of the regions may call for complete independence, threatening the continuation of the federation, or refuse to join the federation.

One of the main concerns in relation to asymmetrical federalism is that each region is likely to compare the scope of its powers and responsibilities with the other regions and demand more powers and responsibilities. This chain-reaction may ultimately lead to a more symmetrical arrangement. Nevertheless, the stronger regions may also continuously seek more powers, and ultimately even secession (e.g. Catalonia in Spain).

Perhaps a more fundamental concern is the fact that asymmetry may undermine the principle of equal democratic representation and accountability. Asymmetrical federalism may allow national representatives of regions with stronger powers to decide on matters that fall under federal jurisdiction in relation to the other regions, while the national representatives of the other regions do not have a similar say in the decision-making process of the autonomous regions in relation to comparable issues. This problem of democratic deficit is particularly significant where the votes of the representatives from the autonomous regions hold the balance. To avoid this problem, some countries, such as the United Kingdom, are considering the possibility of devolving comparable powers to all the regions, or excluding representatives of the region with more powers in central-decision making in relation to matters over which the region has autonomy. On the other hand, such exclusions may weaken the integration of the autonomous region with the rest of the country and encourage requests for more powers and even secession.

The Provisional Constitution of Somalia is not clear on whether asymmetries in the division of power may be allowed. It simply provides that the exact division of powers will be determined based on negotiations between the Federal Government and Federal Member State governments. Similarly, the Constitution does not expressly address the possibility of institutional asymmetries. The Final Constitution may recognize special mandates and rights to some of the Member States. For instance, the Final Constitution may lure the self-declared Somaliland to peacefully join the federation by recognizing a special right to secession under certain specific circumstances.

## **G. Representation of regions at the federal level**

The two central features of a federal arrangement are self-rule at the regional level and shared-rule at the national government level. One of the mechanisms through which the principle of shared-rule is given effect is through the establishment of institutions and procedures that ensure the representation and participation of the regions in the decision making process at the center, particularly those decisions that affect them. The most common and formal way through which regions are represent-



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ed and participate in the decision making process at the center is through the second chamber.

The establishment of a bicameral legislature, with the second house representing the interests of the regions, is normally seen as an essential feature of federal states. Nevertheless, some small federal states, such as the Saint Kitts and Nevis, have not established a second chamber. Similarly, the Constitution of the Federated States of Micronesia does not establish a separate second chamber. Nevertheless, each region is equally represented by one representative in the first chamber (Congress), in addition to the other members elected on the basis of population size. The representatives of the regions serve for four years while the other representatives serve for two years. The Venezuelan Second Chamber was abolished in 1999. Under the current Constitution, the National Assembly is required to consult regional legislative organs when legislation affecting them is being considered. In addition, regional legislative councils have the power to initiate legislation before the National Assembly in relation to matters that affect them.

The composition and mandate of second chambers varies across federations.

### **I. Composition of second chambers**

The practice in relation to the composition of second chambers varies. In some federal states, each region has an **equal number of representatives**, regardless of population, geographic or economic size. This approach is followed in, among others, Nigeria, South Africa, Switzerland, and the United States. It has been described as undemocratic as it allows the most and least populated regions the same say in the exercise of legislative powers at the center.

#### **Two common principles guide regional representation in second chambers:**

- **Principle of equality: all regions have an equal number of representatives regardless of their size;**
- **Weighted representation: the bigger regions have a relatively larger representation in the second chamber.**

Some federal states have introduced a **weighted representation system** where regions with bigger population size have comparatively, but not proportionately, higher representation. As such, a weighted representation still leads to the overrepresentation of smaller regions. For instance, in Austria, the biggest region has 12 representatives. The other regions have such number of representatives proportionate to their population size, compared to the biggest region. Nevertheless, the smallest region gets at least three representatives. In India, the number of representatives of each region ranges from 31 to one. In addition, the President of India elects 12 members nominated for their contributions to art, literature, science, and social services.



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Similarly in Germany, each constituent unit is entitled to at least three seats in the second house. Constituent units with more than two million inhabitants have four seats; those with more than six million inhabitants have five seats; and those with more than seven million inhabitants have six seats. It is important to note that votes per constituent unit have to be exercised as a unit (*en bloc* voting). Accordingly, each constituent unit can either cast all their votes in favor or against a proposal. A splitting of votes is not permitted and will render all the votes from the respective constituent unit invalid. Decisions may only be adopted if a majority of the members vote in favor.

Some countries have adopted **unique models of representation** that do not fall in the above categories. In Canada, the Senate is composed of representatives of the four divisions, not necessarily the provinces. The four divisions, namely, the Western Provinces, Ontario, Quebec and the Maritimes, each have 24 representatives. Some Senate seats are also allocated to Newfoundland and Labrador and the remaining three territories.

In the United Arab Emirates, which is a unique federal-confederal arrangement, the Federal Supreme Council of Rulers is composed of rulers of the seven Emirates constituting the Union. The Council is the highest federal authority on both legislative and executive issues. In addition, the Federal National Council, which reviews federal laws and passes its recommendations before their final approval by the Supreme Council of Rulers, is composed of 40 representatives. Two of the biggest Emirates have eight representatives each; two have six representatives each; and the smallest three have four representatives each. There is therefore a form of weighted representation in the National Council.

In Ethiopia, the House of Federation represents the nations, nationalities and peoples (ethnic groups) of Ethiopia, and not the regions as such. Nevertheless, regional legislative councils appoint the representatives. Each ethnic group has at least one representative and an additional one for every one million members of the group nationwide.

The number of representatives from each region depends on the number and size of the ethnic groups residing there. There are no maximum numbers of representatives, either for a region or ethnic group. While homogenous regions are represented largely proportionately, regions with small but many ethnic groups are overrepresented.



The Provisional Constitution of Somalia anticipates the direct election of members of the Upper House (Article 72). The number of members may not exceed 54 and should be based on the eighteen pre-1991 administrative regions. Each Member State must have an equal number of representatives. Considering the possibility that some of the States will be composed of more administrative regions than others, the requirement that the members should be elected based on the eighteen regions may be incompatible with the requirement to ensure the equal representation of Member States.

## **II. Manner of selection of members of second chambers**

The members of second chambers may be selected in different ways. The most common mechanisms of selecting members of second chambers are discussed below:

### **1. Direct elections**

In some federal states, the people of the concerned regions directly elect members of the second chamber. The direct election of the members ensures that the members represent the people of each region, and not necessarily regional governments. Countries where members of the second chamber are directly elected include Nigeria, the United States, Australia, and Argentina. Overall, second chambers that are composed of directly elected representatives generally have broader powers than those with indirectly elected or appointed representatives.

The elections may be conducted based on the plurality (Nigeria) or proportional (Australia) electoral systems. In Nigeria, each region is divided into three single member senatorial constituencies and the winners of each constituency are elected members of the Senate (the Federal Capital Territory only has one representative in the Senate). As such, members of the same political party may win all seats from the same region. In Australia, each of the six provinces has 12 representatives elected in accordance with the proportional electoral system. Since 1975, two additional senators from each of the Northern Territory and the Australian Capital Territory are elected. The proportional representation system in Australia ensures that candidates with diverse views and policies are elected from each province. In Argentina, each province, and the City of Buenos Aires, has three representatives. The party with the most votes in each province obtains two seats, while the party with the second most votes takes the third seat. In the United States, each constituent unit has two representatives each in the Senate. The capital, Washington DC, does not have any representative.

The term of directly elected members of second chambers varies across federations. In Nigeria, the term of senators is four years, which is the same as the term of members of the first house. In Canada, senators serve indefinitely until they reach the retirement age of 75 years, compared to the five-year term for members of the first house. In Brazil, senators serve for eight years, compared to four years for members



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of the first house. In the United States, Australia and India, senators serve for a six-year renewable term, compared to two years in the United States, three years in Australia, and five years in India for members of the first house.

The Provisional Constitution of Somalia provides for the direct election of members of the Upper House (Article 72). The members will serve for a renewable term of four years, which is the same as members of the first house (Article 60).

### **2. Appointment by regional legislative councils**

In some federal states, such as Brazil, India and Austria, regional legislative councils appoint the members of the second chamber. This mechanism ensures better representation of regional government interests than the direct election mechanism. The constitution or the law may require that the composition of the representatives should reflect the proportional composition of the relevant regional legislative council. For instance, in Austria, regional legislative councils elect the representatives in accordance with the principle of proportional representation. Nevertheless, at least one seat must be granted to the party having the second largest number of seats in a regional parliament, or, if several parties have the same number of seats, the second highest number of votes at the last election to the regional parliament.

### **3. Appointment by regional governments (executives)**

In some federal countries, such as Germany, regional executives appoint the members of the second chamber. Such systems ensure the best representation of regional governments, as the representatives essentially serve as agents of the regional governments. Nevertheless, the appointment of members of second chambers by regional executives enhances the policy powers of the executive, while marginalizing the influence of regional legislative councils on federal policy making, especially in countries with administrative federalism where most of the policy issues are determined at the center while the regions implement the policies. Nevertheless, if regional legislative organs organize regional executives, the legislatures will have an indirect influence on the composition of the second chamber.

### **4. Appointment by the federal executive**

Canada is unique in that the head of the federal government appoints the members of the Senate. As a result, it has been argued that the Senate may not effectively represent the regions or their residents, although it may perform other important functions, such as controlling the majoritarian tendencies of the first house. Indeed, due to its lack of democratic legitimacy, the Senate rarely, if ever, rejects laws adopted by the lower house.

### **5. Mixed systems**

The Ethiopian Constitution allows either the direct election of the members or their appointment by regional legislative councils. The term of the members depends on



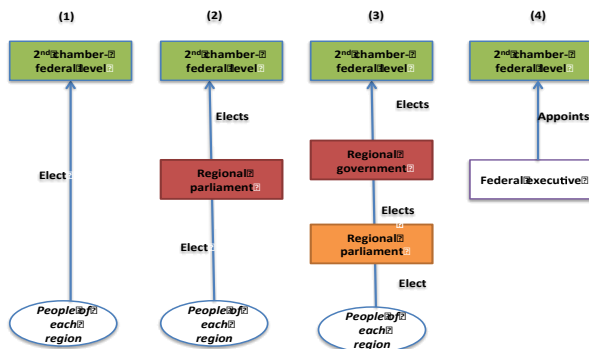
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the term of the legislative council that elected them, which is five years. The choice is left to regional legislative councils. Currently, regional legislative councils elect all the members. Nevertheless, it is possible in the future that some regions may provide for the direct election of the representatives.

Similarly, in Switzerland, the manner of electing members of the second house is determined by the cantons themselves.

In South Africa, a delegation of 10 members represents each province. The Premier (or a member of the provincial legislative council appointed by him or her) and three other delegates appointed by provincial councils from among their members, with concurrence of the respective Premier and the leaders of the political parties entitled to representation, serve as special delegates selected as necessary from time to time. The remaining six representatives are permanent delegates appointed by provincial legislative councils in accordance with the nominations of the parties entitled to representation. The permanent representatives need not be members of the provincial council. If a person who is a member of a provincial legislature is appointed as a permanent delegate, that person ceases to be a member of the legislature. It is important to note that the Constitution requires the proportional representation of political parties represented in provincial councils. The term of the members depends on the term of the provincial legislature that appointed them.

#### **Different ways of selecting members of the second chamber**



### **III. Voting in second chambers**

There are no standard rules governing the voting procedure in second chambers. In some federal states, such as Germany and South Africa, the members from each region have one block vote. In Germany, the representatives must vote in accordance



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with the instructions of regional governments. This ensures the most effective representation of the regional executives. In other countries, such as the United States, Ethiopia and Nigeria, the members vote as individuals. Voting individually is common in countries where the members are directly elected.

The Provisional Constitution of Somalia does not specifically determine the manner of voting in the Upper House. It is therefore not clear whether members from each Member State will vote individually or in blocks.

#### **IV. Competences of second chambers**

Second chambers are involved in significant processes ranging from constitutional amendments to the appointment of regional officials.

##### **1. Legislative competences**

Second chambers in almost all federal states are involved in the law-making process of all or some federal laws. In some federal states, such as Nigeria, Argentina and the United States, the second chamber is involved in the making of all laws. In Germany, the second chamber is, in principle, involved in the making of all laws. Nevertheless, ultimate approval by the second chamber is only necessary if the Constitution explicitly requires such approval, effectively creating an absolute veto right of the second chamber. The mandatory approval of the second chamber is often linked to the interests of the constituent units, but may also concern other subject matters such as European integration or certain laws relating to refugees. In Belgium, the Senate is involved in the making of all laws except laws for the approval of regional budgets and accounts, laws concerning the civil and criminal liability of ministers, the setting of quotas and the granting of naturalization.

The constitutions of some countries, such as Canada, and Argentina, provide that certain kinds of bills, such as money bills, may only be introduced in the first chamber. In Brazil, legislative initiatives of the President and the Supreme Federal Court must be tabled before the first chamber. In Australia, the Senate may not initiate money bills. In addition, the Senate may not amend bills imposing taxes or appropriating revenue or money for the ordinary annual services of the government, or propose an amendment to a proposed law so as to increase any proposed charge or burden on the people. In these cases, the Senate may only request the omission or amendment of any items or provisions therein, which will be considered by the House of Representatives. In South Africa, the second chamber may only initiate bills on matters affecting the interests of the provinces. In Austria, the second chamber may not initiate a bill. Nevertheless, it can propose, through the Federal Government, legislative motions to the first house.

Perhaps the main exception to this general rule of the participation of the second chamber in the law making process is Ethiopia where the adoption of federal laws





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does not require the approval or views of the second chamber. Nevertheless, the second chamber has far-reaching powers, such as the power of constitutional interpretation, to indirectly control the legislative process in the first chamber. The second chamber is also involved in the approval of constitutional amendments.

The first chamber is almost always involved in the adoption of federal laws and policies. There are very few exceptions to this general practice. For instance, in the United States, the adoption of international agreements and the appointment of judges and diplomatic officers by the President only require the two-third majority approval of the Senate, not the House of Representatives. Similarly, in Argentina, the President upon the two-third-majority approval of the Senate appoints judges of the Supreme Court. The President declares war and appoints diplomats with the approval of the majority of the Senate. In Brazil, members of the Supreme Federal Court are appointed by the President of the Republic upon the approval of the Federal Senate. Other than these few exceptions, however, the first chamber is always involved in the adoption of federal laws.

A cumulative reading of Articles 79, 82 and 83 of the Provisional Constitution of Somalia implies that the Upper House of the Somali Parliament is involved in the making of all laws, and not just laws that affect the Member States. The Upper House is therefore a crucial part of the federal law-making process.

## **2. Veto powers of the second chamber over legislation**

The scope of powers of the second chamber to veto legislation determines the influence of the regions on policy making at the federal level.

### ***Power to veto laws (absolute veto)***

Federal constitutions differ on the effects of the vote of the second chamber. In some countries, laws may not come into effect without the approval of the second chamber. This is, for instance, the case in the United States in all cases, and in Germany where the Constitution expressly provides so, which is often the case in relation to matters affecting the regions. The first house cannot override the negative vote of the second chamber.

In cases of disagreement, the constitution may require the two houses to establish a joint parliamentary committee (often called a mediation committee) to resolve the disagreement. In South Africa, a mediation committee is established in relation to bills that affect the interests of the regions. If the mediation committee cannot find a middle ground within a prescribed time, the draft bill lapses. In Germany, the second chamber may demand that the mediation committee be convened in relation to any bill, regardless of whether the interests of the regions are affected, or the consent of the second chamber is required.

In some countries, such as Brazil, the bill will continue to shuttle between the two



houses until both houses approve the same version. Similarly, in the United States, the shuttle system applies, although in practice informal coordination committees are established.

***Power to temporarily suspend the effectiveness of draft laws (suspensive veto)***

In relation to some bills, the approval or views of the second chamber may be required. Nevertheless, the rejection of the bill by the second chamber merely suspends the entry into force of the bill. In such cases, the constitution may allow the passing of the bill if the first chamber approves the bill, after considering the objections and observations of the second chamber. For instance, the Austrian second house cannot veto laws adopted by the first chamber. It can only submit reasoned objections to proposed laws. The first house can consider and ignore the objections. Moreover, the second house cannot raise objections to resolutions of the first house concerning the appropriation of the federal budget estimates, the sanction of the final budget, the raising or conversion of federal loans, or the disposal of federal property. Similarly, in South Africa, in relation to bills not affecting the provinces, the objection of the second house only suspends the entry into force of the bill.

Alternatively, the constitution may provide that the first chamber may adopt such a bill but only after the lapse of a prescribed period of time, which allows a more robust reconsideration of the bill. This is the case in Spain and Malaysia.

A constitution may also require a qualified majority before decisions of the second chamber may be overridden. Hence, in Russia, the first chamber may override the decision of the second chamber through a two-third-majority vote. In Germany, unless the approval of the second chamber is explicitly required in a specific constitutional provision, the first chamber may override the decision of the second chamber by simple majority, or by a two-third-majority if the second chamber rejected the bill by at least a two-third-majority.

Under the Indian Constitution, in cases where the second chamber rejects a bill, a joint sitting of the two houses is called to discuss and vote on the bill. Under the Constitution of South Sudan, the second chamber is only involved in relation to bills affecting the regions. Bills adopted by the first chamber are sent to an Inter-House Committee, which decides whether the bill affects the regions. If it does, the bill is sent to the second chamber, which may adopt it as it is or amend it with a two-third-majority and send it directly for presidential approval, without the need to seek the approval of the first chamber. In addition, the second chamber may adopt laws concerning matters affecting the regions by a two-third-majority and send the bill directly for presidential assent, without the need to refer the bill to the first chamber.

The Constitution of Australia provides that bills must be passed by both houses to become law. In case of disagreement, the Governor-General dissolves both houses. If the newly established houses cannot agree on the proposed bill, the Governor-General may convene a joint sitting of the houses.



Under the Provisional Constitution of Somalia, the Upper House has the power to veto laws adopted by the House of the People. Nevertheless, the House of the People may through a two-third-majority vote override the rejection or amendment of draft laws by the Upper House (Article 83). The veto powers of the Upper House are therefore not absolute.

### **3. Competences in relation to constitutional amendments**

The central element of a federal arrangement is that one level of the government may not alter the constitutional division of powers without the consent of the other. This requires that the regions must have a say in the process of amending the constitution, or at least the provisions affecting their powers and competences. If the central government can unilaterally alter the constitutional powers of the regions, the arrangement is not a federal system, but rather a decentralized unitary system. Regions may be involved in the amendment process either by directly approving the proposed amendment through their legislatures, or through the approval of the second chamber, which represents their interests.

#### ***Approval by both houses and a specified majority of the regions required***

The most stringent constitutional amendment processes require super-majority approval not only of both chambers of parliament but also a certain proportion of the regional legislative councils (e.g. Nigeria, Ethiopia, and the United States).

#### ***Approval by both houses required (but not the regions)***

In Germany, all constitutional amendments must be approved by a special majority of both the first and second houses of parliament. The second house is considered as an effective representative of the regions. As such, there is no requirement to obtain a separate approval of the regions.

#### ***Approval by the second house required only in some instances***

In some countries, such as Austria, the approval of the second chamber is required only in cases where the amendment affects regional interests. Similarly, the South African second chamber is only involved in constitutional amendments that affect the regions, the basic values enshrined in the Constitution, or the bill of rights.

#### ***Approval by both houses and a referendum***

In Australia, an absolute majority in both houses of the federal parliament must first adopt a proposed constitutional amendment. The amendment must also be approved in a referendum by the people of Australia as a whole and by electors of the majority of the regions. In cases where the two houses cannot agree on a proposed amendment, the Governor-General may submit the amendment as proposed by either house of parliament to popular referendum. The amendment is enacted if approved by the people of Australia as a whole and by electors of the majority of the regions. In all



cases, if a proposed amendment diminishes the representation of a region in either house of parliament, or alters the boundaries of a region, or otherwise affects provisions dealing with the boundaries of the region, the majority of the electors of the affected region(s) must also approve the amendment.

Under the Provisional Constitution of Somalia, all constitutional amendments to be adopted after the end of the first term of the Federal Parliament require a two-third-majority approval of both the House of the People and the Upper House (Article 132).

#### **4. Competences in relation to the approval of budget**

Another important issue in federal states is the approval of the federal budget. Given that the budget is an expression of the priorities and values of the federal government, the extent to which the regions are involved in the approval process can determine their impact on the policy choices of the federal government. In almost all federal states, the regions are involved in the budgeting process through the second house, not directly through their legislatures or governments. In most federal states, the first house has the primary responsibility in the approval of the budget; in others, the role of the second chamber is limited to providing comments for consideration by the first house; in some others, the second house is involved on an equal basis with the first house in the drafting and approval of the budget.

##### ***Approval of both houses required***

In Nigeria and the United States, the budget is in general drafted by the head of the executive and presented to both houses of parliament. Just like other laws, both houses must approve the same version of the budget before its execution.

##### ***Limited role for the second house***

In South Africa, Pakistan, Indonesia, Australia, and Germany, the main responsibility of scrutinizing and approving the budget belongs to the first house. Nevertheless, in each country the first house must obtain the comments and recommendations of the second house. However, the first house is not bound by the comments and recommendations of the second house.

##### ***No role for the second house***

In Ethiopia and Mexico, the power to approve the federal budget exclusively belongs to the first house. The second house does not have any formal role in the process. In Ethiopia, the first house must approve even the budget of the second house.



Under the Provisional Constitution, the Council of Ministers prepares the annual budget (Article 99(d)). The Constitution prohibits Parliament from drafting the budget (Articles 69(2) and 80(1)(b)). As in all other countries, the power to finally approve the budget belongs to the legislative organs. However, the Provisional Constitution is not clear on whether the budget needs the approval of the House of the People alone, or also the Upper House. Article 111D(4)(c) provides that the 'estimate' of expenditure of the Federal Parliament (both houses) is to be prepared by the Parliamentary Service Commission and approved by the House of the People. Article 111D(4)(c) only refers to the budget of the Federal Parliament, and not the budget of the executive, judiciary and other state organs. The extent to which the Upper House may be involved in the approval of the budget of state organs other than the Federal Parliament is therefore not clear. Article 124(a) empowers the Federal Parliament to adopt a law outlining the framework to govern the preparation, timetable and procedure for presenting the budgets of Federal Member States and districts in a transparent, accountable and efficient manner. This provision does not refer to the regulation of the federal budgeting process.

## **5. Other competences**

Second chambers exercise other additional functions, including involvement in the appointment of judges of the highest courts, the appointment and/or impeachment of the head of state and other government officials, and the approval of international treaties. The involvement of second chambers in the appointment of federal constitutional/supreme court judges is crucial as it allows the representatives of the regions to have a say in the composition of such courts, which often have, among others, the power to resolve intergovernmental disputes between the federal government and regional governments.

The powers of the Ethiopian second chamber are unique. As indicated above, the chamber is composed of individuals representing ethnic groups, and not the regions per se. Moreover, the chamber is not involved in the ordinary legislative process, although it is involved in the constitutional amendment process. Nevertheless, it has significant powers of a judicial and legislative nature. Its powers include: the final interpretation of the Constitution; the determination of the rights of ethnic groups to self-determination; decision on the division of revenues derived from joint federal and regional tax sources; determining the formula for the provision of subsidies that the Federal Government may provide to the regions; and the competence to find solutions to disputes or misunderstandings that may arise between regions.

In addition to its role in the legislative and constitutional amendment process, the Somali Upper House is involved in the selection and impeachment of the President of the Republic. The House is also involved in the declaration of war and a state of emergency. Moreover, Article 71(i) provides that the Upper House will be involved in the appointment of judges of the Constitutional Court and certain independent com-



missions. Nevertheless, the specific provisions dealing with the appointment of judges of the Constitutional Court (Article 109B) and the independent commissions (Article 112) do not specifically mention the role of the Upper House in the appointment process.

## **H. Intergovernmental relations and the resolution of inter-governmental disputes**

Federalism entails the establishment of distinct spheres of government, which exercise certain specific powers. The different spheres of government often also have concurrent powers on certain matters. The existence of different levels of government with competing powers requires institutions to coordinate their intergovernmental relations. Most institutions and processes established to foster intergovernmental cooperation and coordination are based on agreements or statutes. The existence of autonomous levels of government also requires the establishment of institutions and procedures to resolve intergovernmental disputes between the central government and the regions, and amongst the regions.

### **I. Institutions for coordinating intergovernmental relations**

Federal constitutions are often incomplete arrangements that require constant bargaining and negotiation. As a consequence, federations are governed based on written constitutional and legal rules but also based on continuous negotiation and compromise. In recognition of this fact, federal states often establish formal and informal institutions to coordinate continuous vertical and horizontal engagement of the vari-

**The establishment of formal and informal institutions to coordinate the activities of the different levels of government is crucial to ensure smooth and complementary intergovernmental relations.**

ous levels of government. While some constitutions simply outline principles governing intergovernmental relations and leave the establishment of coordinating institutions for

future legislation, others establish the principles as well as the relevant institutions. These platforms ensure continuous engagement between the different levels of government.

In some countries, such as Germany, the platforms are several and decentralized and include continuous engagement between heads of the executives, legislative councils, and specialized ministries and agencies. Nevertheless, to ensure flexibility, such platforms are established either through ordinary legislation or agreement (both formal and informal) among the different levels of government. Similarly, the Constitution of South Africa simply outlines certain principles of cooperative federalism but leaves the establishment of structures and institutions to promote and facilitate intergovernmental relations to an Act of Parliament. Accordingly, the Inter-governmental



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Relations Framework Act, which sets out mechanisms to coordinate the work of all spheres of government in providing services, was adopted in 2005. The Act establishes the President's Coordinating Council (PCC), which is the main coordinating body at national level, consisting of the President, the Deputy President, key Ministers, Premiers and the South African Local Government Association. It also establishes a similar forum headed by the heads of executive of the provinces, called the Premier's Intergovernmental Forum, consisting of the Premier, the local government Member of the Provincial Executive Council (MEC), other MECs, Metro and District Mayors. The Forum meets regularly and consults on development issues in the province, as well as on the implementation of national and provincial policy and legislation.

The Provisional Constitution of Somalia outlines a number of principles to promote cooperation and collaboration (Articles 51-53). To ensure the smooth operation of the cooperative arrangement, the Constitution requires the establishment of two regular platforms. First, the executive heads of the Federal Government and the Federal Member State governments should convene annually to discuss and build consensus on issues of national significance. Furthermore, the Presidents of Federal Member States and high-ranking officials should regularly hold discussions on common issues of interest that affect their regions. In addition to these regular platforms, the Constitution allows the Federal Parliament to establish institutions and guidelines to facilitate interaction and to resolve disputes between the various levels of government without resorting to courts.

The above platforms must be seen in the context of the existence of the Somali Inter-State Commission whose principal role is ensuring vertical cooperation and coordination among the Federal Government and the governments of Federal Member States. The Commission is also charged with resolving administrative, political, and jurisdictional or other disputes between the Federal Government and one or more Federal Member State governments, or between the governments of Federal Member States. The existence of several structures to coordinate horizontal and vertical relationships may create confusion and competition. It is therefore important to clarify and harmonize the role of the different platforms and how they relate to the function of the Inter-State Commission.

The constitutionalization of the platforms in Somalia, while enhancing their stature, may stifle creativity and experimentation and undermine flexibility in coordinating the policies and activities of the various levels of government. Nevertheless, it is possible to understand the platforms established in the Somalia Constitution as the basic minimum. As such, additional platforms, both formal and informal, may be established through law and agreement as necessary. For instance, even if the Constitution does not expressly anticipate it, it might be useful to establish an intergovernmental law reform and harmonization commission to encourage coordination of laws, including by drafting model laws, and provide technical assistance in the form of comments on draft laws prepared by the regions. Such a commission may also advise all governments to resolve conflict of laws that will necessarily arise due to the multiplicity of



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applicable laws resulting from the federal arrangement. This flexibility in the establishment of additional platforms will be particularly important if the Final Constitution will allocate significant matters under the concurrent jurisdiction of the Federal Government and the Member States.

### **II. Resolution of intergovernmental disputes**

Even with the presence of institutions and mechanisms to coordinate intergovernmental relations, disputes on the relationship and division of powers are likely to arise. Hence, federal constitutions must establish procedures and institutions to finally and authoritatively resolve vertical as well as horizontal intergovernmental disputes. While most countries have established judicial mechanisms of resolving intergovernmental disputes, some have opted for non-judicial political mechanisms.

**Disputes between the different levels of government are not only likely but also unavoidable. Most of these disputes will be resolved through political engagement. Nevertheless, constitutions also provide for mechanisms to resolve disputes whenever politics fails to settle the issues.**

#### **1. Judicial mechanisms**

In most federal states, the highest federal court resolves intergovernmental disputes. In South Africa, the Constitutional Court has the first and final power to resolve disputes between the central government and the provinces as well amongst the provinces.

The Constitution requires that disputing parties must first make a reasonable effort to resolve their disputes through intergovernmental negotiation. In the absence of efforts to resolve disputes amicably and in good faith, the Court can refer the matter back to the disputing parties. The Nigerian and Argentinian Constitutions similarly empower the Federal Supreme Court to resolve intergovernmental disputes.

Given the importance of the highest federal courts to resolve intergovernmental disputes, the process of appointing members of these courts may be significant in establishing intergovernmental balance. In most federal states, both the central government and the regions (usually through the second chamber) are involved in the appointment of the judges. Nevertheless, the extent of participation of the regions in the appointment process varies from country to country. For instance, in Germany, the first and second chambers each appoint half of the members of the Constitutional Court. In South Africa, on the other hand, the second chamber is not directly involved in the appointment of members of the Constitutional Court. The judges of the Constitutional Court are appointed by the President of the Republic in consultation with the Judicial Service Commission and opposition political parties. In the United States, the President with the approval of the Senate appoints judges of the Supreme Court. The first house is not involved in the appointment of the judges. In Canada, three of the nine judges of the Supreme Court must come from Quebec.





## **2. Non-judicial mechanisms**

Some countries have opted to resolve intergovernmental disputes through non-judicial mechanisms. In Ethiopia, the power to interpret the Constitution and to resolve intergovernmental disputes belongs to the House of Federation, which is composed of representatives of ethnic groups. Regular courts do not have the power to review the constitutionality of all laws, i.e. federal as well as regional laws.

In Switzerland, the highest federal court decides public law disputes between the federation and cantons, or amongst cantons, and on the conformity of canton law with federal law. But it does not have the power to question the constitutionality of federal laws. If either 50, 000 citizens or eight cantons challenge federal law within 100 days of its adoption, the Act must be submitted to a referendum.

The Provisional Constitution of Somalia requires the various levels of governments to attempt to resolve their disputes through dialogue and reconciliation (Article 50(g)). In case of failure of such dialogue, the final power to resolve intergovernmental disputes belongs to the Constitutional Court (Article 109C(1)(d)). The Constitution does not specifically require the Court to first ensure that the disputing parties have resorted to dialogue and reconciliation before accepting to resolve the dispute. Nevertheless, the principles of federalism outlined in Articles 51 and 52 may require such an effort. It should be noted that judges of the Constitutional Court are appointed by the House of the People in accordance with the nominations of the Judicial Service Commission (Article 109B(2)). Although the Constitution declares that the Upper House will participate in the appointment of the judges (Article 71(i)), it does not specify how.

## **III. Inconsistency of federal and state laws**

A federal arrangement assumes the presence of different government authorities with distinct powers. In all federal states, the federal constitution is supreme over all other laws, including regional constitutions. If regional laws are supreme over the federal constitution, the arrangement is closer to a confederation rather than a federation. In addition, in general, the laws of each government prevail over the laws of other levels in relation to the areas over which it has exclusive jurisdiction. As such, if the power to regulate natural resources belongs to the regions, any law made by the central government is presumably *ultra vires*. On the other hand, in cases where the different levels of government exercise concurrent jurisdiction over a matter, the constitution normally determines the laws of which level of government will prevail in cases of contradiction.

In most federal states, federal laws prevail over contradictory regional law, including regional constitutions, on matters falling under concurrent jurisdiction. Exceptionally, in Iraq, regional law prevails over federal law in relation to matters under concurrent jurisdiction. Similarly, in Germany, in relation to certain matters listed in the Constitution, constituent units are authorized to adopt laws which can deviate from



and will prevail over federal legislation. In Canada, in relation to laws regarding pensions, region law prevails over federal law.

Some countries have left the issue of hierarchy of laws unregulated. In such cases, the decision on which laws prevail has to be made on a case-by-case basis by the organ in charge of resolving intergovernmental disputes. In Ethiopia, the Constitution does not determine the laws of which level of government will prevail in cases of conflict. Hence, the House of Federation will on a case-by-case basis resolve the dispute.

## **I. Constitutional amendment procedures in federal states**

As indicated above, the constitutional division of powers between the federal government and the regions is a core feature of federal states. Consequently, amendments to federal constitutions often require not only the approval of federal legisla-

**While the amendment procedure in federal states varies, in almost all federal states, the process involves the support of the governments or people of the states. Such involvement is necessary to maintain the federal division of powers. In some countries, the federal character of the state is unamendable.**

tive and executive institutions, but also the support of the regions and/or their people. The regions are often involved in the

amendment process through the second house, which is usually designed to ensure the representation of regional interests (please see Section G above). In addition, in some countries, the legislatures of the regions or the majority of their voters must approve constitutional amendments. In a few countries, such as Australia and Switzerland, a majority of the voters in the whole of the country and a majority of the voters in a majority of the regions in a referendum must approve all constitutional amendments. In some countries, such as Germany and Brazil, the federal character of the state is unamendable. Below is a summary of the constitutional amendment process in selected federal states.

### ***Compulsory approval of regional legislatures required***

#### ***Nigeria:***

- Amendments to the bill of rights, the amendment provision and provisions relating to the creation of new regions or boundary adjustments require a 4/5 majority approval in both the first and second house, and approval by the legislatures of 2/3 of the regions;
- All other amendments require a 2/3 majority approval in each house, and approval by the legislatures of 2/3 of the regions.



***Ethiopia:***

- Amendments to the bill of rights and the amendment provision require the approval of a 2/3 majority in each house, and the approval of the legislatures of all the regions;
- Amendments to other provisions require a 2/3 majority in a joint sitting of the two houses, and approval by the legislatures of 2/3 of the regions.

***Approval of state legislatures required only exceptionally***

The South African constitution establishes three distinct constitutional amendment procedures:

- Amendments to the fundamental values of the Constitution and the amendment provision itself require the approval of 3/4 majority of the National Assembly and 2/3 of the provinces in the Council of Provinces.
- Amendments to the bill of rights, and the provisions affecting the powers, functions, institutions and boundaries of the provinces require a 2/3 majority in the National Assembly and the approval of 2/3 of the provinces in the Council of Provinces.
  - If the amendment only affects a single province or specific provinces, the National Council of Provinces may not pass the Bill unless the relevant part has been approved by the legislature or legislatures of the province or provinces concerned.
- All other amendments require the approval of 2/3 majority of the National Assembly.
- Notably, the Constitution empowers the Constitutional Court to decide on the constitutionality of constitutional amendments.

***Amendment through a special constitutional assembly***

- In Argentina, the decision to amend the constitution is declared by a 2/3 majority in the two houses of parliament. Upon such a decision, a special constitutional assembly is established to consider and approve the proposed amendment.

***Amendment through popular referendum***

***Switzerland:***

- In line with the predominance of the principle of direct democracy, all constitutional amendments in Switzerland require the approval of a majority of those voting in Switzerland as a whole, and a majority of those voting in the majority of the regions. Note that some of the regions only have half a cantonal vote.



**Australia:**

- In Australia, an absolute majority in both houses of the federal parliament must first approve constitutional amendments.
- The amendment must also be approved in a referendum by a majority of the voters of Australia as a whole and by a majority of the electors in a majority of the regions.
- In cases where the two houses cannot agree on a proposed amendment, the Governor-General may submit the amendment as proposed by either house of parliament to popular referendum.
- In all cases, if a proposed amendment diminishes the representation of a region in either house of parliament, or alters the boundaries of a region, or otherwise affects provisions dealing with the boundaries of the region, the majority of the electors of the affected region(s) must also approve the amendment.

The Provisional Constitution of Somalia ensures the participation of Federal Member States in the amendment procedure in two ways: first the Upper House, along with the House of the People, must approve all constitutional amendments through a two-third-majority (Article 132). To engage Member States, to ensure the effective review of proposed amendments, and to enhance public debate and consultation, the Constitution requires the establishment of a joint committee composed of members from both houses of the Federal Parliament. In addition, if the amendment affects Federal Member States, the Committee must incorporate harmonized submissions of Member State legislatures into the proposed amendment.

## **J. Participation of regions in relation to international agreements**

In general, the power over foreign affairs, including the signing of international treaties, is granted to the federal government. Nevertheless, the power of the federal government on international treaties is not always exclusive. A number of federal states allow regions to sign international agreements under certain circumstances.

Under the Provisional Constitution of Somalia, the power of the Federal Government over foreign affairs includes the power to negotiate and approve international treaties (Article 54). Nevertheless, in line with the principle of cooperation, the Federal Government is required to consult Member States on negotiations relating to foreign aid, trade, treaties, and other major issues related to international agreements (Article 53(1)). In addition, when international negotiations particularly affect the interests of Federal Member States, the negotiation team of the Federal Government must include representatives from Federal Member States (Article 53(2)). The manner through which the representatives of the Member States will be selected is not clear.



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As a representative of the Federal Member States, the Upper House may be given this function. The Provisional Constitution is also not clear in relation to the weight that must be accorded to the views of the Member States. In some countries, such as Austria and Spain, a unanimous view of the regions in relation to a matter considered by the European Union that affects them is binding on the federal government.

The Provisional Constitution of Somalia is not clear on whether Federal Member States may enter into international agreements. Nevertheless, the Federal Government must consult the States concerning negotiations relating to foreign aid, trade, treaties, and other major issues related to international agreements. When international negotiations particularly affect the interests of States, the negotiation team of the Federal Government must include representatives from Federal Member States.

The duty to consult and involve Member States is crucial and must be seen in the context of the fact that the Somali Upper House is not involved in the approval of international treaties. Under Art 90(q), international treaties are proposed by the Council of Ministers, signed by the President and approved by the House of the People. In many federal states, such as the United States and Germany, the second house is involved in the approval of international treaties. In fact, in the United States, only the Senate is involved, i.e. the lower house does not have a formal role in the ratification of treaties. The participation of regions in the ratification of international treaties is crucial, as the execution of some treaties will require their involvement, especially when the matter falls under their competence. In the absence of consultation, regions may undermine the implementation of treaties, leading to a potential breach of international law.

Furthermore, the Provisional Constitution of Somalia does not specifically allow, or prohibit, Member States to sign international agreements in relation to matters that fall under their exclusive legislative jurisdiction. Nevertheless, given that Federal Member States are not allowed to enter into binding cooperation agreements even amongst themselves or with the Federal Government (Article 52(2)), it may be argued by implication that they cannot sign international agreements. In some countries, the regions are involved in treaty making mainly through their representation in the second house. In others, regions may, under certain conditions and subject to approval of the federal government, sign international treaties.

The Constitutions of South Africa, Ethiopia and Nigeria do not allow states to enter into international agreements. Nevertheless, the Nigerian Constitution requires that, in addition to the National Assembly, including the Senate, the majority of the legislative assemblies of the regions must approve laws implementing treaties, if the subject matter of the treaty does not fall within the exclusive jurisdiction of the federal government. In South Africa, the provinces are involved in treaty making mainly through their representation in the upper house. In addition, the principle of cooperative federalism has been invoked to justify a right to consultation of regions in treaty negotia-



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tions. In Ethiopia, the second house is not involved in treaty ratification. As a result, the influence of regions on international treaties is limited.

In Belgium, regions can sign international treaties in relation to their exclusive competences and the federal government may only oppose such treaties under exceptional circumstances. Similarly, in the United Arab Emirates, the constituent units (the Emirates) may enter into international agreements so long as the agreements are not inconsistent with the interests of the Union. The Central Government must be informed of and may oppose such agreements, in which case the Supreme Court decides. In Argentina, the Constitution allows the regions to conclude international treaties for purposes of the administration of justice, of economic interests, and works of common benefit, with the knowledge of the Federal Congress. The direct participation of regions in international negotiations and treaties may be in addition to their indirect participation through the second house (e.g. Germany).

**Table: Regional participation in relation to international treaties**

<b>Federal Country</b>	<b>Right of regions to consultation</b>	<b>Right of regions to sign treaties</b>
<b>Germany</b>	In relation to international agreements that affect their particular interests.	In relation to matters that fall within their legislative competence and subject to federal approval.
<b>Belgium</b>	In relation to international agreements that affect them.	In relation to matters that fall within their legislative competence. The federal government may under exceptional circumstances oppose such treaties.
<b>Russia</b>	In relation to international agreements that affect them.	Can engage in international relations, but cannot sign treaties.
<b>Austria</b>	In relation to international agreements that must be implemented by them. Unanimous views of the regions are binding on the federal government.	The regions may, with the agreement and under the supervision of the Federation, conclude international agreements on matters falling within their legislative power with adjacent foreign countries or their entities.
<b>Spain</b>	In relation to international agreements that affect them. Unanimous views of the autonomous communities are binding on the federal government.	Autonomous communities do not have the right to conclude treaties.



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<b>Switzerland</b>	In relation to foreign policy decisions that concern their powers or essential interests. In some cases, the interested canton may participate in international negotiations as appropriate.	The cantons have the power to conclude treaties on matters concerning the public economy, relations with neighbors and the police, provided the treaty is not contrary to the law or the national interests, or to the laws of other cantons, and the Federal Government is informed. When a canton complains of such conflict, the National Assembly decides.
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## **K. Other important issues in federalism**

### **I. Should regions have their own constitutions?**

Federal constitutions vary on the extent to which they regulate the structure of regional and local governments. In some countries, such as Nigeria and Belgium, the federal constitution contains detailed provisions outlining the structure not only of the federal government but also of regional governments. The regions do not therefore need and do not have their own separate constitutions. The South African Constitution similarly outlines the structure of provincial governments as a model. It is therefore unnecessary to adopt provincial constitutions. Nevertheless, provinces are at liberty to adopt a constitution, subject to prior certification of the Constitutional Court for compatibility with the National Constitution. In India, only one region, Kashmir, is allowed to have its own constitution; the other regions are not.

In countries where the structure of regional governments is defined in the federal constitution, the structure of government of the regions is similar across the federation. The main advantage of the existence of a single constitution outlining the structure of all levels of government is the uniformity and predictability it creates. In addition, it precludes any possibility of disputes concerning the compatibility of regional constitutions with the fundamental principles established in the federal constitution, which may potentially undermine the willingness to cooperate and coordinate inter-governmental functions.

In contrast, some federal constitutions either do not regulate the structure of regional governments or only provide basic principles that regulate all regional governments, in addition to the requirement that regional constitutions should be compatible with the federal constitution (e.g. Ethiopia). For instance, the Constitution of the United States simply requires that the regions should establish a 'republican form' of government, but leaves the details of internal organization to the regions themselves. The Swiss Constitution requires that regional constitutions must be 'democratic' and be approved by the people of the region. The Constitution of Germany allows the regions to adopt their own constitutions, which must be compatible with principles of a republican, democratic and social state governed by the rule of law. The constitutions



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should also establish autonomous municipalities. Similarly, in Argentina, the regions are required to enact their constitutions subject to the condition that the government system is republican and representative and the requirement to ensure municipal autonomy.

**In some federal states, the structure of regional governments is defined in the national constitution, which makes regional constitutions unnecessary. This leads to uniform internal structures in all regions. In other federal states, the national constitution leaves the structure of the regions to their constitutions. Drafters of regional constitutions may experiment with their institutional structure, subject only to the broader requirement of compatibility with the principles established in the national constitution.**

Where they do exist, regional constitutions outline the social, economic and political goals and the structure of state governments. As a result, the structure of the government and the internal organization of the regions may vary from region to region. For instance, in Malaysia, some of the regions have established a republican form of government while some have established monarchies. In the United States, Nebraska has a unicameral legislature, while most of the other states have bicameral legislatures. Louisiana has a civil law legal system, while all the other regions in the United States have adopted the common law legal system. Similarly, the structure of the executive in the United States is also different from region to region. The main advantage of the existence of separate regional constitutions is that it allows the regions to experiment with different forms of government and governance thereby serving as laboratories of democracy and good governance. It also allows each region, as well as the central government, to learn from successful as well as failed experiences in other regions. For instance, the right to vote of women and Black-Americans in the United States was first recognized by liberal regions. The federal government and other regions followed.

The Provisional Constitution of Somalia specifically allows the Federal Member States to adopt a constitution establishing their legislative and executive bodies (Article 120). It has therefore opted to allow the Member States to experiment with different modes of organizing their legislative and executive organs. Under Article 121, Federal Member State constitutions and the Federal Constitution must be 'harmonized'. Unlike in all other federations, this provision does not clearly establish the supremacy of the Federal Constitution over Member State constitutions. It should also be noted that Article 120 of the Constitution only refers to legislative and executive organs. It is therefore not clear whether the Member States are authorized to also determine the structure of their courts.





## **II. Status of capital cities in federal states**

Capital cities have enormous symbolic significance, serve as seats of major national and international institutions, and symbolize the actions and failures of the national government.

As a result, determining the capital city in federal states raises a number of issues and may be controversial. In particular, the role of the federal government in the administration and governance of the capital city and the relationship of the capital city with the region within which it is located have to be specifically addressed. The practice in federal states around the world reveals three prototypes in terms of the legal status of the capital city. The capital city may either be specifically determined in the Constitution, as is the case in Ethiopia, or be left to determination through ordinary law based on constitutional guidance, as is the case in the United States and Australia. In South Africa, the Constitution indicates that Cape Town will be the seat of Parliament. Nevertheless, a new seat may be selected through federal law, with the consent of the Council of Provinces. The Constitution does not determine the seat of the head of government.

In some federal states, such as Ethiopia (Addis Ababa), the United States (Washington DC) and Nigeria (Abuja), the federal government directly administers the capital city. As a result, the capital is a federal district outside the jurisdiction of all regions.

### **Capital cities in federal states may be organized in three different ways:**

- **As a federal district directly administered and financed by the federal government;**
- **As a region, with the same mandate as other regions;**
- **As any other city, i.e. as a city in the region in which the capital city is located.**

The federal administration of the capital city has symbolic significance to emphasize that the capital represents the whole nation, and not just the region it is located in or its people. The capital therefore serves as a neutral space for all the regions. The federal government may either directly administer the city, or as is often the case, establish and delegate most of its powers to a local government elected by the people of the capital city. The extent of federal control of the city therefore varies across federal states. For instance, the Ethiopian Constitution recognizes the right to self-governance of the people of the capital city. The Constitution in addition recognizes the special interests of the region within which the capital city is located, which has proved controversial in practice. In a number of federal states, such as the United States, the people of the capital city do not have direct representation in the second house of parliament. Nevertheless, in Nigeria, the capital city is directly represented in the Senate, although it only has one representative, compared to three for each region.



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Capital cities may also be organized as regions. In this model, the capital city essentially has the same mandates as other regions. As a result, the federal government does not have direct say on the governance of the capital city. This model has been adopted in, for instance, Germany (Berlin) and Belgium (Brussels). To offset the costs of hosting the federal government, the capital city may receive some financial contribution from the federal government, as is the case in Belgium and Germany. Because of the high level of autonomy from the federal government, such capital cities often create a concern that a conflict of interest can arise between the national (as represented by the federal government) and local interests. In particular, the federal government may have to rely on the security services of the capital city, which may raise some problems. This concern may not be troubling in federal states where police and security services fall under the jurisdiction of the federal government, as is the case in South Africa.

The federal capital may also be just like any other city administered by the region within which it is located (e.g. South Africa, Switzerland, Canada). The federal government does not have any formal role in the governance of the city. It therefore has to negotiate with the relevant region to protect its interests. In particular, it may use its funding powers to obtain concessions. To compensate for the costs of hosting the federal government and the services it requires, such as security, the relevant region may receive compensation from the federal government. For instance, in Switzerland, the federal government provides grants to cover some of the expenses in relation to transpiration, parking, security and other services. In South Africa, the federal government does not provide grants or compensation but rather pays property taxes to the relevant regional governments. In Canada, the federal government does not pay property taxes but covers its expenses directly. Nevertheless, the regions may not generally tax the properties and land of the federal government.

It should be noted that the fact that a certain city has been selected as the capital city does not mean that all federal institutions will be located in that city. Indeed, even in unitary states, the institutions of the central government are dispersed throughout the country. As such, federal states may choose to have more than one nominal capital city, or seat of government.

For instance, in South Africa, the seat of the President is in Pretoria; the seat of Parliament is in Cape Town; the seat of the Constitutional Court is in Johannesburg; and the seat of the Supreme Court of Appeal is in Bloemfontein.



Article 9 of the Provisional Constitution of Somalia establishes Mogadishu as the capital of the Federal Republic of Somalia. The status of the capital city will be regulated in a law to be adopted by both houses of the Federal Parliament. It is not clear whether Mogadishu will be under direct federal administration, or whether it will be organized as a self-standing region. Moreover, the Provisional Constitution does not recognize the right to self-governance of the residents of the city, nor any special interest or benefits for the Federal Member State within which Mogadishu will be located. Some controversies may arise if, for instance, the adjacent Federal Member State(s) wishes to make Mogadishu its capital. It is advisable that the Constitution provides more detail concerning the status, governance and financing of the capital city. In the absence of detailed guidance, controversies will be resolved through negotiation and dialogue between the Federal Government and the relevant Federal Member State, and if necessary through the Constitutional Court.

### **III. National intervention in regional affairs**

Federalism is based on principles of self- and shared-rule. Whenever there are disputes between the central and regional governments, the normal dispute resolution mechanism is activated. Nevertheless, sometimes a region may abuse its powers and endanger the continuity of the federation or the constitutional order. Alternatively, the regions may be unable or unwilling to manage broad-based violence and disorder threatening the constitutional scheme. A federal constitution therefore normally defines the circumstances under which the central government may legitimately intervene in the affairs of the regions. The failure to regulate the limited circumstances under which the central government may interfere in regional affairs may lead to frequent and unjustified interferences, or to resistance to legitimate actions of interference.

In South Africa, national intervention in provincial administration is allowed when a province cannot or does not fulfill an executive obligation, including maintaining security and economic unity, in terms of the Constitution or legislation. The national executive must notify the National Council of Provinces about the intervention and give reasons for the intervention. The intervention must end if the Council disapproves it. The Council must in addition review the intervention regularly and make appropriate recommendations.

In Ethiopia, the House of Federation may allow federal intervention if a region cannot prevent the deterioration of security, human rights violations, or when any regional government endangers the constitutional order.

The Swiss federal government may only intervene when public order in a canton is disrupted or under threat and the canton in question is not able to maintain order alone or with the aid of other cantons.



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The Brazilian federal government may intervene in the regions to maintain national integrity; to put an end to serious jeopardy to public order; to provide for the enforcement of federal law, judicial order or decision; to ensure compliance with principles of the republican, representative and democratic government, human rights, municipal autonomy; and, under certain circumstances, to reorganize regional and municipal finances. The decree of intervention must be submitted for consideration to the National Congress or State Legislative Assembly.

The federal government of Argentina may intervene in the territory of the provinces in order to guarantee the republican form of government, or to repel foreign invasions. It may also intervene at the request of the provinces to support or reestablish them, should they have been deposed by sedition or invasion from another province.

The Provisional Constitution of Somalia does not contain provisions concerning the possible intervention of the Federal Government in regional affairs. In the absence of such provisions, the Constitutional Court will have to decide whether any intervention is compatible with the Constitution on a case-by-case basis. To avoid potential conflicts, it may be advisable for the Constitution to address the issue of federal intervention in regional affairs.

#### **IV. Protection of regional minorities**

In federal states where regional boundaries are determined mainly based on identity, such as ethnicity, language, tribe or religion, constitutions generally expressly provide protection to minorities in the regions. Regardless of the intensity of efforts, it is very difficult to carve out regions that are exclusively populated by a single tribal, ethnic, linguistic or religious group. It is therefore important to provide guarantees against discrimination to individuals belonging to regional minorities.

In particular, regions are normally required to provide equal access to public services to all citizens regardless of their origins. In addition, minority groups generally are allowed to promote their culture, language, religion and other elements of their group identity on an equal basis with others.

Some constitutions, such as Ethiopia, guarantee the right to self-determination of minorities within all the regions. This allows minority groups to organize themselves in local governments. In Nigeria, the Constitution establishes local governments and grants them powers partly with a view to accommodate the interests of minorities in the regions.

In addition, many federal states allow federal intervention in cases where a region is unable or unwilling to protect the rights of individuals as well as minority groups. The federal government of the United States has, for instance, intervened on a number of occasions to give effect to court decisions affirming the rights of Black-Americans due to the failure of the southern regions to do so.



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Although identity may not play a central role in the delimitation of the boundaries of Member States in Somalia, it is possible that one or more of the Member States may be home to two or more clans or tribal groups. To cater for these possibilities, the Constitution may specifically prohibit any form of regional discrimination and distinction between dominant tribal groups and others, and may guarantee the right to self-determination of minority groups, perhaps in the form of district governments, as is, for example, the case in Ethiopia. Accordingly, the House of the People of the Federal Parliament may require that minority groups be allowed to establish district governments before approving laws of Member States determining the number and boundaries of districts (as provided in Article 49(4) of the Provisional Constitution). In addition, the Constitution may require Federal Member States to allow the establishment of educational, cultural and other organizations of minority clans or tribal groups. The Constitution may also allow federal intervention in order to protect the rights of regional minorities.

#### **V. Resolution of boundary disputes, boundary reforms/adjustments and the creation of new constituent units**

Regional boundaries in federal states cannot be cast in stone. It is often difficult to draw final boundaries between different regions. Constitutions therefore establish clear procedures through which disputes between different regions over a territory can be resolved. Similarly, procedures should be established to answer popular requests for the reconsideration of regional boundaries. In addition to the resolution of boundary disputes and reforms, federal constitutions generally also regulate the procedures for the establishment of new regions.

**Federal constitutions normally provide for procedures to regulate the resolution of boundary disputes, to process demands for the adjustment of regional boundaries, and to establish new constituent units.**

##### **1. Boundary disputes**

The process of resolving boundary disputes between regions varies across federations. In most federations, the highest federal court ultimately resolves boundary disputes.

In South Africa, the first and final power of resolving disputes between provinces, including boundary disputes, lies with the Constitutional Court. Nevertheless, the Constitutional Court will only intervene if the provinces were unable to resolve their disputes through negotiation. In Nigeria, the National Boundary Commission assists in the resolution of boundary disputes between the regions. In the absence of agreement, the Supreme Court has the jurisdiction to finally resolve such disputes. Under the Ethiopian Constitution, the regions involved through negotiation should resolve boundary disputes. In the absence of agreement, the House of Federation, based on settlement patterns and the wishes of the people concerned, resolves such disputes.



## **2. Changes to boundaries**

### ***Changes through constitutional amendments***

The South African Constitution provides that changes to provincial boundaries require constitutional amendments, which require the approval of a two-third majority in both houses of parliament and the consent of the province(s) affected. In addition to the constitutional amendment procedure established in the Constitution, the South African Constitutional Court has ruled that changes to regional boundaries must be made only after consulting the people affected by the changes, although the views of the people are not determinative of the issue.

Similarly, in Austria, changes to regional boundaries can only be effected through amendments to the federal constitution and the constitution of the region affected by the territorial change.

### ***Changes through referendum and parliamentary approval***

In Australia, the Federal Parliament may with the approval of the majority of the electors of the region voting upon the question, increase, diminish, or otherwise alter the boundaries of the region.

Under the Constitution of Germany, the division of the federal territory into regions may be revised to ensure that each region has the size and capacity to effectively perform its functions. Any such adjustment requires the enactment of a federal law to that effect and approval in a referendum by the people in the affected area.

Under the 1999 Constitution of Nigeria, a boundary adjustment to any existing region requires an Act of the National Assembly, which may only be passed:

- If a request for the boundary adjustment is supported by a two-third majority of members (representing the area demanding and the area affected by the boundary adjustment) in:
  - ✓ The Senate;
  - ✓ The House of Representatives;
  - ✓ The House of Assembly of the region concerned; and
  - ✓ The local government councils in respect of the area; and
- If the proposal for boundary adjustment is approved by:
  - ✓ A simple majority of members of the National Assembly; and
  - ✓ A simple majority of members of the House of Assembly of the region concerned.

### ***Changes through an independent commission and super-majority approval***

The 2010 Constitution of Kenya establishes stringent procedures for altering the county boundaries. Any alteration requires a recommendation by an independent commission set up for this specific purpose by Parliament, and approval by two-third majority of the members of the National Assembly and two-third of the members of



the Senate. The Constitution provides a non-exhaustive list of factors that may justify the alteration of county boundaries.

**In most federal states, boundary adjustments often require the consultation and/or approval of the affected regions and/or the affected people.**

These include: population density and demographic trends, physical and human infrastructure, historical and cultural ties, the cost of administration, the views of the communities affected, the objects of devolution of government, and geographical features.

### **3. Establishment of new regions**

#### ***Upon approval of the national parliament***

Under the Indian Constitution, the Federal Parliament may by law form a new region by separation of territory from any region, or by uniting two or more regions or parts of regions, or by uniting any territory to a part of any region. Bills for the formation of a new region may only be tabled on the recommendation of the President. The President must refer the bill to the legislatures of affected region(s) and procure their views.

#### ***Upon approval of regional parliaments***

In Australia, a new region may be formed by separation of territory from a region with the consent of the parliament of the affected region. A new region may be formed by the union of two or more regions or parts of regions with the consent of the parliaments of the affected regions.

#### ***Upon approval of the national parliament and parliaments of affected regions***

In Argentina, a new province may be established within the territory of another province or provinces, or by joining parts of two or more provinces with the consent of the legislatures of the provinces concerned as well as that of Congress.

#### **Upon approval in a referendum**

In Switzerland, the establishment of a new region requires the approval of the affected regions and their residents, as well as approval in a referendum by the majority of those voting in Switzerland as a whole and the majority of those voting in the majority of the regions.

#### ***Upon approval of regional parliaments and in a referendum***

In Ethiopia, a new region can be formed at the request of a two-third majority of the members of the legislative council of the concerned ethnic group, with the approval of the majority of voters in a referendum for members of that ethnic group.



***Upon approval of national, regional and local parliaments and in a referendum***

In Nigeria, a new region can be formed through an Act of the National Assembly, which may only be passed if:

- The request is supported by two-thirds majority of the members (representing the area demanding the creation of a new region) in:
  - ✓ The Senate;
  - ✓ The House of Representatives;
  - ✓ The House of Assembly of the region concerned; and
  - ✓ The local government council concerned;
- The proposal is approved in a referendum by at least a two-thirds majority of the people of the area where the demand for the creation of the region originated;
- The result of the referendum is approved by a simple majority of all the regions of the federation supported by a simple majority of the House of Assembly of each region; and
- If the proposal is approved by a two-third majority of the members of the National Assembly.

The Provisional Constitution of Somalia does not establish clear procedures through which boundary disputes may be resolved and boundaries of Federal Member States may be reformed once they have been established. Nor are there procedures to determine the creation of new Member States once the first round of Federal Member States have been established. It is advisable that issues of boundary disputes, adjustments and the creation of new Member States are discussed and addressed through constitutional amendments. The lack of established rules to resolve disputes, and regulate adjustments and the creation of new Member States may lead to political paralysis and even conflict amongst and within Federal Member States. It is important that the Constitution is revised to establish these procedures. Although it is possible to provide the procedures in a parliamentary statute, addressing these controversial issues in the Constitution is critical, as it will require greater consensus to change regional boundaries. Self-interested transient majorities can easily modify statutory standards.





## **L. Concluding remarks**

Decentralization has become a common feature of almost all countries around the world. While all federal states feature different levels of decentralization, not all decentralized countries are federal. Federal states differ not only in their historical origins but also in their structure. Although most federal constitutions have to address common institutional and substantive issues and challenges, they have adopted different arrangements. There is no ideal form of organizing a federal state and the institutional options are limited only by human imagination. Each federal state must therefore decide on the best way of achieving the objectives that triggered the move towards the establishment of a federal structure. In particular, the options in relation to various aspects of a federal system must be considered together with the broader constitutional, institutional, and functional structures as well as the political, historical and social realities prevailing in the country.

This manual has discussed most of the crucial issues that normally arise in federal states. It has also provided the various ways existing federal states have addressed these issues. Moreover, the discussions on the Somali federal system are based on provisions of the 2012 Provisional Constitution, which is undergoing a general revision. It is possible that some aspects of the Constitution regulating the federal structure may change. Indeed, this manual has identified several areas where constitutional clarifications or additions may be necessary. The comments in this manual should therefore consider this constitutional fluidity. It is hoped that the manual will be useful in finding answers to the range of questions confronting the Somali federalization process. Overall, while useful, federalism is not a panacea to all the political, social, security and economic ills facing Somalia. It is important to temper expectations in this regard.



**Max Planck Foundation for  
International Peace and the Rule of Law**

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**Buugga Isbarbardhigga Nidaamka  
Federaalka Soomaaliya**

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Heidelberg, 2016

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Max Planck Foundation for International Peace and the Rule of Law  
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*Buugga Isbar-bardhigga Nidaamka Federaalka Soomaaliya*

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Buuggan waxaa soo saaray xubno ka tirsan kooxda MPFPR ee Lamadegaanka Sax-araha ee Afrika oo magacyadooda kala yihiin Dr. Adem Kassie Abebe, Dr. John Dingfelder-Stone, Dr. Kathrin Maria Scherr iyo Jan Amilcar Schmidt.

Buugga waxaa loo sameyay mashuurca “lagu taagyeeraayo Geedi-socodka Federaaleynta Soomaaliya” oo uu maalgeliyay Xafiiska Arimaha Dibadda ee Dawladda Jarmalka.

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## A. Hordhac

In kasta oo ay jiraan kala duwanaansho nidaamyo sharciyeed, dhaqameed, dhaqaale iyo siyaasadeed, awoodda xukuumadda ee dalalka addunka badankood ayaa laga adeegsadaa heerar kala duwan. Baahinta awoodda xukuumadda iyo adeegyada maamulka ayaa noqoday sifooyinka ay wadagaan dawladahu. Si kastaba ha ahaatee, dabeecadda, baaxadda iyo maqaamka sharciyeed ee awoodaha heerarka hoose ee xukuumadda ayaa dawladuhu ku kala duwan yihiin. Nidaamka Federaalka guud ahaan waa nooc ka mid ah baahinta awoodaha ay kala leeyihiin heerarka kala duwan ee xukuumadaha oo ku saleysan Dastuurka isla markaasna aysan heer xukuumadeed keligeed beddeli karin awoodaha heerarka kale ee xukuumadda. Federaalka waa qaab heshiis oo xubno badan ay wada leeyihiin kaasoo ku imaanaya xukun wadaag ah iyo mid is-xukun gaar ahaaneed kuna saabsan wajiyo kala duwan iyo siyaasad midaysan ee uu leeyahay hal dal<sup>16</sup>. Hal-ku-dhigyada 'mid kasoo dhexbaxay in badan' iyo 'kala duwanaansho lagu midaysan yahay' ayaa si wanaagsan u muujinaya dabeecadda nidaamka Federaalka.

Qaab dhismeedka midaysan ee dawladaha oo leh heerar kala duwan oo baahsan ayaa ah mid caan ku ah adduunyada. Ugu yaraan 28 dal ayaa isku tiriya inay yihiin dawlado federaal ah. Dawladaha Federaalka waxaa ka mid ah.

Maraykanka, Russia, Germany, India, Brazil, Mexico, Canada, iyo Australia. Marka la eego baaxada Juquraafiga iyo baaxadda dadka deggan dalalkaas federaalka, waxaa ku nool 28da dal in ka badan 40% dadka deggan adduunyada. Qaarada Afrika labada dal oo ugu dadka badan oo kala ah Nigeria iyo Ethiopia, iyo dalka labaad ee ugu wayn dhaqaalaha Afrika oo ah dalka Koonfur Afrika waxay qaateen nidaamka federaalka. Dawlado kale ay ka mid yihiin Kenya iyo Koonfurta Sudan, waxay qaateen nidaamka xukunka baahsan kaas oo leh sifooyin federaal ah. Marka la dhamaystiro hannaanka federaaleynta, waxay Soomaaliya si rasmi ah ugu biiri doontaa bahda dawladaha federaalka ee Afrika.

Federaalka ayaa loo soo qaatay sababo kala duwan oo ay ka mid yihiin xaalado bulsho, siyaasadeed, dhaqaale, dhaqan iyo iyadoo loo eegayo joqoraafiga degaanka. Dalalka Federaalka ah qaarkood ayaa gaaray hormar, kuwo kalena way soo korayaan; qaar ka mid ah ayaa dadkoodu isku mid yihiin, qaarna waxay ku kala duwan yihiin luuqadda, isirka, qabiilka ama diinta; qaar waxay leeyihiin dhul baaxad wayn; halka kuwo kalana ay ku noolyihiin jasiirado; qaar waxay leeyihiin nidaam awoodda xukuumaddu ay si aad ah hal meel ugu uruursantahay, halka kuwo kalana ay leeyihiin nidaam aad u baahsan; qaar waxay ka kooban yihiin labo gobol oo keliya; halka kuwo kalana ya ka kooban yihiin in ka badan 80; qaar waxaa xukuma keligii-taliye kuwo

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<sup>16</sup> Dimitrios Karmis and Wayne Norman 'The revival of federalism in normative political theory' in Dimitrios Karmis and Wayne Norman (eds) *Theories of federalism: A reader* (2005) 1.





## *Buugga Isbar-bardhigga Nidaamka Federaalka Soomaaliya*

kalana waxay leeyihiin nidaamka dimuqraadiga; qaar waxay dhisteen nidaamka madaxtooyo halka kuwo kalana ay ku dhaqmaan nidaamka Baarlamaaniga ah; kuwo kalana waxay leeyihiin nidaam baarlamaani ah oo aan buuxin halka kuwo kalana ay leeyihiin nidaam madaxtooyo aan buuxin; qaar waxay qaateen nidaamka doorashada ee hannaanka (inta badan) halka kuwo kalana ay qaateen nidaamka isku dheellitirka nidaamka doorashada. Sidaa darteed nidaamka federaalka si gaar ah looguma nisbeyn karo arrimo bulshadeed, dhaqaale ama nidaam siyaasadeed oo gaar ah. Arrimaha uu ku wanaagsan yahay nidaamka federaalka waxaa ka mid ah in uu daboolayo daruufo kala duwan ee bulsho, siyaasad, dhaqaale, dhaqan iyo deegaan.

Nidaamka Federaalka wuxuu noqon karaa qaabab tiro badan mana jiro hal qaab oo ugu fiican. Farsamo ahaan, waxaa jira kala duwanaansho u dhexeeya dawladaha federaalka ah marka laga eego awood qaybsiga u dhexeeya heerarka kala duwan ee xukuumadeed; waxyaabaha lagu salaynaayo tirada iyo xudduudaha gobollada; tirada heerarka xukuumadeed ee dastuurka lagu aqoonsaday; wakiillada gobollada ka mataalaya dawladaha dhexe, qaababka lagu xallinayo khilaafaadka u dhexeeya xukuumadaha, iyo dhinacyo kale. Dabacsanaantani waxay Federaalka u oggolaanaysaa in uu buuxiyo durrufo kala duwan; kala duwanaanshaha ayaa micnaheedu yahay in dalalka aysan u hanqaltaagin inay soo qaataan nidaamka dalalka kale balse ay ku dadaalaan inay qaataan nidaam federaal ah oo ka turjumaaya asalka taariikhdooda, duruufahooda iyo qaab-dhismeedkooda bulsho iyo siyaasad ee hadda jira.

Kaddib markii la ansixiyay Axdiga Federaalka ee Ku-meel-gaarka (KMG) ah sanandkii 2004, fikradda federaalka waxay noqotay mid ka mid ah siyaasada ugu muhiimsan Soomaaliya. Dastuurka sida KMG ah loo ansixiyay sanandkii 2012 wuxuu si cad u qeexayaa in Soomaaliya ay tahay Jamhuuriyad Federaal ah (Qodobka 1aad). Hase ahaatee, magaca ka sokow, Dastuurku si cad faahfaahin ugama bixinayo dabeecadda gacan ka gaysan karta qeexidda nidaamka federaalka ee Soomaaliya. Tirada iyo baaxada Dawladaha Xubnaha ka ah Federaalka iyo sidoo kale awoodda u dhaxaysa Xukuumadda Federaalka iyo Dawladaha Xubnaha ka ah Federaalka waxaa lagu qeexi doonaa hannaanka dib-u-eegista Dastuurka ee lagu gudajiro. Dhab ahaantii, nidaamka federaalka iyo heerka ay tahay in awoodda loo baahiyo ayaa ah arrimaha sida aadka ah muranka uga dhasho marka lagu jiro geedi-socodka dhisidda dawladaha.

Taariikh ahaan Soomaaliya waxay u abaabulnayd dawlad midaysan. Sidaa awgeed, aqoonta iyo waayo-aragnimo degaanka laga heli karo ee la xiriira nidaamka federaalka aad bay u kooban tahay. Sidaa darteed, waxaa loo baahan yahay in la dhiso fahmid iyo isafgarad loo dhanyahay oo ku saabsan arrimaha kala duwan ee nidaamka federaalka. Gaar ahaan, waxaa muhiim ah in kuwa ku lug leh arrimaha samaynta Dastuurka iyo geeddi-socodka federaaleynta ay u leeyihiin aqoon wanaagsan qaababka lagu dhisi karo xubnaha ka tirsan federaalka iyo xalalka isbar-bardhigga ah ee la qaata si loo xalliyo arrimaha ka dhexeeya dawlad kale oo federaal ah.

Ujeeddada buuggaan waxay tahay in la soo bandhigo dood isbarbar-dhigid ah oo la xiriirta arrimo kala duwan oo muhiim u ah dawladaha federaalka. Buuggaan wuxuu bixinayaa isbar-bardhig waayo-aragnimooyin balse ma bixinayo jawaab diyaar ah oo



## *Buugga Isbar-bardhigga Nidaamka Federaalka Soomaaliya*

la xiriira su'aalaha adag. Waxaa keliya uu tilmaamayaa kana hadlayaa xulashooyin kala duwan oo looga jawaabayo su'aalaha ay dhici karto inay soo baxaan marka lagu jiro geedi-socodka federaaleynta Soomaaliya. Doodda isbarbar-dhigidda waxaa loogu talagalay si loo wargeliyo go'aanada lla xiriira qaabka iyo isu-gaynta nidaamyada hay'adaha ku haboon kana turjumaya himilooyinka iyo taariikhda Soomaaliya, sha-cabkeeda iyo qaab-dhismeedka bulshadeeda. Gaar ahaan, Soomaaliya waa dal asaga oo kale aysan jirin, oo ay ku noolyihiin bulsho isku mid ah oo ku kala qaybsan qaab qabiil. Duruufahaan aan lala wadaagin ayaa u baahan xulashooyin iyo abbaareyaal u gooni ah. Waa in la ogaado in buuggaani uusan soo jeedinayn talooyin gaar ah oo ku saabsan nidaam federaal oo ay tahay in la raaco. Xulashada waxaa iska leh oo ay tahay inay sameeyaan dadweynaha Soomaaliyeed iyo wakiilladooda sharciga.

Isbar-bardhigidda xulashooyinka kala duwan ee la xiriira qaababka kala duwan ee nidaamka federaalka waa in mar kasta lala eegaa qaab-dhismeedyada ballaaran ee dastuurka, hay'adaha iyo waxqabadka iyo sidoo kale nidaamka siyaasadeed, taariikheed iyo bulshadeed ee jira. Xulashooyinka hay'adaha waa in aan la iska mala-awaalin. Xulashooyinka qayb kasta ee nidaamka federaalka waxay yeelan kartaa saameyn kala duwan taasoo ku xiran isugaynta xulashooyin go'aanno ee dhinacyo kale.

Buuggaani wuxuu khuseeyaa kuwa sida tooska ah ugu hawlan geedi-socodka nidaamka federaalaynta Soomaaliya, oo ay ka mid yihiin Guddiga La-socodka, Dib-u-eegista iyo Hirgelinta Dastuurka ee Baarlamaanka, Guddiga Madaxabannaan ee Dib-u-eegista iyo Hirgalinta Dastuurka, Guddiga Xuduudaha iyo Federaaleynta, Wasaaradda Arrimaha Gudaha iyo Federaaleynta, Wasaaradda Dastuurka iyo sidoo kale Wasaaradda Garsoorka. Arrimaha ku xusan buuggaan waxay sidoo kale faa'ido u leeyahiin maamul goboleedyada jira iyo kuwa soo ifbaxaya, hay'adaha caalamiga ah, Qaramada Midoobay iyo ururada bulshada rayidka ah. Mar haddii la ansixiyo Dastuurka kama dambaynta ah, buuggaan wuxuu waxtar u yeelanayaa dhammaan kuwa ku hawlan hirgelinta Dastuurka. Sidoo kale, wuxuu waxtar u leeyahay inuu tilmaamo arrimaha khilaafaadka lagu xallin karo oo soo bixi kara marka la dhameystiro geedi-socodka samaynta nidaamka federaalka.

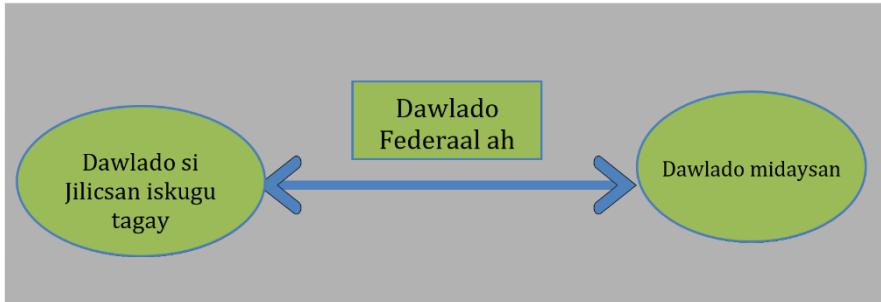
### **Isticmaalka Erayada**

Federaalo kala duwan ayaa adeegsada magacyo kala duwan si ay u sharaxaan heerarka kala duwan ee dawladda. Buuggaan wuxuu isticmaalayaa erayo la isku beddeli karo sida **federaal**, **dhexe**, **iy** **qaran** oo loola jeedo mas'uuliyiinta maamuleysa awooda federaalka. Sidoo kale waxaa ka mid ah erayada la isku beddeli karo **gobol**, **xubin ka tirsan federaalka** oo loola jeedo xubnaha uu ka kooban yahay federaalku. Waxaa sidoo kale la isku beddeli karaa erayada tilmaamaya **degmo ama dawladda hoose** taasoo tilmaamaysa heeraka hoose ee xukuumadeed oo ka tirsan gobollada. Erayada **qaran**, **dal ama waddan** iyagana waxay tilmaamayaan guud ahaan qaranka.



## B. Nooca Dawladaha

Tan iyo markii uu soo ifbaxay qaran dawlad ah oo noqday nidaamka ugu caansan ee heer qaran iyo mid caalami ahba dawladahu waxay isku abaabuleen siyaabo kala duwan. Qaab-dhismeedyada dawladaha sida aadka ah loo yaqaan ayaa ahaa nidaamka midaysan, federaalka ama dawlado si jilicsan iskugu tagay (confederation). Sawirka soo socda wuxuu muujinayaa saddexda qaab ee nidaamka xukuumadeed.



### I. Dawlodo si jilicsan iskugu tagay

Dawlodo si jilicsan iskugu tagay waa nidaam xukuumadeed ay sameeyeen dawlado madaxbanaan si ay u gaaraan ujeeddo ka wada dhaxaysa oo ku saabsan arrimo

**Dawladaha si jilicsan iskugu tagay mid kasta waxay haysanaysaa xoriyadeeda. Xukuumadda ka dhaxaysa waxaa abuuray lana xisaabtamaya dawladaha dhisay.**

dhaqaale, siyaasadeed, amni ama dano kale. Waa ururo ama dawlado madaxbanaan oo isku tagay oo leh awood xaddidan si ay u gaaraan hadaf gaar ah iyo ujeeddo ka dhexeysa<sup>17</sup>. Dawladahaas waxay si buuxda u haysanayaan madaxbanaanidooda waxayna si toos ah uga noqon

karaan isku biiridda. Arrimaha ugu waaweyn ee nidaamka dawaldo isku tagay waxay hoos imaanayaan dawladohooda iyagoo ku tiirsan awoodeeda iyo dhaqaalaheeda xubintaas dawladeed. Dawladdu waxay leedahay awoodaha iyo hay'adaha iyadoo si madaxbanaan uga mid ah dawladahaas isku biiray ayna ogolaatay inay u wakiilato. Sidoo kale dawladaha isku tagay ma lahan ilo dakhli madaxbanaan waxayna guud ahaan ku tiirsan yihiin deeqaha ay bixiyaan xubnaha dalalka ka tirsan.

Waxaa intaa dheer, in guud ahaan xukuumaddu aysan wax xiriir toos ah la lahayn shacabka. Taas micnaheeda wuxuu yahay in isutagga uu saamaynayo dawladaha xubnaha ah, balse uusan saamaynayn shacabka. Sidoo kale go'aannada dawladaha isku tagay si toos ah uma saamaynayaan shacabka. Go'aannada ay gaaraan dawladaha

<sup>17</sup> Martin Diamond 'What the framers meant by federalism', in Robert A Goldwin (ed) A nation of states: Essays on the American federal system (1961) 27.

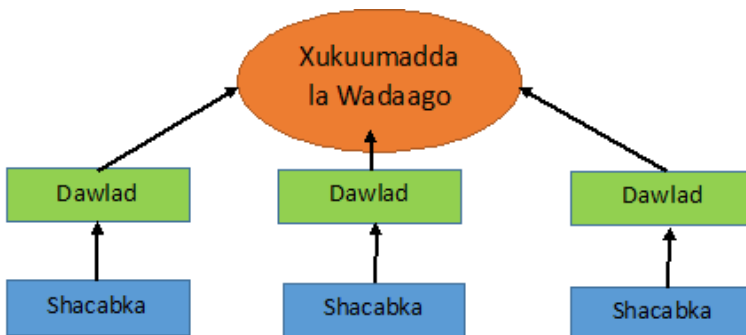


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isku tagay waxay waajib ku noqonayaan shacabka marka xubinta ka tirsan ay ogo-laato in go'aankaas lagu fuliyo gudaheeda.

Labada dal ee ugu horeeyay nidaamka federaalka ayaa ah dalka Mareykanka iyo Switzerland, kuwaasoo horay u ahaayeen dawlad si jilicsan iskugu tagay. Maanta nidaamka dawladaha isku tagay ayaan ahayn mid caan ah. Inkastoo Dastuurka Emaaraatka Carabta uu tilmaamayo in uu yahay 'dal federaal' ah haddana waxay u egyahay nooc dawladaha isku tagay. Marka la eego awoodaha gaarka ah ee xubnaha ka tirsan federaalka waxaa loo qaadan karaa in uu yahay nidaamka dawladaha isku tagay ee casriga ah. Fulinta iyo sharci dejinta waxaa iska leh golaha sare ee xukunka haysta oo ka kooban toddobo gobol oo midoobay. Aqalka sharci-dejinta ee federaalka ayaa ah guddi talo siinaya golaha sare. Si kastaba ha ahaatee Dastuurka Emaaraatka si rasmi ah uma aqoonsana xubnaha ka tirsan inay yihiin dawlad madaxbanaan. Had-daba, midowga Emaaraatka Carabta qaab dhismeedkiisa waa mid isugu jira nidaam federaal iyo dawladaha isku tagay. Tusaale kale waxaa ka mid ah Midowga Yurub (EU). Xubnaha ka tirsan Midowga Yurub waxay haysanayaan awoodohooda gaarka iyo arimahooda gudaha iyo siyaasadooda arrimaha dibadda. Intaas waxaa dheer in Midowga Yurub ku tiirsan tahay dhaqaalaha uga yimaada dawladaha ka tirsan midow-ga. Kuwani ayaa ah qaabab ka tirsan nidaamka dawladaha isku tagay. Si kastaba ha ahaatee, midowga yurub wuxuu dejiyaa shuruuc si toos ah u khuseeyso wadamada xubnaha ka ah. Sidoo kale waxay leeyihiin baarlamaan si toos ah loo soo doorto iyo hay'ad garsoor ee dhaqangelisa sareeynta shuruucda Midowga Yurub. Kuwaan ayaa ah qaab ka mid ah nidaamka federaalka. Sid midowga Emaaraadka Carabta, Midowga Yurub isna waxaa lagu tilmaamaa nidaamka isku dhafka ah ee federaal iyo dawladaha isku tagay.

### **Qaab-dhismeedka Nidaamka dawladaha isku tagay**





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**II. Dawladaha Nidaamka Midaysan**

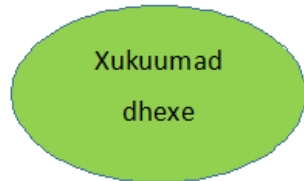
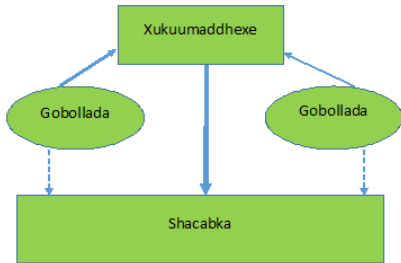
Dawladaha nidaamka midaysan leh waa qaab xukuumadeed ee awoodaha oo idil ay fulinayso hal xukuumad oo keliya. Dawladaha badan ee caalamka ka jira waxay leeyihiin qaab dhismeedka nidaamka dawladda dhexe. Si kastaba ha ahaatee nidaamka dhexe ma ahan mid caadi ah. Xukuumadaha nidaamka dhexe badanaaba waxaa loo sameeyay sababo la xiriira maamul wanaagga, iyo maamulidda heer hoose ee la gaarsiinayo heerarka kala duwan ee xukuumadeed taasoo mararka qaar lagu xusayo dastuurka. Heerarka hoose ee maamul badanaaba wakiillo kuma lahan xukuumadda dhexe. Sidoo kale xukuumadda dhexe mararka qaar waxay baabi'inaysaa ama dib u qaabayn ku samaynaysaa maamuladda hoose ee xukuumadaha ama dawladaha hoose ama wax ka beddeleysaa awoodahooda.

**Dawladaha nidaamka midaysan, xoriyadda dawladdu waa mid aan qaybsanayn. Maamullada hoose ama xukuumdaha gobollada, haddii ayba jiraan waa mid ay abuurtay xukuumadda dhexe ayna baabi'in karto.**

Sidoo kale sifooyinka ugu waawayn ee dawladda dhexe ma ahan jiritaanka hal heer dawladeed ama heerka baahinta awoodaha. Waxay leedahay awood sharci ay xukuumadda dhexe ay ku soo saari karto ama wax uga beddeli karto maamullada hoose awoodahood. Heerarka hoose ee xukuumadeed ee ka tirsan dawladaha dhexe waxay hoos yimaadaan xukuumadda dhexe taas oo awood u leh inay dhisto ama baabi'iso waqtii ay doonto.

**Dawlad midaysan oo leh awood baahsan**

**Dawlad midaysan oo leh awood dhexe**



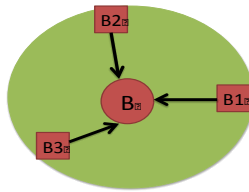
*FG: Fallaaraha googo'an waxay tilmaamayaan in ay dhici karto ama aysan dhici karin in shacabku uu si toos ula xisaabtamo gobollada, halka fallaaraha isku xiran ay tilmaamayaan la xisaabtan toos ah.*

Dhismaha unugyada ka tirsan maamullada ama dawladaha hoose waxaa ikhtiyaar u leh dawladda dhexe. Dawladda dhexe ayaa sidoo kale go'aaminaysa heerarka hoose ee maamul. Iyadoo ku xiran awoodda ay leeyihiin dawladaha hoose ama maamullada, baahinta awoodaha ee nidaamka dawladda dhexe waxay ku imaan karaan qaabab kala duwan.



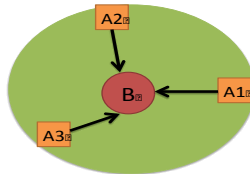
### *Buugga Isbar-bardhigga Nidaamka Federaalka Soomaaliya*

- Marka hore, xukuumadda dhexe waxay si fudud u **baahinaysaa** adeegyadeeda si ay u gaaraan dhamaan shacabka deggan qaybaha kala duwan ee dalka. Baahintaas xukuumadda dhexe ma ahan mid leh shakhsiyad hay'adeed. **Baahintaas** waa qaabka ugu liita ee nidaamka baahinta kaasoo abuuraya laan fulinta oo keliya. Dawladda dhexe ma dhisayso heer cusub oo xukuumadeed. Tusaale ahaan, waddamada qaarkood baasaboorada waxaa laga bixiyaa oo keliya caasimadda. Si loo gaaro ujeeddada ah in la gaarsiyo goobaha ka baxsan caasimadda, dawladda ayaa laga yaabaa inay ka dhisto gobollada xafiisyo baxiya baasaboorka.



*F.G: isku ekaashaha midabadu waxay muujinaysaa in waxyaabaha lagu aqoonsado is dul saarmayaan. Fallaaraha buuxa waxay tilmaamayaan in xukuumadda dhexe ay la-xisaabtamayso gobollada.*

- Tan labaad, dawladda dhexe waxay dhisi kartaa heerar hoose ee xukuumadeed taasoo ay u **wakiilanayso** qaar ka mid ah awoodaheeda taasoo ku qaabaysan heshiis maamul hay'adeed. Heerarka hoose ee xukuumadeed ayaa markasta waxaa beddeli kara xukuumadda dhexe. Dawladda dhexe ayaa mas'uul ka ah fulinta awoodaha dawladdaha hoose waxayna siinaysaa tilmaamo toos ah ayada oo wax ka beddeli karta ama diidi karta go'aanada dawladda hoose. Si kastaba ha ahaatee dawladdaha hoose waxay yeelan karaan awoodo ilaa heer ay wax ku fulin karaan ayaga oo raacaya xeerarka iyo tilmaamaha la siiyay.

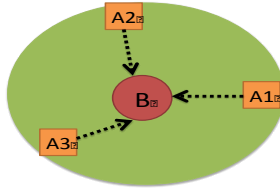


*F.G: Xaqiiqda in goboladu ay leeyihin midabo kala duwan, ayaa tilmaamaya inay dhab ahaan kala duwan yihiin. Fallaaraha buuxa waxay tilmaamayaan in dawladda dhexe la-xisaabtamayso gobollada.*



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- Qaabka ugu wayn ee baahinta awoodaha ee la xiriirta nidaamka dawladda dhexe waa **baahinta awoodaha**. Baahinta awoodaha waxaa lagama maarmaan u ah inay jiraan heerar hoose ee dawladeed kuwaas si toos ah ay shacabku ula xisaabtamaan. Sidaa daraadeed waxaa jira ilaa heer siyaasad baahsan ee nidaamka baahinta buuxda. Si kastaba ha ahaatee dawladda hoose waxaa sidoo kale la xisaabtamaya dawladda dhexe. Mar hadii awooda baahinta la siiyay dawladda hoose awoodahaas waxay u adeegsanayaan si madaxbanaan waxayna mas'uul ka yihiin fulinta awoodahaas. Dawladda dhexe ma diidi karto waxna kama beddeli karto go'aanada dawladda hoose. Waxay siin kartaa oo keliya tilmaamooyin balse ma faragashan karto howlmaalmeedka dawladda hoose.

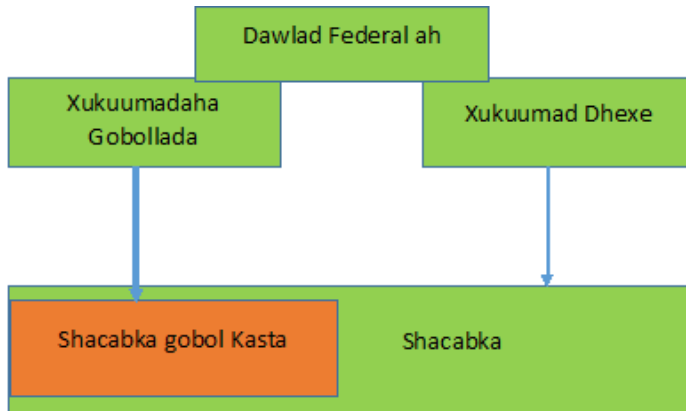


F.G: Xaqiiqda in goboladu ay leeyihiin midabo kala duwan ayaa tilmaamaya inay dhab ahaan kala duwan yihiin. Fallaaraha gogo'an waxay tilmaamayaan in xukuumadda dhexe ay ku leedahay gobollada la xisaabtan kooban.

Baahinta awoodahawaa mid caadi ka ah dawladda nidaamka dhexe. Dawladda nidaamka dhexe badankood waxay baahinta kooban ku kordhiyaan wakiilasho ilaa heer. Dawladda nidaamka dhexe leh qaarkood ayaa leh astaamaha baahinta awoodaha. Marka wakiilashada iyo baahinta ay ku timaado nidaamka baahinta buuxda shacabka ayaa si toos ah u soo dooranaya lana xisaabtamaya saraakiisha dawladda hoose oo ku imaanaya qaab xisbiyadeed. Waxay kaloo yeelanayaan qaab siyaasadeed taasoo dawladda hoose ay go'amaaniyaan siyaasada deegaankooda sida waxbarashada, kaabayaasha dhismaha deegaanka ama aminga. Marka ay jirto nidaamka baahinta canshuuraha, dawladda hoose waxay si toos ah u kharaj gareenayaan dhaqaalaha. Sidoo kale dawladda hoose waxaa loo ogolaanyaa inay uruuriyaan dhaqaale kaga imaanaya canshuuraha iyo khidmooyin kale.



### III. Dawladaha Federaalka ah



Dawladaha federaalka ah waxay ku imaanayaan marka ugu yaraan labo heer xukuumadeed ay ku fulinayaan awood dastuuri ah hal wadan iyo hal shacab dhexdiisa. Heerarkaa kala duwan ee xukuumadeed ma ahan kuwo dhexdooda isla xisaabtama. Taas beddalkeeda dawlad kastaba waxay leedahay awood si toos ah uga timid shacabka iyo mid madaxbaannaan oo Dastuureed oo ay ku jiraan awood uruurin dakhli iyo bixin kharaj iyo sidoo kale hirgelinta siyaasado la xirriira arrimo uu tilmaamay dastuurku.

Astaanta dhexe ee lagu garto dawladaha federaalka ah ma ahan in ay jirto labo heer xukuumadeed oo keliya ama baahinta awoodda ilaa heer balse waa awoodaha dastuurka siiyay heer kasta ee xukuumadeed oo midna keli-geed aysan wax ka beddeli Karin. Dhab ahaantii, dawladaha qaarkood oo ku dhaqma nidaamka dhexe sida dalka Kenya iyo Boqororootayada Ingiriiska, ayaa dhistay heerar xukuumadeed hoose waxayna sameeyeen awood ka baahsan tan dawladaha federaalka. Si kastaba ha ahaatee, baahinta awoodda ee nidaamka dhexe sida dawladda Boqortooyada Ingiriiska awoodaha oo idil ee dawladaha hoose waa kuwa ay wax ka beddeli karto dawladda dhexe.

**Nidaamka federaalka, xornimada waxaa loo qaybiyaa ugu yaraan labo xukuumadood. Xukuumad kasta waxay leedahay is-xukun dastuuri ah waxayna si toos ah uga heleysaa sharcinimadeeda iyo awoodaheed dastuurka iyo shacabka.**





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### **1. Askumidda dawladaha federaalka ah**

Dawladaha federaalka ayaa ku askuma habraacyo kala duwan. Habraacyada federaaleynta ee sida badan la adeegsado ayaa kala ah.

#### ***Federaalka isku-biiridda/isku-imaashaha***

Dawlad federal ah ayaa mararka qaarkood ka askunta isku-biiridda dawlad horay u haystay madaxbannaani oo iskugu yimid nidaam federal ah. Dawladaha horay u haystay madaxbannaanida ayaa ku heshiia inay ku wareejiyaan awoodahooda qaarkood xukuumadda dhexe oo hadda la dhisay. Si kastaba ha ahaatee, dawladihii aslka ahaa lama xisaabtami karaan xukuumadda dhexe; balse waxaa si toos ah ula xisaabtamaya dadweynaha. Taas micnaheedu waxuu yahay in heer kasta ee xukuumadeed ay ka heleyso awoodeeda sharciyeed dadweynaha, kuwaan oo kala xisaabtami kara awoodaheeda ku qeexan dastuurka. Qaabka xukuumadda federaalka ah ee lagu abuuray isku-biiridda ayaa badanaaba la dhisaa marka nidaam dawlad si jilicsan isku tagay ay ku guuldarreystaan inay gaaraan hadafkii ka dhaxeeyay.

Tusaale ahaan, Dawladda Maraykanka ayaa waxaa loo dhalan-rogay dawlad federal ah kaddib markii dawladihii sida jilicsan iskugu tagay oo ay dhiseen qaramadii madaxbannaana ee 13ka waagaas ahaa ay gaari weeyeen ujeedooyinkii dhaqaale iyo kuwii amni taas oo ay ugu wacnayd awoodaha tabarta yar oo ay lahayd xukuumaddii ka dhaxaysay. Qaramadii 13ka ahaa ayaa markaas go'aansaday inay dhisaan xukuumad federal ah oo leh awoodo xooggan iyo saldhigmaaliyadeed oo madaxbannaan, oo markii dambe ay ku soo biireen dawlad kale oo tiradoodu dhantahay 37. Sidaas oo kale ayaa federaalka Switzerland markii hore dawlad (cantons) madaxbanaan u dhiseen nidaamka dawlad si jilicsan iskugu tagay, waxaan qarnigii 19aad loo dhalan-rogay nidaamka federaalka. Federaalka Jarmalka ayaa sidaas oo kale u xub-siibtay.

#### ***Federaalka kala-sooc/isku-hayn***

Dawladaha federaalka badankood ayaa ku abuurmay hannaanka kala-sooca. Dawlada horay u lahaan jirtay nidaam midaysan ayaa loo rogay dawlad federal ah. Waxaa habraacaan loo yaqaan federaaleynta isku-haynta, micnaheeda intii ay u kala jabti lahaayeen dhawr qaran oo madaxbannaan ayaa dawladdii mideysnayd waxay dhisaysaa ama aqoonsanaysaa xukuumado goboleed, waxayna ku wareejinaysaa awoodo. Nidaamka federaalka ayaa badanaaba ah halka ugu saaraysa (waaqici ahaan iyo qaanuun ahaan) taariikhda baahinta awoodaha iyo hay'adaha. Dhammaan dawladaha federaalka ah ee Afrika, oo kala ah Nigeria, Etobiya iyo Koofur Afrika ayaa ku abuurmay hannaanka kala-sooca ee dawlad horay u mideysnaa.

#### ***Isku-biirid iyo kala-sooc isku jira***

Dalalka federaalka qaarkood ayaa ku abuurmay nidaam iskugu jira isku-biirid iyo kala-soocid. Dawlad horay u heystay madaxbannaani ayaa isku imaanaya si ay u samaystaan dawlad federaal ah. Isla waqtigaas, ayaa dawladahaas madaxbannaan



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qaarkood ama dhamaan waxay gudahooda u sii kala qaybsamayaan gobollo. Tusaale ahaan dalka Canada oo ka abuurmay isku biiridda mustacmaradihii hore ee Ingiriiska ku lahaa Waqooyiga Maraykanka (British North America) oo kala ahaa Nova Scotia, New Brunswick iyo Midowga Gobolka Kanada (United Province of Canada). Ugu danbeeyntii Midowga Gobolka Canada ayaa u kala qaybsamay labo gobol oo kala ah Ontario iyo Quebec. Lix gobol oo kale ayaa goor danbe ku so o biiray federaalka.

### **Samaynta Nidaamka Federaalka ee Soomaaliya**

Nidaamka Federaalka Soomaaliya guud ahaan waxay ku yimid kala soocidda nidaamkii hore ee dawladda mideysnayd. Si kastaba ha ahaatee, marka la eego heerka madaxbanaanida ay Puntland ku naaloonayso kaddib intii la sameeyay sanadkii 1998 ayaa soo galiddeeda federaalku dhisi kartaa qaabka ku biiridda qaybaha kale ee Soomaaliya (waxaa sidaas oo kale ah gobolka iskiis ugu dhawaaqay madaxbanaanida ee Somaliland haddii uu ku soo biiro nidaamka federaalka). Siddas darteed, waxaa lagu doodi karaa in nidaamka federaalka Soomaaliya uu ugu dambeynta iskugu jiro isku-biirid iyo kala-soocid.

## **2. Qaababka nidaamka federaalka**

Dawladda Federaalka waxay ku yimaadeen qaabab kala duwan. Iyadoo ay ku xiran tahay dabeecada iyo heerka awoodaha nidaamka sare iyo iskaashiga xukuumadaha iyo awoodaha wadaaga ah ayaa waxaa loo kala saari karaa nidaamka federaalka la-maanaha iyo iskaashiga.

### ***Federaalka Labaaleha ah***

Federaalka labaaleha wuxuu si cad u qeexayaa kala qaybsanaanta awoodaha xukuumadda federaalka iyo xukuumadaha gobollada. Heer kasta oo xukuumadeed waxuu leeyahay laamaha xeer-dejinta, fulinta iyo garsoorka oo u gaar ah, kuwaasoo soo saaraya, fasiraaya isla markaana dhaqangelinaya shuruudooda iyo siyaasadahooda. Ma jiro wax si cad u qeexayo dhisidda awoodaha wadaaga ah taasoo lagama maarmaan u ah iskaashiga xiriirka joogtada ah. Nidaamka federaalka labaaleha ah waxuu badanaaba ku yimaada dawlado federaal ah oo ku dhismay habka isku biiridda. Dastuurada Canada, Australia iyo Maraykanka ayaa asal ahaan dhisay nidaamka federaalka labaaleha ah, maadaama aysan sii arkaynin awoodo isbar-bar socda. Si kastaba ha ahaatee, arrimaha la xidhiidha siyaasadda, dhaqaalaha iyo bulshada oo adag dartood ayaa waxay keenaysaa in si cad loo qaybin waayo awoodaha maadaama ay jiraan arrimo badan oo keenaya baahida loo qabo iskaashi iyo wax-wada-qabsi dhexmara xukuumadaha. Dhab ahaantii heerarka kala duwan ee xukuumadeed ee seddexdan dawladdood waxay aad iskaga kaashadaan arrimo badan oo kala duwan isla markaana maxkamadahana waxay ansixiyaan qaababkaas maadaama si cad ugu qeexnayn dastuuradooda.



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### ***Federaalka iskaashiga ku dhisan***

Nidaamka federaalka iskaashiga ku dhisan wuxuu si cad u qeexayaa xiriir iskaashi iyo wax wada qabsi u dheexeeya heerarka kala duwan ee xukuumadeed. Waa arrin caadi ah in dawlada federaalka ay ku samaysmaan habka kala tegista. Nidaamka iskaashiga federaalka wuxuu caadi ahaan yahay mid leh awooda wadaaga ah taasoo lagama maarmaan u ah in si rasmi ah isku kaashadaan heerarka xukuumadaha kala duwan. Dawladaha Koonfur Afrika iyo Jarmalka dastuuradooda waxaa ku qoran mabaadiida iskaashiga federaalka oo si cad ugu qeexan tahay heerarka awoodaha wadaaga ah. Dastuurada federaalka ah waxay qorayaan awood tiro badan oo wadaag ah oo lagama maarmaan u ah iskaashiga hay'adaha u dheexeeya xukuumadaha.

### ***Federaalka maamuleed***

Nidaamka federaalka maamuleed waa qaab gaar ah ee iskaashiga nidaamka federaalka ee xukuumadda dhexe ee badanaa ay ansixinayso siyaasada guud, halka maamullada gobollada ay hirgelinayaan siyaasadaas iyo sharcigaas ay soo ansixisay xukuumadda dhexe. Xukuumadda dhexe waxay ku xiran tahay maamullada gobollada inay fuliyaan shuruucdaas iyagoo iska leh hay'ado kooban oo maamul. Heerarka xukuumadaha hoose waxay leeyihiin siyaasad madaxbanaan oo kooban. Dastuurka Jarmalka wuxuu dhaqan gelinayaa mabaadi'ida maamuleed ee federaalka. Si kastaba ha ahaatee xukuumadaha gobollada waxaa u dheer samaynta siyaasad ku kooban meelo dhif ah, inay ku hawlan yihiin siyaasadda uu dejinayo aqalka labaad ee baarlamaanka (Bundesrat).

### ***Federaalka iskaashiga v federaalka labaaleha/baratanka ah***

Nidaamka federaalka iskaashiga wuxuu leeyahay faa'idooyinka dabacsanaanta iyo wax wadaqabsi nidaamsan oo joogto ah. Hase ahaatee, wuxuu u baahan yahay in la helo iskaashi, niyad-sami iyo isku-tanaasulid heer sare ah, kuwaas oo ay adag tahay in la helo gaar ahaan marka xisbiga siyaasadeed ee maamula xukuumadda dhexe uusan ka talin xukuumadaha gobollada. Markay meesha ka maqan yihiin niyadsami iyo isku-tanaasulid waxaa imaan kara isk-horimaad, ismarinwaa iyo dib-u-dhac ku yimaada go'aan ka gaarista arrimo muhiim ah. Dhinaca kale, nidaamka federaalka labaaleha ah wuxuu ogolaanayaa in heer kasta oo xukuumadeed ay u adeegsato awoodaheeda si ka madaxbanaan midka kale. Hase yeeshee, federaalka labaaleha ah waxa uu u baahan yahay in la helo dhaqaale ballaaran oo lagu socodsiiyo maamullada isbar-barsocda ee hay'adaha xukuumadda federaalka iyo kuwa gobollada. Sida dhaqanku yahay, federaalka labaaleha ah wuxuu wiiqi karaa baahida loo qabo iskaashi joogta ah ee u dhexeeya xukuumadaha gobollada dhexdooda iyo kan ay la yeeyihiin xukuumadda federaalka.



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Dastuurka sida KMG ah loo ansixiyay si buuxda uma qeexayo kala qaybsanaanta awoodaha u dhexeya xukuumadda dhexe iyo Dawladaha Xubnaha ka ah Federaalka. Waxa aan caddayn awoodaha gaarka ah iyo kuwa wadaaga ah ee u dhexeeya labada heer xukuumadeed taasoo la caddayn doono marka Dastuurka kama danbaynta ah la ansixiyo. Waxaa la hubin in Xukuumadda Federaalka ay dhisii doonto dhamaan ama badi hay'adaha maamullada ama inay ku tirsanaan doonto hay'adaha maamuleed ee Dawladaha Xubnaha ka ah Federaalka taasoo loo baahan yahay in lagu qeexo Dastuurka kama dambaysta ah. Si kastaba ha ahaatee, Dastuurka sida KMG ah loo ansixiyay wuxuu qorayaa mabaadii' badan oo lagu xoojinayo iskaashiga iyo wax wada qabsiga u dhexeeya heerarka kala duwan ee xukuumadeed (Qodobka 50aad). Ugu dambayntii waxaa loo baahan yahay in dastuurka uu sameeyo qaabab lagu hormarinaayo iskaashiga iyo wax wada qabsiga xukuumadaha dhexdooda ee heer siman iyo heer kala sareeya. Tusaale ahaan Dastuurka wuxuu faraya kulan joogta ah sanadkiiba mar la qabanayo oo u dhexeeya madaxda fulinta ee xukuumadda federaalka iyo xubnaha ka tirsan federaalka (Qodobka 51). Sidoo kale wuxuu faraya kulamo joogta ah oo u dhexeeya Madaxweynayaasha Dawladaha Xubnaha ka ah Federaalka iyo saraakiisha sare si ay uga wada xaajoodaan arrimo khuseeya deegaanadooda (Qodobka 52).

### **3. Ujeedooyinka nidaamka federaalka**

Ujeedooyinka nidaamka federaalka waxay tahay in lagu gaaro arimo badan oo kala duwan oo ku xiran xaalado kala duwan oo sababay in la sameeyo qaabka federaalka. Tilmaamidda ujeedooyinka ka danbeya go'aanka lagu dhisayo dawlad federaal ah waa mid aad muhiim u ah madaama u sheegayo kala qaybinta awoodaha iyo sidoo kale dib u qaabiynta dawladda (tirada, baaxadda iyo xuduudaha gobollada).

Ujeedada asalka ah ee qaab dhsimeedka federaalka waxay kaloo tilmaamaysaa xiriirka iskaashiga ee xukuumadaha u dhexeeya iyo sidoo kale fasiraada sharciga ee la xiriira awoodahaas.

#### ***Sababo waxqabad***

Wadamada federaalka ah oo ku samaysamay habka isku biirida, ujeedada ugu waynee qaabka federaalka waxay tahay inay sare u qaadaan amniga iyo difaaca iyo in ay balaariyaan suuqa ka dhexeeya ee badeecadooda (sababo hawleed awgeed), iayagoo xukuumad kasta haysanaysa awoodeheeda gaarka ah. Tusaale ahaan, dalalka Maraykanka iyo Switzerland waxay ka samaysmeen ka dib nidaamka xukuumadeed ee Isu tagay ka ah oo dawlad madaxbanaan isku yimid ay gaari waayeen hadafkii ay ka lahaayeen, oo ahaa inay xoojiyaan difaaca iyo suuqa ka dhexeeyay.

#### ***Sababo dimuqraadi ah***

Sababaha keenay in la qaato nidaamka federaalka ah ee ah kala tegidda waxay tahay in la xoojiyo is-xukun, ka qaybgal siyaasadeed iyo la xisaabtan (sababo dimuqraadi ah awgeed). In loo ogolaado heerar kasta oo xukuumadeed oo hoose (ama dawlad go-



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boleedyada) inay go'aan ka gaaraan oo ay hirgeliyaan siyaasadooda khuseeysa de-gaankooda, si loo xaqiijiyo is-xukunka gaarka u leeyihiin shacabka degan gobol kasta waxay leeyihiin mas'uuliyiin awood leh oo lala xisaabtamayo ayna hirgelinayaan shu-ruucda iyo siyaasada deegaankooda. Nidaamka federaalka wuxuu ogolaanayaa in shacabka si toos ah uga qayb qaataan habka go'aan gaarista arrimaha gaarka ah ee khuseeya. Intaa waxaa dheer, samaynta heerarka kala duwan ee xukuumadeed waxay u abuuraysaa fursado shakhsiyaad badan si ay u qabtaan xafiis xukuumadeed.

### ***Habka mudnaansiinta***

Si loo hormariyo is-xukunka ayaa nidaamka federaalka wuxuu oggolaanayaa xuku-umadaha heerka hoose inay go'aanadooda ku saleeyaan baahida iyo doonista sha-cabka, taas oo loola jeedo in heer kasta oo xukuumadeed ay hortabinadeeda ay u dhigmaan arrimaha mudnaanta u leh shacabka uu go'aankeeda saameynayo. Tusaale ahaan, waxaa dhici karta in dawladda leh nidaamka midaysan ay siyaasad qaran ka dhigato siinta waxbarashada hortabinta. Hase ahaatee, degaanada qaarkood ayaa mudnaan siin kara in la sameeyo xarumo caafimaad, ama biyo ama in la dhiso biyo-mareeno halka ay mudnaanta ka siin lahaayeen dugsiyada.

### ***Xaddidaadda in awoodahu hal meel ku soo uruuraan***

Nidaamka federaalka wuxuu sidoo kale xaddidayaa in si kalitalisnimo ah awoodahu hal meel ku soo uruuraan. Maadaama uu baahinayo awoodda, ayaa nidaamka fed-eraalku waxuu fidinayaa awooddii dhexe, waxuuna fududeynayaa soo ifbaxa koox yar oo awood sare leh ee heer gobollo kuwasoo ka jawaabaya bahida deegaankooda isla markaana ay dadweynaha degaanku la xisaabtami karaan halka ay wax ka weydiisan lahaayeen koox yar oo awood leh ee heer qaran. Kalsooni-darada lagu qabo kooxaha yar ee haysata awoodda siyaasadeed ee qaranka ayaa si aad ah u badnaan karta mar-ka la eego dalalka dadkeedu ay ku kala duwan yihiin dhanka luuqadda, isirka ama diinta.

### ***Soo dhaweynta kala duwanaanshaha bulsho qura***

Nidaamka federaalka wuxuu oggolaanayaa in bulsho yar oo illaa iyo heer iskaga mid ah dhaqanka, isirika ama diinta ay dhawrato isla markaana hormariso waxyaabaha u gaarka ah ee lagu garto ayada oo dhex joogta degaankeeda ka tirsan federaalka. Waxay kaloo ka faa'idaysanaysaa ka mid ahaanshaha dawlad weyn oo ka dhaqaale badan oo ay la wadaagto xiriir taariikheed ama mid sokeeyenimo<sup>18</sup>. Maadaama ni-daamka federaalku u oggolaanayo madaxda qaranka iyo kuwa gobollada inay si dastuurka waafaqsan u wadaagaan awoodaha iyo kheyraadka ayay taasi waxay fududaynaysaa wada-noolaansho umado kala duwan, daacadnimadooduna ay kala duwantahay isla markaana waxay hoos u dhigaysa khilaafaadka kooxaha dhexdooda ka jira. Habka nidaamka federaalka ah wuxuu caawinayaa inuu soo dhaweeyo tar-

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<sup>18</sup> Dimitrios Karmis and Wayne Norman 'The revival of federalism in normative political theory' in Dimitrios Karmis and Wayne Norman (eds) *Theories of federalism: A reader* (2005) 8.



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tanka isirka ama diinta ka dhex aloosma wuxuuna u keeni karaa heshiis nabadeed dalalka waxyeelada ka soo gaareen dagaalada isirka ama diinta. Xaqiiqdii marka kooxahaas la siiyo is-xukun uu qeexayo dastuurka oo aysan dawladda dhexe kaligeed wax ka baddeli karin waxay taas ka dhigaysaa nidaamka federaalka mid soo-jiita kooxahaas oo ay ka doorbidaan qaababka kale ee lagu baahiyo awoodda dawladda leh nidaamka midaysan.

### **Nidaamka Federaalka:**

- **Wuxuu hormariyaa is-xukunka, ka-qayb-galka siyaasadda, ka jawabidda degdeg ah iyo lixaabtanka;**
- **Wuxuu oggolaanayaa in hay'adaha gobollada iyo degmooyinka ay ku habeeyaan adeegyadooda iyagoo mudnaanta gaarka ah siinaya baahida shacabka degaankooda (mideynta mudnaanta);**
- **Wuxuu xadidi karaa in awooddu ku uruurto gacanta keligii-taliya;**
- **Wuxuu fududeynayaa wada-noolaanshaha bulsho tira badan oo kala nooc, daacadna u ah waxyaabo kala duwan, isla markaasna suurtoagal ka dhigaya xallinta khilaafyada u dhexeeya kooxaha dhexdooda.**

### **Sababaha Soomaaliya ka dhaliyay nidaamka federaalka**

Sababta ugu wayn oo keentay nidaamka federaalka ee baahinta awoodda dalka Soomaaliya waxay u muuqataa iyadaa lagu qanacsanayn laguna hungoobay awooda oo si aad ah ugu uruursanayd hal meel iyo keligii-taliyenimadii ka jirtay xukuumadihii hore. Baahinta nidaamka federaalka waxaa loo arkay inuu noqon karo mid beddeli kara nidaamka midaysan kaasoo taariikh ahaan lala xiriirinaayo keligii-taliyeniimo iyo inuu faquuqay gobollada ka baxsan caasimadda dalka. Waayo-aragnimada laga helay keligii-talisnimada waxay keentay in la aamini waayo madaxda hoggaaminaysa siyaasadda dhexe iyo hay'adaheeda taasoo loo arkay inay maamulayeen shakhsiyaad ka yimid qabiilo dhowr ah.

Waxaa sidoo kale muhimad leh in baahida loo qaabo nidaamka federaalka ay ku sahlaysantahay baahi ka timid in la hormariyo ka-qayb-galka siyaasadda iyo go'aan-gaaridda dadka ku nool deegaanada kala duwan iyo in kuwaan loo xaqiijiyo sidii looga matali lahaa maamulka gobolka iyo midka qarankaba. Nidaamka federaalka waxaa loo arkay inuu siinayo dawladda hoose awoodda ah inay doortaan madaxda ayna la xisaabtamaan siyaasiintooda, halka markii hore ay ahaan jirtay in xukuumadda dhexe ay soo magacawdo saraakiisha dawladda. Sidaa daraadeed, nidaamka federaalka waxaa loo arkay inuu waafaqsanyahay mabaadii'da xukunka dimuqraadiga ah.

Dawladda nidaamka midaysan waxaa sidoo kale lala xiriiriyay inuu ahaa nidaam adeegyada bulshada ay ku urursanyiyeen degaanka caasimadda. Taasi waxay keentay in dadweynaha ku nool meel ka baxsan caasimadda ay u soo safaaran masaafo dheer si ay u helaan adeegyada aasaasiga ah oo ay xukuumadda bixinayso. Taageeridda la



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siinayo nidaamka federaalka waxaa lala xiriirinayaa in awoodda xukuumadda iyo adeegyada guud lagu baahiyo deegaanada oo dhan.

Baahida kaloo keentay nidaamka baahsan iyo federaalka waxay salka ku haysaa qaabka siyaasadeed ee u gaarka ah bulshada soomaaliyeed taasoo ah nidaamka qabiilka. Qaab-dhismeedka bulshada Soomaaliyeed oo ah mid si aad ah u kala firirsan oo aan ku dhisnayn kala sarreyn isuguna biyo shubanaya qabaa'il iyo xigto ayaa soo jiidnaya nidaam siyaasadeed uu qaranku yeesho oo ka jawaabaya xaqiiqooyinka bulshada iyo siyaasadda ee jira. Sidaas darteed, nidaamka federaalka ma ahan mid ku cusub bulshada, taariikhda iyo qaab dhismeedka mujtamaca Soomaaliyeed.

### **4. Faa'iidooyinka iyo Faa'iido-darrada ka dhalan kara nidaamka federaalka**

Faa'idooyinka ama faa'ido-darada nidaamka federaalka waxaa laga eegi karaa dhanka dawladda nidaamka midaysan ama dhisidda ama dhowrista dawlado yar-yar oo xur ah, lehna madaxbanaani.

Nidaamka federaalka wuxuu xaddidaa ilaa iyo xad in kooxo gaar ah sheegan karaan isla markaasna ay dhaqangaliyaan gooni isutaag, taasoo aragti ahaan noqon karta mid aan xad lahayn haddii gobol kasta uu dhowrto xorriyadiisa ama uu doorto inuu ka baxo nidaamka federaalka si u dhisto qaran madaxbannaan. Gobollada marka ay noqonayaa federaal, waxay luminayaan fursadda in ay si buuxda xubin uga noqonayan saaxada bulshada caalamka. Faa'iidooyinka ugu wayn ee nidaamka federaalka marka loo eego kala tagga gobollada ama in gobol madaxbannani u gooniya haysto ayaa waxay tahay u hanqaltaagga dhisidda difaaca iyo amni adag iyo suuq weyn oo la wadaago. Maadaama uu u oggolaanayo gobollada wadaaga taariikh iyo sifooyin lagu aqoonsado inay isku yimaadaan ama ay isla joogaan ayadoo lagu wareejinaayo awood ballaaran oo ay u adeegsanayaan arrimaha qaarkood ayaa keenaysa in nidaamka federaalku uu siiyo awood ay ku gurtaan faa'iidooyinka midnimada asagoo aan si aad ah u wiiqeyn is-xukunkooda ama kala duwanaashahooda. Intaas waxaa dheer in isbahaysiyada dabacsan iyo dawladdaha isku tagay ay sida badan abuuraan dhibaatooyin la xiriira qaadista tallaabooyin loo dhanyahay, waxay oggolaadaan in culaysku uu dhan u bato, waxayna u janjeeraan inay ku dambeeyaan degaanaansho la'aan.

Marka laga eego dhanka dawladdaha nidaamka dhexe oo midaysan leh, nidaamka federaalka wuxuu dhaqangalinayaa mabaadii'da is-xukunka, ka-qaybgalka siyaasadda iyo la-xisaabtan. Marka dhinacaas laga eego, waxaa la lagu doodi karaa in nidaamka federaalka ahi uu uga dhawyahay la socodka mabaadii'da dimoqraadiyada kan nidaamka midaysan. Marka dhanka kale laga eego, nidaamka federaalka wuxuu dhisiyaa tiro xukuumadeed oo kala heer ah kuwaas oo u baahan dhaqaale badan oo lagu maamulo; taas micnaheedu waxuu yahay in kharajka maamulka dawladdaha federaalka uu u janjeero inuu ka sarreeyo kan dawladdaha nidaamka midaysan. Waxaa intaas dheer asaga oo nidaamka federaalku uu siinayo kooxaha awoodda leh ee deegaanada masrax ay ku weydiistaan awoodo dheeraad ah iyo inay ugu dambeynta raadsadaan gooni u goosad ama madaxbannaani. Si kastaba ha ahaatee, awooddaa oo si xad dhaaf ah hal meel lagu uruuriyo aya waxay qarxin kartaa dhaq-dhaqaaq gooni u goosad ah,



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halka baahinta dhabta ah ee awoodda nidaamka federaalka ay qaboojin karto dha-waaqyada gooni isu taagga.

Jadwalka soo socda wuxuu si kooban u qorayaa faa'iidooyinka waaweyn ee suur-togalka ah iyo caqabadaha ka dhalan kara dhisidda nidaam federal ah. Waa in la og-adaa in faa'iidooyinkaas badankood lagu gaari karo ayadoo la raacayo hannaan lagu baahinaayo awoodda dowladda nidaamka midaysan. Faa'iidada ugu weyn ee ni-daamka federaalka ahu leeyahay ayaa waxay tahay xaqiijinta in dastuurku ilaaliyo awoodaha ay leeyihiin dhammaan heerarka kala duwan ee xukuumaddu.

<b>Faa'iidada nidaamka federaalka</b>	<b>Faa'iido darada nidaamka federaalka</b>
<p><b>Gobollada oo lagu tijaabiyo dimuqraadiyada iyo maamul-wanaaga:</b> Maadaama nidaamka federaalku uu oggolyahay in siyaasado lagu sameeyo, lagana hirgaliyo heerar kala duwan ayaa taasi waxay dhiirrigal-ineysaa in la sameeyo tijaabooyin, hal-abuur, baratan caafimaad qaba iyo wadaagga waayo-aragnimda siyaasadaha dimoqoraadiyadeed, bulsho iyo dhaqaale. Halista ka imaan karta tijaabinta siyaasadaha ayaa yar marka lagu sameeyo gobollada marka loo eego heer qaran. Saameynta guul-darrada siyaasadaha ee heer deegaan ayaa kooban, halka guusha lagu dayan karo.</p>	<p><b>Laba laabiyo khilaaf:</b> Xaqiiqada in siyaasada lagu sameeyo heerar kala duwan ayaa horseedi kara ku celceliska siyaasadaha iyo hawlaha xukuumadda hufnaanla'aan, iswafqsaan la'aan iyo iska-horimaadyo. Nidaamka federaalka wuxuu dhiirigalin karaa tartan hoose ee u dhexeeya heerarka xukuumadda asago mid kasta uu isku dayeyo inuu soo jiito maalgalin iyo dadka xirfadda leh iya-goo hoos u dhigaya halbeegyada lagama maarmaanka ah, sida halbeegyada lagu dhawro deegaanka ama shaqaalaha.</p>
<p><b>Xaddidaadda ku-takrifalka awoodda oo meel ku uruurta.</b> Maadaama dastuurka lagu qeexay kala qaybinta awoodaha, nidaamka federaalka waxuu hoos u dhigaya khatarta soo ifbaxa xukuumad dhexe oo xoog leh oo aan lala xisaabtami karin. Dastuurka ayaa awood u siiyay gobollada inay la xisaabtami karaan awooda xukuumadda dhexe.</p>	<p><b>La-xisaabtanka dimuqraadiyadeed oo aan caddayn iyo abuurista suurtoqalnimada ku-takrifal awooded:</b> Nidaamka federaalka waxaa adkaan karta in guuldarrooyinka loo nisbeeyo heer xukumad gaar ah ayada oo ay dhici karto in heer kasta ee xukuumadeed uu eedda saaro kan kale, sidaasna ay ku abuurmaan dhibaatooyin la-xisaabtan dimoqraadiyadeed. Taas beddelkeeda, waxaa dhici karta baratan u dhaxeeya heerarka kala duwan ee xukumadda oo mid walba uu sheega-naayo sharafta inuu guusha soo hooyay.</p>
<p><b>Waanaajinta dhago-nugeylka:</b> Nidaamka federaalka ayaa keenaya in degaanada ay ka soo ifbaxaan saldhigyo awoodeed iyo hay'ado ay u badantahay in si aad ah loola xisaabtami karo, una dhago-nugul dalabaadka iyo waxy-aabaha mudnaanta u leh dadka degaanka.</p>	<p><b>Baahinta musuqmaasuqa:</b> Jiritaanka heerar kala duwan ee xukuumadeed ayaa ballaarin kara fursadaha baahinta musuqmaasuqa.</p>
<p><b>Soo dhaweynta kala duwanaashaha iyo yareynta fursadaha iska-horimaadka:</b></p>	<p><b>Waxay horseedi kartaa burbur dawladeed iyo abuuris gobollo ay deggan yihiin dad</b></p>





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<p>Nidaamka federaalku wuxuu ku soo dhaweynayaa dadyaw kala duwan hal qaran gudahiis. Koox kasta waxay heli kartaa xukun daakhili ah oo ballaaran oo ay ku go'aaminayso masiirka bulshadeeda, dhaqaaleheeda iyo siyaasaddeeda, ayadoo isla markaana dawladda dhexe la wadaageysa sameynta siyaasadaha.</p>	<p><b>laga tiro badan yahay:</b> Gobollada is-xukunka leh waxay u isticmaali karaan awoodaha iyo kheyraadka ay dhawaantaan kasbadeen inay raadiyaan awoodo dheeraad ah iyo xataa inay ka go'aan federaalka. Federaalka ayaa sidoo kale siin kara dadka awoodda ku leh gobol-kamasrax ay ku buunbuuniyaan xiisadaha ka dhex jira kooxaha kala duwan. Federaalka ayaa sidoo kale ka dhex abuuri kara gobollada dad laga tiro badanyahay taas oo wareejineysa dhibaatooyinka kala duwanaashaha halkii laga xallin lahaa.</p>
<p><b>Fidinta culeyska saaran xukuumadda:</b> Nidaamka federaalka wuxuu keenayaa in la aasaaso heerar kala duwan ee xukuumadeed oo oggolaanya in diirada la saaro adeegyga gaar ah oo mudnaanta degdega ah u leh dadka deggan deegaanka taasoo keenaysa takhasus gaar ah.</p>	<p><b>Kharaj maamulka oo sarreeya:</b> Nidaamka federaalka wuxuu horseedayaa dhisidda xaafiisyo xukuumadeed aad u tiro badan taasoo sare u qaadaysa kharajka lagu socodsii-inayo xafiisyada xukuumadda oo ayaduna keenaysa dhimista dhaqaalihii ku bixi lahaa kaabayaasha iyo maalgalinta. Intaa waxaa dheer, dawladda hoose oo ay dhici kaarto in aysan haysan shaqaalaha lagaama maarmaanka ah iyo awood farsamo ay ku isticmaalaan kheyraadka la heli karo, taas oo horseedeysa in wax badan ay khasaaraan.</p>

**5. Calaamadaha ay wadaagaan dawladdaha federaalka ah**

Baahinta awoodda xukuumadeed ma ahan mid ku filan oo keliya muuqaalka lagu yaqaano dawladdaha leh nidaamka federaalka. Dawladdo badan oo ku dhaqma nidaamka midaysan ayaa ku dhaqma nidaamka baahinta xunka. Xaqiiqdii dalal qaar oo leh nidaamka midaysan ayaa ka baahsan kuwa ku dhaqma nidaamka federaalka. Qaar ka mid ah qaab-dhismeedka iyo hay'adaha aasaasiga ah ayaa ah kuwo tilmaamaya inay dawlad ku dhaqanto nidaamka federaalka ama ay tahay oo keliya mid baahisa xukunka sida, nidaamka mideysaan.

***Ugu yaraan labo heer xukuumadeed***

Ugu horayn, dawladdaha federaalka ah waxay yeelanayaan labo heer xukumadeed oo kala madaxbanaan markay gudanayaan awooddooda deegaanka ay maamulayaan, waxayna leeyihiin awood sharciyeed oo si toos ah ay u siiyeen shacabkooda. Dalal federaal ah qaarkood sida dalka Ethiopia, Maraykanka iyo Kanada dastuurka federaalka ayaa si cad u qeexaya awoodaha xukuumadda federaalka iyo mida gobollada. Arrintaan awgeed gobollada waxaa loo daayay inay samaystaan nidaamkooda hoose oo u oggolaanaya dastuuradooda.

Wadamo badan oo federaal ah, gobol kasta (iyo sidoo kale caasimadaha xukuumadaha marka ay samaystaan gobol ama degmo gaar oo federaal ah) waxay leeyihiin



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awood gaar ah ay ku dhisi karto, ku baabi'in karto ama wax kaga beddeli karto xukumaaha heerka hoose, ayna go'aamin karto tirada, qaab-dhismeedka iyo xuduudaha. Sidoo kale, awoodaha, dooraalka iyo masuuliyadda dawladaha hoose waxaa ay ku kooban yihiin oo lagu nidaamiyay dastuurka gobolka iyo sharciyada. Dhinacyada kala duwan ee dawladda hoose ayaa lagu nidaaminayaa dastuurada gobollada ama shuruucda gobolada. Qaab-dhismeedka iyo awoodda dawladaha hoose way kala duwan yihiin gobolba gobol kale. Tusaale ahaan, gobollada iyaga ayaa go'aaminaya haddi ay yeelanayaan hal heer ee dowlad hoose oo ka hooseesa heerka gobolka (tusaale, degmooyin) ama in ay yeelan karaan wax ka badan labo (tusaale degmo iyo munashi-ibiyo/magaalo). Gobollo badan oo ka tirsan dalka Koonfur Afrika, Australia waxay aqoonsan yihiin hal dawlad hoose oo keliya oo ka hooseeya midda gobolka, halka gobollada badan ee dalka Ethiopia iyo Maraykanka ay aqoonsan yihiin labo heer xukuumadeed ka hooseeya heerka gobolka.

Waddamo yar oo federaal ah sida Nigeria, Koonfur Afrika, Hindiya iyo Brazil dastuurka ayaa aqoonsanayaa awoodaha heerka seddaxaad ee xukuumadda oo ah heerka dawladda hoose/degmooyinka. Koonfur Afrika, awoodaha dawladda hoose qaarkood waxaa qoraya dastuurka qaranka. Sidaa awgeed, xukuumadda gobolka ayaa ballarsan karta, hase ahaatee kama qaadan karto awoodahaasi.

Dastuurka KMG ee Soomaaliya ayaa u deynaya go'aanka la xiriira tirada iyo xuduudaha degmooyinka shuruuc ay soo saaraan mid kasta oo ka mid ah Dawladaha Xubnaha ka ah Federaalka oo ku xiran ansixinta Golaha Shacbaka (Qod. 49 (4)). Ma cadda in go'aaminata qaab-dhismeedka, awoodaha, dooraalka iyo masuuliyadaha degmooyinka ay ku xiran tahay ansixinta Golaha Shacbka maadaama uu qodobku tilmaamayo kaliya "tirada" iyo "xuduudaha" degmooyinka. Intaa waxaa dheer, Dastuurka meesha kama saarayo surtagalmimada in la samayn karo maamul u dhexeeya Dawladaha Xubnaha ka ah Federaalka iyo degmooyinka. Sidaa awgeed, qaar ka tirsan Dawladaha Xubnaha ah ayaa waxay aqoonsan yihiin in maamul goboleedyadii jiray ka hor 1991 ay yihiin qaab-dhismeed u dhexeeya Dawlada Xubnaha ah iyo degmooyinka. Abbaarahaan ayaa ku habboonaan kara Dawladaha Xubnaha ka ah Federaalka ee ugu weyn.

### ***Dastuur qoran oo xoojinaya qeybinta awoodaha kala sareeya***

Arrinta labaad ee nidaamka federaalku uu caanka ku yahay ayaa ah jiritaanka dastuur qoran kaas oo si cad u kala qoondaynaya awoodaha iyo kheyraadka heer kasta ee xukuumadeed.

Wax-ka-beddelka la xiriira awoodda u dhexeysa heerarka kala duwan ee xukuumadeed guud ahaan waxay ku xiran tahay wax-ka-beddel lagu sameeyo dastuurka kaasoo uu shardi culus ku xiranyahay oo ka duwan habraaca caadiga ah ee lagu ansixinaayo shuruucada. Midda ugu muhimsan waxay tahay in kal qaybinta awoodda kala sarreysa aysan caadi ahaan ku xirnayn wax ka beddelkeeda hal dhinac, xataa haddii wax ka beddelku uu u baahnyahay aqlabiyad heer sare. Haddii dawladda dhexe si



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gooni ahaan ah ay wax ka beddeli karto awoodda gobollada, waxay dowladdu leedahay awoodda baahsan ee dawladda nidaamka midaysan. Haddi gobollada ee iyaguna si gooni ah wax uga beddeli karaan awoodda dawladda dhexe, nidaamka markaas wuxuu noqonayaa midka dawladda isutagay. Tusaale ahaan, dalka Boqortooyada Ingriiska in kastoo ay jirto heer sare ee xukun baahsan, haddana ka maqnaashaha damaanadda dastuuriga ah ee awoodaha baarlamaanka gobollada sida baarlamaanaka Scotland oo dhisa xukuumadda, macnahoodu wuxuu yahay in Boqortooyada Ingriisku ay tahay mid dawlad nidaam midaysan oo baahsan halkii ay ahaan laheed nidaam federaal ah. Dowladda dhexe waxaa aragti ahaan hoos u dhigi kartaa awoodaha, ama xataa ay baabin kartaa, Baarlamaanka Scottish.

### ***Matalaadda Gobollada ee Dawladda Dhexe***

Xukuumadda Federaalka ah waxay caadi ahaan siinaysaa wakiilo matalo gobollada marka la sameynayo siyaasadda dhexe. Arrintaan badaanaa waxay ku timaada samaynata aqalka labaad ee Baarlamaanka kaasoo ku hawlan ansixinta shuruucada ee heer federaal ah, gaar ahaan marka sharciga uu khuseeyo gobollada<sup>19</sup>. Qaabka lagu soo doorto xubnaha aqalka labaad, danaha ay wakiilka ka yihiin iyo isku-dheellitirka wakiillada waa mid ay ku kala duwan yihiin dawladda (eeg qeebta G ee hoos ku qoran).

### ***Nidaamka iskaashiga xukuumadaha dhexdooda iyo xallinta khilaafaadka***

Qaabka xukuumadda federaalku wuxuu la xiriira awood qaybsiga dastuuriga oo u dhexeeya xukuumadda dhexeiyada gobollada iyo gobollada dhexdooda. Qaybintaas awoodaha waxay keeni kartaa heshiisla'aan iyo khilaafaad. Heshiisla'aanta badaanaaba waxaa lagu xalliyaa hab siyaasadeed. Dawladda Federaalka ah badanaaba waxay leeyihiin nidaam rasmi ah iyo mid aan rasmi ahayn ee u dhexeeya xukuumadaha si ay u xiriiriyaan hawladda kuna xalliyaan khilaafyadooda. Marka uu meesha ka maqan yahay heshiis siyaasadeed, dastuurku waa in uu dejiyaa qaab si nabad ah loogu xallin karo khilaafaadka xukuumadaha dhexdooda.

Habka ugu caansan ee lagu xallin karo khilaafka u dhexeeya xukuumadaha ayaa ah in marka ugu dambeysa ay noqoto maxkamadda ugu sareeysa. Si kastaba ha ahaatee, waddamo yar ayaa samaystay qaab aan ahayn nidaamka garsoorka ee lagu xallinaayo khilaafaadka xukuumadaha dhexdooda (eeg qaybta H ee hoos ku qoran). Nidaamka midaysan ee baahsan waxuu keenaa in awoodaha heerka hoose ee xukuumadeed ay ku xiran yihiin doonista xukuumadda dhexe. Sidaas darteed, khilaafaadka, haddii ayba dhacaan, waxaa xalliya xukuumadda dhexe.

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<sup>19</sup> Hase ahaate waddamo yar oo federaal ah – sida Federated States of Micronesia iyo Saint Kitts, ma asaasin aqalka labaad ee Baarlamaanka. Sido kale waxa la baabi'yey 1991 aqalka labaad ee Baarlamaanka Venezuela.



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Dastuurka sida KMG loo ansixiyay ee Soomaliya waxuu si waafi ah u tilmaamay tiirarka ay wadaagaan nidaamyada federaalka. Waa Dastuur qoran oo dhisaya:

- Xukuumadda Federaalka iyo Dawladaha Xubnaha ka ah Federaalka.
- Aqalka sare si loo xaqiijiyo matalaadda shacabka Dawladaha Xubnaha ka Federaalka, sida habraaca wax-ka-beddelidda Dastuurka; iyo
- Nidaamka iskaashiga xukuumadaha iyo xallinta khilaafaadka oo ay ka mid tahay in la adeegsado Maxakamdda Dastuurka.

### **C. Dib-u-qaabeynta federaalka (federaaleynta gayiga)**

Mid ka mid ah calaamadaha aasaasiga ah ee lagu garto dawladaha federaal ah ayaa ah in xubnaha ka tirsan federaalka ay leeyiin soohdimimo la aqoonsan karo oo gudahooda ah. Dawladaha federaalka waxay ku samaysmeen habraacyo iskutagid ama isku biirid ah kuwaasoo horay u ahaan jiray kuwo xor ah hase ahaatee isku biiray si ay u samaystaan nidaam federaal ah. Kuwa horay xor u ahaa waxay haysanayaan xuduudahoodii hore. Dhanka kale, waddamada federaalka ah ee ku yimid nidaamka kala tagidda oo horay u haystay nidaamka midaysan iskuna beddelay nidaamka federaalka xuduudahooda waa in dib loo calaamadayaa. Dawladaha nidaamyada midaysan oo noqonday mid dowlado federal ah waana in ay go'aansadaan shuruudaha nuxureed iyo kuwa qaabeed ee lagu calamadaynaayo xuduudaha gobollada.

Soohdimaynta xuduudaha gudaha ee dawladaha federaalka waa mid adag oo muran badan dhalisa. Qaybtaan waxay ka hadleysaa isbar-bardhigid ku aaddan sababaha nuxureed oo waxtar u leh howsha soohdimeeynta, habraacyada lagu dhaqangalinayo halbeegyada nuxureed, iyo hay'adaha loo xilsaaray dabaqidda shuruudaha nuxureed iyo kuwa habraaca si loo cayimo xuduudaha gobollada. Waxay kaloo tilmaameysaa kana hadleysaa arrimaha xasaasiga ah oo ay tahay in la tixgeliyo marka la samaynayo naqshadeenta xuduudaha gobollada.

#### **I. Shuruudaha nuxureed ee soohdimaynta xuduudaha gobolada**

Naqshadeenta xuduudaha gobollada ee dawladaha federaalka waa hawl maangal ah oo u baahan sameynta shuruudo nuxureed oo cad-cad isla markaasna caqligal ah oo tilmaamaya baaxadda, tirada iyo xuduudaha gobolada. Shuruudahaan way ku kala duwnaan karaan dawladaha federaalka waxayna ku xiran tahay sababaha iyo ujeedada keentay in la sameeyo nidaamka xukuumadeed ee federaalka ah. Tusaale ahaan, dalalka qaarkood ayaa nidaamka federaalka u samaystay in ay ku soo dhaweeyaan qowmiyad iyo is-xukun, markaas oo kale isirka ayaa dowlad muhim ah ka ciyaaraya cayimidda xuduudaha gobollada.



**Arrimaha ugu muhimsan ee shuruudaha soohdimaynta waxaa ka mid ah:**

- **Xuuduudyo taariikh ahaan la aqoonsan yahay oo dhisan;**
- **Awood maamul tayo leh iyo waxqabad hufan;**
- **Xiriir bulshadeed, taariikheed iyo dhaqaale; iyo**
- **Isir ama arrimo koox u gaar ah oo lagu aqoonsado.**

Sida dhaqanku uu yahay, soohdimaynta xuduudaha ma ahan cilmi dhab ah, balse abuurista xuduudyadu waa hannaan siyaasadeed oo la xiriira tanaasulaad u dhexeeya xoogagga waaweyn ee bulshada, siyaasiyiinta iyo dhaqaalaha.

**1. Xuuduudyo goboleed dhisnaa taariikh hore oo la aqoonsan karo**

Xuduudo goboleed oo taariikh ahaan la aqoonsan karo ayaa noqon kara saldhigga soohdimaynta xuduudaha gobollada. Xuduudaha gobollada ayaa si sahlan loo tilmaami karaa marka gobollo horay u kala qaybasanaa ay isku yimaadaan si ay u sameeyaan dawlad. Markaas oo kale, dawladaha federaalka waxay haysanayaan xuduudahoodii hore. Si kastaba ha ahaatee, marka dawlad federaal ah ay ka samaysmaan qaybo horay uga mid ahaa dawlad dhexe, waxaa suurto gal ah in la ogaado xuduudihii taariikhiga ahaa ee la aqoonsan yahay. Tusaale ahaan dalka Spain, xuduudaha taariikhiga ahaa ayaa ah lagama maarmaan balse ma ahan shardi ku filan samaynta bulshooyin leh is-xukun. Dastuurka 1978 wuxuu aqoonsan yahay 50ka gobol, kuwaasoo qarnigii 19aad la dhisay ayadoo laga lahaa ujeedooyin. Dastuurka wuxuu oggolaanayaa labo iyo in ka badan gobollo daris ah oo wadaaga taariikh, dhaqan iyo dhaqaale inay isku yimaadaan si ay u samayaan bulsho madaxbanaan taas oo ku xiran ansixinta Xeer-dejinta Spain. Mabda' ahaan, gobol keliya oo iskiis u noqon kara 'Bulsho leh Is-xukun' ma jiro. Si kastaba ha ahaatee, sharci-dejinta qaranka waxay oggolaan kartaa in gobollada qaarkood oo leh 'aqoonsi goboleed taariikhi ah' ay noqon karaan bulsho is-xukun leh. Intaas waxaa dheer, gobollo soocan oo ay aad yartahay waxa ay la wadaagaan gobollada ku dheggan ayaa la siin karaa maqaam is-xukun.

Dastuurka Soomaaliya ee sida KMG ah loo ansixiyay wuxuu tilmaamayaa in xuduudaha Dawladaha Xubnaha ka ah Federaalka lagu saleeyo xuduudihii maamuladii gobollada ee jiray ka hor 1991 (Qod. 49(5)). Si ka duwan dalka Spain dastuurka ma tilmaamayo suratagalmada in hal maamul gobol uu samaysan karo Dawlad Xubin ka ah Federaalka. Sidaa awgeed maamul goboleedyada oo idil waa inay ku biiraan gobollo kale taas oo ku imaanaysa rabitaan xor ah ama go'aan uu soo saaro Baarlamaanka Federaalka oo ku salaysan talo-soo-jeedinta Guddiga Madaxbanaan ee Xuduudaha. Waa in ka weecashada sohdimihii gobollada ee jiray ka hor 1991 ay noqoto mar soo dhacaal laguna sababeeyo jiritaanka duruufo gaar ah. Tusaale ahaan, duruufo siyaasadeed, isbahaysiyada guur-guuraya iyo isbeddelada dhacay waxii ka dambeeyay 1991 ayaa keeni kara baahi loo qabo in loo qaybiyo gobollada jira Dawladaha Xubnaha ah ee dhawaantaan la dhisay.



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Sida ku xusan Dastuurka sida KMG ah loo ansixiyay, gobollada aan ku biirin gobollo kale si ay u samaystaan Dawlad Xubin ka ah Federaalka waxaa maamulkeedu uu si toos u hoos imaanaya Dawladda Federaalka ugu badnaan muddo labo sano ah, taasoo laga soo gudbay. Dastuurka si cad uma qeexayo waxa imaan kara marka ay dhamaato labadaas sano. Dalalka federaalka ah qaarkood, sida Ciraaq iyo Spain, gobollada aan si xor ah ugu biirin gobollada kale si ay u samaystaan dawlad waxaa si joogta ah u maamula xukuumadda dhexe.

### **2. Awood maamul oo tayo leh iyo waxqabad hufan**

Qaar ka mid ah dalal federaal ah oo ka soo dhexbaxay dawlado horay u haystay qaab-dhismeedka dawladda nidaamka midaysan, awood maamul oo tayo leh iyo waxqabad hufan ayaa halbowle u ah xaqijinta tirada iyo baaxada dawladdaha xubinta ka ah federaalka. Hufnaanta waxqabadka ayaa sidoo kale saameyn ku yeelan kara go'aannada wax looga beddelaayo xuduudaha jira ama taariikheed ayadoo ujeeddadu tahay in la yareeyo muhimmaddooda taariikheed iyo saameynta ay ku yeelan karaan mustaqbalka. Tusaale ahaan, dalka Koonfur Afrika sagaalka maamul goboleed ee hadda jira waxaa laga soo dhex bixiyay afar gobol oo la aqoonsan karo kuwaa ay hormarisay taliskii midab kala sooca ahayd. Ujeeddada ugu weyn ee samaynta soohdimeynta ayaa ahayd in la xaqiijiyo in la helo hufnaan la xiriirta dhisidda saldhigy kheyraad waara, dib-u-qaybinta kheyraadka, bixinta adeegyada iyo in la simo gobollada kala duwan. Sidaas awgeed soohdimaynta xuduudaha sagaalka gobol oo la sameeyay waa mid ah arrin farsamo. Khubarada Gudiga Soohdimaynta ayaa diyaariyay talooyin ku saabsan tirada, baaxada iyo xuduudyada gobollada. Soo-jeedinta Guddiga oo loogu abuurayo sagaalka maamul goboleed waxaa la soo gabagabeeyay afar usbuuc gudahood, waxaana ansixiyay aqalka wakiilada ee xisbiyada siyaasadeed iyadoo waxyar laga beddelay (Madasha Wada-xaajoodka).

Dastuurka Soomaaliya ee KMG ah ayaan si cad loogu darin shardiga in la helo awood maamul oo tayo iyo waxqabad hufan leh marka la soohdimeynayo xuddudaha gobollada. Ka maqnaanshaha tixgelinta awood tayo leh ayaa keeni karta in qaar ka tirsan dawladdaha cusub oo samaysmay ay awoodi waayaan inay ururiyaan dakhli ku filan, inay bixiyaan adeegyada iyo kaabayaasha muhiimka ah iyo inay dejiyaan oo hirgeliyaan siyaasado isku dhafan ee la xiriira arrimaha bulshada, dhaqaalaha iyo siyaasada. Sidaas darteed, waa in loo aqoonsadaa in arrimaha laf-dhabarka u ah ee hagaya go'aan-gaarista Guddiga Madaxabannaan ee Xuduudaha iyo Federaaleynta ay yihiin awoodda, dhaqaalaha iyo kaabayaasha dawladdaha la soo-jeediyay inay noqdaan Dawladdo Xubin ka ah Federaalka. Sidaa daraadeed, haddii xitaa labo ama dhowr gobol ay go'aansadaan inay isku biiraan si ay u noqdaan Dawlad Xubin ka ah Federaalka, waa in laga baaraan degaa awoodda maamulkooda iyo in ay ku guuleysan karaan waxqabadkooda ka hor inta aan la ansixin in ay isku biiraan.

### **3. Shardiga isirka ama diinta**

Dalalka federaalka ah qaarkood, mabda'a siyaasadeed iyo qaab-dhismeedka dawladda ee leh tixgalinta kowaad ayaa noqon kara isir, diin, ama waxyaabo kale oo koox



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lagu aqoonsado. Mararka ay dhacdo in kooxahaan ay ku soo ururaan hal deegaan, baaxadda iyo xuduudaha dawladdaha ka tirsan federaalka waxay ku salaysnaaan karaan habka loo deggan yahay iyo oggolaashaha kooxaha isku haybta ah. Tusaale ahaan, Dastuurka 1995 ee dalka Ethiopia, isirka ayaa saldhig u ah qaab-dhismeedka siyaasadeed. Taas ayaa ugu danbayntii keentay in la dhiso sagaal maamul goboleed oo soohdimahooda ku salaysan yihiin qaababka loo degganyahay, isir, luuqad iyo oggolaanshaha shacabka ay khasayso. Isla shuruuddaas ayaa la raacaa marka la xallinayo khilaafaadka xuduudaha ee u dhexeeya daawladl goboleedyadaas.

Dastuurka sida kmg ah loo ansixiyay ee Soomaaliya ma aqoonsana in hayb ama qabiil lagu saleeyo qaab-dhismeedka siyaasadeed ee dawladda. Xaqiiqadii Dastuurka KMG wuxuu si cad u qeexayaa mid ahaanshaha iyo inaan la qaybin karin qaranka Soomaaliyeed iyo muwaaddiniintiisa (Qodobka 8aad). Si kastaba ha ahaatee, Dastuurku uma muuqdo inuu meesha kaa saarayo in Dawladaha Xubnaha ah ay ku tiirsanaadaan sida ay qabiilladu u kala deggan yihiin marka la go'aaminayo tirada iyo marka soohdimaha loo yeelayo degmooyinka.

### **4. Xiriirada bulshadeed, taariikheed iyo dhaqaale**

Xuduudaha gobollada ee soo jireenka ahaa iyo nidaamka ay qabiilladu u deggan yihiin ayay u badantahay inay muujiyaan xiriiro bulshadeed, taariikheed iyo dhaqaale. Si kastaba ha ahaatee, xitaa hadii arrimahaasi ay ka maqan yihiin gobollada waxaa suurtagal ah in la tilmaamo jiritaanka xiriiro bulsho iyo kuwa dhaqaale oo u dhexeeya dad gaar ah oo ku nool degaanno deris ah. Haddii la iska dhegatiro xiriiradaas marka la samaynayo xuduudda istaagi kara xiriiradii jiray, taasoo abuuri karta xiisad goboleed iyo in si joto ah loo dalbo in dib u habayn lagu sameeyo xuduudahaas. Haddaba waxaa lagu talin karaa in Guddiga Xuduudaha iyo Federaalaynta ay sameeyaan daraasad si ay u ogaadaan xiriirada bulshada ee jira kuwaasoo lagu ogaan karo ayadoo la raacayo arrimo ay ka mid yihiin nidaamyada ay ku shaqeeyaan gaadiidka iyo ganacsiga. Natiijada daraasadaas ayaa keeni karta go'aano mar soo dhacaa ah oo looga weecan karo mabadii'da ah in xuduudaha Dawladaha Xubnaha ka ah Federaalka lagu saleeyo xuduudihii iyo maamul goboleedyadii jiray 1991.

## **II. Qaababka/habraaca abuurista xuduudaha gobollada**

Mar haddii ay dawlad doorato hal arrin ama dhawr arrimood oo si guud u tilmaamaa iyo qaabkii loo naqshadayn lahaa xuduudaha waxay adeegsan kartaa xeelado kala duwan si taas loo dhaqangliyo. Dalalka qaarkood waxay isticmaalaan nidaamka hoos ka soo billaabanaya korna aadaya marka ay samaysnaayaan xuduudahah gobollada, halka dalalka qaarkoodna ay hirgeliyaan nidaamka kor ka soo billabanaya hoosna u dagaya. Qorshaha la xulanayo badi waxaa saamayn ku leh halbeeg nuxureed oo haggaya hawlaha soohdimaynta. Tusaale ahaan, waddamada ujeeddada ugu weyn oo ay u dhisayaan dawlad federal ah ay tahay in la helo maamul tayo leh waxaa ku habbonaan lahayd inay qaataan soohdimeyn farsamo oo kor ka imaaneyso hoosna u socota. Dhanka kale marka laga eego, afti dadweyne iyo qaab la isla wada oggolyahay



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ayaa aad ugu muhimsan dawladdaha doortay inay soohdimeynta xuduudiyada gobollada lagu saleeyo isir ama waxyaabaha kale ee lagu aqoonsado koox. Si kastaba ha ahaatee, waxaa mar kasta loo baahanyahay la-tashiga dadweynaha iyo in si dhab ah loo tixgaliyo aragtidooda taas oo keenaysa sharciyad iyo in ay dareemaan lahaansho go'aanka lagu xadeeyay xuduudaha.

### **1. Abbaarayaasha hoos ka soo billaabnaya korna u socda oo lagu go'aaminayo ama wax looga beddelayo xuduudaha gobollada**

Ayadoo ay sii kordheyso aqoonsiga in ka-qaybgalka dadweynaha ay u tahay lagama maarmaan sharcinimada iyo wax-ku-oolnimada go'aanka dawladda, ayaa dawladdaha qaarkood waxay adeegsadaan afti dadweyne iyo in ay deegaanada ka-qaybgalaan go'aannada samaynta xuduudaha gobollada. Tusaale ahaan, dalka Ethiopia, marka laga tago qaabka sida loo degganyahay, waxaa lagama maarmaan ah oggolaanshaha shacabka ay khuseyso si loo cayimo inay ka mid noqonayaan gobol ama gobol kale. Sidoo kale, dalka Koonfur Afrika wuxuu sameeyay afti dadweyne oo dib loogu naqshadeynayo dagmooyin iyo mararka qaar xuduudo goboleed marka lagu daro shuruudaha kale ee dastuuriga ah. Intaas waxaa dheer, in dastuurka Ethiopia uu dejinayo habraacyo uu golaha xeer-dejinta ee qoomiyadaha ay khuseyso ay ku codsan karaan in loo sameeyo gobol cusub. Sidaa awgeed, waxaa lagama maaraamaan ah in laheloo afti dadweyne oo toos ah oo shacabka ku oggolaanayo ama ku diidayo soojeedinta golaha sharci-dejinta.

Soo-jeedinta dadka degannada ayaa ah mid lagama-maarmaan u ah samaynta gobol madaxbanaan ee dalka Spain. Sida ku xusan Dastuurka dalka Spain, gobollada deriska ah oo leh taariikh dhaqan iyo dhaqaale isku mid ah, jasiiradaha iyo gobollada taariikh ahaan maqaam goboleed oo isku mid ah leh, waxay si xor ah u samaysan karaan is-xukun dawladeed oo ay ku samaysan karaan gobollo leh is-xukun hoose. Xaqa lagu billaabayo habraaca lagu samaynayo bulsho leh is-xukun hoose waxuu ku xiran yahay golaha gobolka ay khuseyso iyo seddex meelood labo meel dawladdaha hoose ee dadka deggan ay u dhigmaan ugu yaraan aqlabiyadda wax dooranaysa ee gobol kasta. Mabda'a ahaan tiradan waa in la sameeyaa 6 bilood gudaheed maalinta uu habraacu uu bilowdo. Go'aanka kama danbaysta ah wuxuu ku xiran yahay baarlamaanka Span-ishka. Haddii soo-jeedintan ay guuldareysato mabda'a ahaan waxaa dib loo soo celin karaa 5 sano kaddib. Intaa waxaa dheer, mar haddii la sameeyo is-xukun gobol looma oggolaanayo inuu ku biiro mid kale si ay u sameystaan gobol ballaaran oo leh is-xukun hoose.

Sidoo kale, dastuurka Ciraaq wuxuu qorayaa in hal gobol ama ka badan (oo ka kooban degmooyin iyo tuulooyin) ay samaysan karaan gobol federaal ah markay ansixiyaan seddex meelood meel (1/3) xubnaha golaha gobolka ama (1/10) codbixiyaa-sha gobol kasta oo codsanaya inay samaystaan gobol, kaddibna lagu ansixiyo afti dadweyne. Gobolka Kurdistan wuxuu dastuurka u aqoonsaday in uu yahay gobol federaal ah.





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Dastuurka KMG ee Soomaaliya ma qeexayo qababka uu ku shaqeynayo Guddiga Xuduudaha iyo Federaaleynta. Si kastaba ha ahaatee, Dastuurka KMG ma horistaa-gayo in Guddigu uu la falgalo shacabka iyo inuu xataa abaabulo afti ka hor inta uusan soo jeedin talooyin ku saabsan soohdimeynta xuduudaha Dawladaha mustaqbilka noqonaya xubno ka tirsan federaalka. Hase yeeshee, waxay tani u baahantahay dhaqaale farabadan, waxaana ka horimaan kara dhibaatooyin la xiriira lojistikada. Abaabulka afti ayaa ah arrin si gaar ah u khuseeya goobaha ay gobollo kala duwan ay mid walba ku andocoonayso inay leedahay. Tusaale ahaan, inkasta oo dalka Koonfur Afrika guddigiisa xuduudaha aan loo baahnayn inuu ka qaybgeliyo dadweynaha, had-dana wuxuu qabtay tiro dhageysi dadweyne wuxuuna ka helay soo-jeedimo ka timid daneeyayaal kala duwan.

### **2. Dhisidda guddiyaal khubaro ah oo soohdimaynaya xuduudaha gobollada**

Waddamada aysan ka jirin gobollo horay u dhisnaa amaba laga xiiso dhacay gobolla-dii horay loo dhisay, isla markaasna muhimmadda ugu weyn ee laga leeyahay mashruuca federaalku uu ku billowday baahi loo qabo helitaanka waxqabad hufan, waxaa waxtar weyn yeelan kara dhisidda guddiyo khubaro ah. Tusaale wanaagsan oo ku saabsan adeegsiga guddiyo khubaro ah ayaa ah soohdimaynta xuduudaha gobol-lada Koonfu Afrika. Sagaalka gobol ee la sameeyay ayaa ku salaysan talooyinka ay soo-jeediyeen shan iyo toban (15) khabiir uu ka koobnaa Guddiga Soohdimaynta Xuduudaha Gobollada. Madasha Wada-xaajoodka oo ka kooban wakiillo ka socda kooxo siyaasadeed oo kala duwan ayaa talooyinka ay Guddigu soo jeediyeen, oo ku salaysnaa shuruudo mug leh, taageeray kaddib markii ay wax yar ka beddeleen.<sup>20</sup>

Dastuurka sida KMG ah loo ansixiyay ee soomaaliya sidoo kale wuxuu dalbayaa in la dhsio Guddi Madaxbanaan ee Xuduudaha iyo Federaalka si uu talooyin la xiriira ti-rada iyo xuduudaha Dawladaha Xubnaha ka ah Federaalka ugu soo jeediyo Baarla-maanka Federaalka. Guddigu waa hay'ad madaxbanaan oo dhexdhexaad ah oo loo dhan yahay kana kooban wakiillada dhamaan gobollada Soomaaliya (Qodobka 111E(4)). Dastuurka si cad uma tilmaamayo habka hawlgalka Guddiga. Faah-faahintaas waxaa lagu caddeeyay sharciga lagu dhisay Guddiga iyo xeer-hoosaadka guddigu uu degsaday.

### **3. Wada-xaajood siyaasadeed iyo isku-tanaasulid**

Sida badan, talooyinka guddiyada khubarada ah ay soo jeediyaan ayaa hoos imaanaya isku-tanaasulid siyaasadeed iyo wada-xaajood. Dhab ahaantii, dalalka Koonfur Afrika iyo sidoo kale Soomaaliya awoodda ugu dambaysa ee lagu ansixinayo tirada iyo

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<sup>20</sup> Shuruudaha waaweyni waa: Marka la eego taariikhida xuduudaha, sida jiritaanka afarta gobollada hadda jira, arrimaha gudaha, dawladaha hoose, gobolada horumarinta; qiimaynta dhismayaasha hadda jira, sida Arrimaha gudaha, gobollada iyo dawladaha gobolada, tixgelin maamulka si loo hubiyo in gobol walba si hab-boon si haboon wax loogu qabtay, si waxtar leh; loona yareeyo waxtar la'aanta shacabka inta suurto-galka ah; in la yareeyo kala go'a adeegyada; tixgelin deegaanada; horumarinta awoodda dhaqaalaha diiradda la saarayo ilaha dhaqaalaha; xaqiiqada dhaqanka iyo luqadda, iyo tixgelin kale ee la xiriira.



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xuduudaha ee dawladdaha xubinta ka ah dawladda federaalka waxay ku xiran tahay hay'adaha siyaasadeed. Tani waxay u oggolaanaysaa in siyaasiintu ay soo dhaweeyaan dalabyada iyo danaha xoogagga bulshada iyo kuwa siyaasadda ee awood weyn leh. Isku-tanaasulidda siyaasadeed iyo wada-xaajood ayaa u ah udub dhaxaad geedi-socodka soohdimaynta xudduudaha.

Mararka qaarkood, wada-xaajoodka siyaasadeed iyo isku-tanaasulidda ayaa noqon kara waxa ugu muhimsan ee hogaaminaya go'aan ka gaarista xuduudaha. Tusaale ahaan, dalka Ethiopia dastuurkeedii ugu danbayay ayaa ku soo koobay sagaal gobol iyo magaalo-madaxda 14 gobol oo horay u jiray. Badanaaba go'aaminta xuduudaha iyo tirada gobollada waxaa lagu saleeyay doodo ka dhacay qol albaabadu u xiran yihiin, dhexmarayna garabyadii kala duwnaa ee afgambiyay taliskii hore. Siyaasadeynta heerka sare ee soohdimaynta xuduudaha waxay keeni kartaa inay kooxo si ku-meel-gaar ah u sameeyaan amar-ku-taaglayn aan munaasib ahayn iyo dhisidda dawlado kala duwan ama aan sii jiri karin.

### **III. Qaar ka mid ah arrimaha xasaasiga ah ah ee soohdimaynta xuduudaha**

Go'aanka lagu gaarayo tirada iyo xuduudaha dawladdaha xubinta ka ah federaalka waa in lagu tixgaliyaa arrimo badan. In kasta oo mid kasta oo ka mid ah shuruudaha nuxureed oo kor lagu soo xusay uu noqon karo halbeeg aasaasi ah, haddana sida badan habraaca soohdimaynta waxaa lug ku leh arrimo badan oo isbiirsaday iyo kuwa ay tahay in la tixgaliyo. Waxaa hoos ku qoran qaar ka mid ah arrimaha la tixgalinayo marka go'aan laga gaarayo tirada, baaxadda iyo xuduudaha gobollada.

#### **1. Tirada iyo baaxadda xubinta ka ah federaalka**

Ma jiraan nidaamyo adag oo joogto ah oo qeexaya tirada saxda ah ee xubnaha ka tirsan federaalka. Taariikh ahaan, dawladdaha federaalka waxay ka koobnaayeen labo ama in ka badan 80 dawlado xubno ka ah federaalka. Samaynta xubno yar-yar oo faro badan oo ka tirsan federaalka waxay horseedi kartaa jiritaanka dawlado xubno ah oo aan awood lahayn, siina jiri karin. Hadii xubnaha ka tirsan federaalka ay tiro badan yihiin ayna yar-yaryihiin waxay noqon karaan kuwa aan awood u lahayn fulinta adeegyada iyo qabashada hawlaha lagama maarmaanka ah. Arrintaan waxay horseedayna kala-jajab iyo in si aad ah leh loogu tiirsanaado xukuumada federaalka taasoo wiiqaysa madaxbanaanida gobollada ka tirsan federaalka iyo guud ahaan nidaamka federaalka. Intaas waxaa dheer, in jiritaanka tiro badan oo xubno ka tirsan federaalka ay keenayso baahi loo qabo dhaqaale balaaran oo lagu caawinayo hawlaha maamulka gobollada taasoo hoos u dhigaysa adeegyada bulshada iyo maalgalinta hawlaha guud.

Dhanka kale, abuurista gobollo waaweyn oo tiradoodu yartahay ayaa abuurista kara xoogag adag oo baxsad ah oo ugu dambeyntana khatar galinaya federaalka. Taariikh ahaan, dawladdaha federaalka ah oo tirada xubnahoodu yaraayen waxay u janjeereen inay noqdaan kuwa aanan degganayn. Mid ka mid ah sababaha keenay dagaalkii gooni u goosatada Biafra ee dalka Nigeria sanadkii 1960dii ayaa haayd Biafra oo



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ahayd mid awood aad u balaraan leh oo kaga hortagi kartay dhaqaale ahaan iyo military ahaan xukuumadda dhexe. Xaqiiqadii sababta qarxisay dagaalkaas waxay ahayd iskuday lagu qaybinayay afarta xubnood ee waaweyn ee ka tirsanaa federaalka si looga dhigo 12 xubnood. Mid ka mid ah afarta gobol oo ah Gobolka Bari ayaa ka soo horjeestay go'aanka qaybinta wuxuuna ku dhawaaqay madaxbanaanida dawladda Biafra, taasoo ay diiday xukuumadda dhexe.

Haadaba, Guddiga Xuduudaha iyo Federaaleynta Soomaaliya waa inay ku dadaalaan samaynta tiro xubno ka tirsan federaalka oo maangal ah kuwaas oo leh baaxad ku filan si ay u maareeyaan una dhowrtaan madaxbananidooda, balse aan lahayn weynaasho ay khatar ku galin karaan xasilloonida, jiritaanka iyo midnimda geyiga federaalka.

### **2. Waxqabad meelmar ah iyo awood maamul**

Waxqabad meelmar ah iyo awood maamul ayaa noqon kara shuruudaha ugu waaweyn ee soohdimaynta gobollada. Si kastaba ha ahaatee, shuruudaan waa in la tixgeliyaa markastaba. Shuruud kasta ee loo adeegsanayo hagidda soohdimaynta xuduudaha gobollada waa in waxqabadka meelmarka ah ee gobollada la siiyaa muhiimad gaar ah. In kasta oo rabitaanka shacabka iyo kooxaha awoodda leh ee gobolka ay muhiim yihiin haddana waa in marka la sameynayo soohdimeynta la siiyaa mudnaanta ugu horreysa tayada iyo waxqabadka meelmarka ee gobollada.

Haddii uu hal gobol ama in ka badan ay ku fashilmaan inay ismaamulaan iyo in ay bixiyaan adeegyo bulsho ayaa keeni karta in dib loogu noqdo soohdimaynta taasoo abuurin karta caqabado aan dhammaanayn. Sidoo kale, waxaa lagama maarmaan ah in la tixgeliyo awoodda gobollada ay ku uruurin karaan dhaqaale ku filan, soo jiidan karaan shaqaalaha lagama maarmaanka ah, kuna hormarin karaan kaabayaashooda.

Guud ahaan, soohdimeynta xudduudaha gobollada waa arrin aad u culus oo u baahan in arrimo kala duwan la tixgaliyo. Dastuurka KMG ah ee Soomaaliya waxuu dhisayaa Guddiga Xudduudaha iyo Federaaleynta si uu u fuliyosoohdimeynta gobollada oo shardu u ah mashruuca federaalaynta. Hase yeeshee, Dastuurku ma bixinayo shuruudo nuxureed oo faahfaahsan oo hagaya soohdimeynta xudduudaha gobollada. Tusaale ahaan, ma cadda sida loo billaabayo, loona ansixinayo isku-biirid xor loo yahay (ma waxaa loo marayaa afti dadweyne, mase go'aanka maamullada gobollada, mase hoggaamiyeyaasha beelaha?). Waxaa intaas dheer, in Dastuurku KMG uusan caddaynayn in isku-biiriddo ay mar walba ahaaneyso mid xor loo yahay ama in Guddigu uu sidoo kale go'aamin karo isku-biiridda laba ama in ka badan ee gobol ayadoo aan la tixgalinayn rabitaankooda. Waxaan sidoo kale caddayn in isku-biiridda xorta ah markasta la aqbalayo, ama in Guddigu si ku dhisan sababo sharci ah uu u diidi karo isku-biirid xor ah.



## D. Qaybinta awoodaha kala sareeya ee dawlada federaalka

Mid ka mid ah go'aanada ugu horreeya oo guud ahaan qorayaasha dastuur federaal ah ay sameeyaan ayaa ah in dastuurku uu sheegayo awoodaha xukuumadda dhexe iyo kuwa gobollada oo keliya una daayo gobollada dhisidda, qaabka iyo awoodaha dawlada hoose, ama in uu si toos ah uu u dhisayo isla markaana go'aaminayo awoodaha seddex heer xukuumadeed. Mar haddii go'aan laga gaaro inta ay noqoneysa tirada heerarka xukuumadeed, su'aasha xigta ayaa waxay tahay sida heerarka kala duwan ee xukuumadeed loogu qaybinayo awoodaha xeerdejinta, fulinta, iyo garsoorka. Halka xukuumadda dhexe ay ku dhawaad markasta leedahay awoodaha sharcidejinta, fulinta iyo garsoorka ayada u gaarka ah, ayaa gobollada iyo meelaha ay ka jiraan dawlada hoose, aysan khasab ahayn inay lahaadaan awood garsoor.

### Jadwalka: Qaybinta Awoodaha kala sareeya

Heer	Koonfur Afrika			Germany			Somalia		
	Sharci dejin	Fulin	Garsoor	Sharci dejin	Fulin	Garsoor	Sharci dejin	Fulin	Garsoor
Federaal	✓	✓	✓	✓	✓	✓	✓	✓	✓
Gobol	✓	✓	✗	✓	✓	✓	✓	✓	?
Degmo	✓	✓	✗	✓	✓	✗	?	?	?

Ma jiraan qaabab fudud oo lagu go'aamin karo qaybinta awoodaha. Kala duwanaanshaha ay dawlada federaalku ku kala duwan yihiin sida loo qaybiyo awoodaha ayaa marqaati ka ah maqnaashaha qaab la isku raacsan yahay. Waa in daneeyayaasha dhammaantood ay ka wada xaajoodaan sidii awoodaha loo qaybin lahaa, ayadoo la tixgalinayo duruufaha gaarka ah ee jira.



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Sida ku xusan Dastuurka sida kmg ah loo ansixiyay, xukuumadda federaalka waxay ku leedahay awoodo u gooni ah arrimaha lagu yaqaan federaalka qaar-kood: difaaca qaranka, arrimaha dibadda, socdaalka iyo jinsiyadda, siyaasadda lacagta (Qodobka 54). Hase yeeshee, Dastuurku ma faahfaahinayo qaybinta awoodaha aan ka ahayn kuwa aan soo sheegnay. Balse wuxuu u daayay arrimahaas wadaxaajood dheeraad ah oo u dhexeeya Xukuumadda Federaalka iyo Dawladaha Xubnaha ka ah Federaalka. Mabda'a wax-ku-oolnimada ayaa hagaya guud ahaan kala qaybinta awoodaha iyo kheyradka u dhexeeya labada heer dawladeed (Qodobka 50). Sida kor ku xusan, Dastuurka ma caddaynayo tirada, xuduudaha iyo awoodaha degmooyinka/dawladdaha hoose. Arrintan go'aankeeda waxaa loo daayay dastuurada gobollada.

Mabda'a ahaan, arrimaha aysan gobolladu fulin karin ama u baahan xeer si siman loogu nidaamiyo dalka oo idil ama sidoo kale saameyn weyn ku yeelan kara gobollo kale ayaa badanaaba waxaa la siiyaa dawladda dhexe. Ayadoo la raacayo mabda'a ah in dawladda dhexe ay fuliso howlaha aan lagu fulin karin heer degaan ayay tahay in caadi ahaan ay dawladda dhexe lahaato awoodaha lagama maarmaanka u ah sidii loo gaari lahaa ujeedooyinka ay wadaagaan xubnaha ka tirsan federaalka iyo marka meel-ku-uruurinta awooddu ay keeni karto faa'iidooyin ballaaran oo gobollada kaligood aysan heli karin.

### **I. Qaybinta awoodaha Sharci-dejinta**

Mid ka mid ah calaamadaha ugu waaweyn ee dastuurada federaalka ayaa ah jiritaanka liis ay ku qoran yihiin awoodo kala duwan. Liiska awoodaha ayaa lagu dari karaa qodobada dastuurka ama waxaa laga dhigi karaa lifaaq leh qaab jadwal. Guud ahaan, dastuurada federaalku waxay la xiriiraan afar nooc oo awoodeed.

- Liiska awoodaha u gaarka ah Federaalka;
- Liiska awoodaha u gaarka ah gobollada;
- Awoodo isla socda/la wadaago;iyo
- Awoodo haraa ah.

Waddamada dawlado hoose lagu dhiso dastuurka federaalka, waxaa sidaas oo kale ku jira liiska awoodaha dawladdaha hoose.



## Noocyada awoodaha Sharci-dejinta dawladda federaalka



### 1. Awoodaha gaarka ah

Liiska awoodaha gaarka ah waxay heer kasta ee xukuumadeed siinaysa awoodo ka madaxbannaan heerarka kale ee xukuumadaha. Awoodahaas gaarka ah waxaa lagu fasiraa in sidaas oo kale ay ku jiraan awoodaha maldahan. Awoodaha maldahan waa awoodo si toos ah ula xiriira, ama si kale lagama maarmaan u ah, ama debecad ahaan la xiriira awoodo si cad loo bixiyay. Awoodaha maldahan badanaaba waxay keenaan muran waxayna u baahan yihiin soo dhexgalka garsoorayaal dastuureed, oo sida badan maxkamadaha ah.

### 2. Awoodaha isla socda iyo kuwa la wadaago

Awoodaha isla socda waxay la xiriiraan arrimaha labo heer xukuumaded ay leeyihiin awoodaha sameynta siyaasadda. Heer kasta oo xukuumadeed ayaa awood loo siin karaa inuu awoodo madaxbannaan u adeegsado dhinacyo cayiman ee isla hal arrin, ama labada heer xukuumadeed ayaa si wadajir ah awoodda ugu adeegsanaya isla hal arrin. Awoodaha isla socda ayaa sidoo kale loo qaybin karaa hab ah in xukuumadda federaalka ay dejiso qaab-dhismeedka sharciga, halka gobollada ay soo saarayaan faahfaahinta si loo dhaqangaliyo qaab-dhismeedka sharciga (sida dalka Koofur Afrika, Brazil). Qaab-dhismeedka sharciga Jarmalka federaalka ah ayaa ahayd arrin u gaar ah ka hor sanadkii 2006, halkaas oo faafaahinta arrimaha uu ka koobnaa qaab-dhismeedka sharciga ay gobolladu ka horyimaadaan, ugu dambaytiina la baabi'iyay.

Mararka ay jiraan awoodo isla socda waa in la dejiyaa nidaam lagu maareynayo mararka ay jiraan xeer labaale ah iyo marka ay jiraan khilaafaad iyo iska horimaad. Guud ahaan, mabda'a mudnaanta federaalka ayaa la dabaqaa. Mabda'a ayaa xaqiijinaya in gobolladu aysan wiiqin siyaasadda qaranka ayaga oo soo saaraya shuruuc ka horimanaya siyaasadda qaranka. Si kasta ha ahaatee, shuruucda gobollada ayaa maraaka qaar mudnaanta ka yeesho shuruucda federaalka. Tusaale ahaan, dalka Canada shuruucda gobollada ayaa mudnaanta leh marka la eego sharciga la xiriira arrimaha hawlgabka.



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Waddamada qaarkood, nidaamka mudnaanta federaalka ayaa la dabaqaa xataa haddii uusan iska horimaad ka dhex jirin shuruucda heerarka kala duwan ee xukuumadda. Jiritaanka sharci federal ah wuxuu burinayaa shuruucda gobollada marka ay isla hal arrin nidaaminayaan. Taas micnaheedu waxuu yahay inaysan jiri karin xeer labaale ah. Tusaale ahaan, dalka Jarmalka waxay gobolladiisu nidaamin karaan arrin ikhtisaaskeeda la wadaago kaliya markii aysan xukuumadda federaalku soo saarin xeer arrinta nidaaminaya. Hase yeeshee mudnanta la siinayo sharciga federaalka ee Jaarmalka waxuu hoos imaanaya shardiga in sharcigu uu noqdo mid lama huraan u ah dhisidda duruufo nololeed siman ee ka jireysa Geyiga Jarmalka dhammaantiis, ama dhowrista midnimo sharci ama dhaqaale.

Waddamo badan oo federal ah sida Nigeria, Jarmalka, Brazil, Australia, iyo Switzerland ayaa nidaamka mudnaanta la dabaqayaa kaliya marka uu ka jiro iska horimaad dhab ah shuruuc gaar ah. Sidaas awgeed, shuruucda labada heer xukuumadeed ayaa arrin nidaamin kara marba haddii aysan iska horimaaneyn shuruucdu.

Dastuurka dalka Koofur Afrika wuxuu qoraya marka uu yimaado khilaaf, sharciga qaranka ayaa mudnaanta ka leh midka gobollada hadii sharciga qaranku uu fulinaayo ujeedooyin lagu xusay dastuurka, gaar ahaan kuwa la xiriira midnimada dhaqaale, amniga qaranka, iyo bixinta fursado isku mid ah ama adeegyo xukuumadeed oo isku mid ah. Haddii sharciga qaranka aan loogu talogelin si loo gaaro ujeedooyinkaas, sharciga gobolka ayaa mudnaanta ka yeelanaya sharciga qaranka. Waa in la ogsoonaado in sharciyada, oo ay ku jiraan sharciyada gobolku, oo ku saabsan arrimaha hoos yimaad awoodda wadaaga ah la horgeeynayo Golaha Qaranka ee Gobollada si ay u ansixiyaan ka hor inta aysan mudnaanta ka yeelan shuruucda kale.

### **3. Awoodaha Haraaga ah**

Awoodaha haraaga ah waxaa loola jeedaa kuwa aan si cad ama si maldahan gaar ahaan loo siinin ama aan lala wadaajin labada heer xukuumadeed midkoodna. Maadaama ay koobantahay kartida uu aadanahu ku saadaalin karo kuna nidaamin karo arrimaha dhammaantood, ayaa awoodaha haraaga ah ay yihiin muhim xataa waddamada dastuurkoodi uu si faahfaahsan u qoondeynayo awoodaha. Ma jiraan qaaciddooyin guud oo sheegaya heerka gobol ee la siinayo awoodo haraaga ah. Waddamada qaarkood, gaar ahaan kuwa lagu aasaasay nidaamka isku-biiridda, awoodaha haraaga ah waxaa inta badan la siiyey gobollada (sida Nigeria, Australia, Maraykanka iyo Switzerland). Dalalka kale ee federaalka ah awoodaha haraaga ah waxaa la siiya dowladda dhexe (sida India). Dalka Itoobiya, awoodaha haraaga ah waxaa la siiyo gobolada, marka laga reebo awoodaha haraaga ah ee la xiriira canshuurta. Awoodaha haraaga ah ee canshuurta waxaa la qoondeeyaa ayadoo mid-mid loo eegayo taas oo loo marayo go'aan lagu gaaray saddex-meelood-labo aqlabiyad kulanka wadajireed ee Golaha Wakiillada Shacabka iyo Aqalka Federaalka.

Dastuurrada ayaa badanaaba oggolaada in xukuumadda dhexe u wakiilato gobollada awoodaha qaar, ama iswaydaar (sida Itoobiya, Koonfur Afrika. Heshiisyada noocan oo kale ah ayaa dhamaystiraya sida adag uu dastuurku u qaybiyay awoodaha xeer-dejinta ee heerarka kala duwan eexukuumadda.



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Inkasta oo qaybinta awoodaha xeer-dejinta ay ku kala duwan yihiin waddamada federaalka ah, waxaa suurtagal ah in la tilmaamo dhinac ay wada janjeeraan marka la qaybinayo awoodaha. Tusaale ahaan, xukuumadda dhexe waxay inta badan awoodo gaar ah ku leedahay lacagta, difaaca, iyo arrimaha dibadda, halka gobolladu ay awood gaar ah u leeyihiin dhaqanka iyo waxbarashada heerka hoose, inkastoo xukuumadda federaalka ah ay soo saari karto qaab-dhismeedka sharciga lagu shaqeynaayo.

### **Jadwalka: Qaababka loo qaybinaayo qaar ka mid ah awoodaha (sharci dejinta) federaalka dhexdiisa <sup>21</sup>**

Arrimaha soo socda waxay tilmaamayaan nidaamka ku saabsan qoondaynta awoodaha dawladda federaalka badankood:

- 'Isla socda' waxaa loola jeedaa in labada heer midba iskeed ugu sameeyn karto shuruuc meelo la yaqaan';
  - 'Wadajir' waxaa loola jeedaa in labada heer oo isla socda ay sameeyn karaan go'aano wadajir ah;
  - 'Wadaag' waxaa loola jeedaa in heer kasta uu ku leeyahay xogaa awood sharciyeed ah dhinacyada kala duwan ee isla hal arrin (tusaale ahaan: waxbarashada) ayadoo go'aanada lagu gaarayo si kala madax-bannaan.
- ✓ **Lacagta:** mar kasta waxa leh dawladda federaalka;
  - ✓ **Difaaca:** mar kasta waxa leh dawladda federaalka (hase ahaatee xubnaha ka tirsan federaalka sida Maraykanka iyo Australia ayaa leh awoodo xaddidan oo ay ku haysan karaan maleeshiyo);
  - ✓ **Ansixinta heshiisyada caalamiga ah:** badanaaba waxaa leh dawladda federaalka; hase ahaatee dawladda xubinta ka ah federaalka ee dalal qaarkood waxay leeyihiin awood xaddidan ee ay ku sameeyn karaan heshiisyadaas;
  - ✓ **Ganacsiga dibadda:** badanaaba waxa leh dawladda federaalka; marar dhif ahna waa isla socdaan, waa wadajir, ama waa wadaag;
  - ✓ **Ganacsiga u dhaxeeya gobollada:** badanaaba waxa leh dawladda federaalka; marar dhif ahna waa isla socdaan, waa wadajir, ama waa wadaag;
  - ✓ **Ganacsiga gobollada gudahooda:** badanaaba waxaa leh xubnaha ka tirsan federaalka; mararka qaar waa isla socdaan;

<sup>21</sup> Xogta jadwalkan waxaa laga soo qaday George Anderson Federalism: An introduction (Forum of Federations) (2008) 24-25.





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- ✓ **Kaabayaasha waawayn:** badanaba waxa leh dawladda federaalka; mararka qaar waa isla socdaan, wadajir ama wadaag;
- ✓ **Waxbarashada aasaasiga ah /iyo dugsiga sare:** badanaaba waxaa leh xubinta ka tirsan federaalka; mararka qaarna waa isla socdaan, marar dhif ahna federal;
- ✓ **Waxbarshada dugsiga sare ka dambeysa iyo cilmi barista:** ma cadda;
- ✓ **Caymiska dakhliga:** waxuu isugu jiraa federal, isla socod, wadajir iyo wadaag;
- ✓ **Hawlgab:** ama waa isla socod, wadaag, wadajir, ama waa federal; marar dhif ahna dawlad goboleed;
- ✓ **Daryeel caafimaad:** badanaaba dawlad goboleed; mararka qaarna waa isla socod, wadaag ama wadajir;
- ✓ **Khayraadka macdanta:** ma cadda;
- ✓ **Beeraha:** ma cadda;
- ✓ **Bii'adda:** badanaaba waa isla socod ama wadajir; marar dhif ahna dowlad goboleed;
- ✓ **Arrimaha dawladda Hoose:** badanaa dawlad goboleed; mararka qaarna wadajir ama wadaag;
- ✓ **Nidaamka maxkamadaha:** badanaa waa wadaag ama isla socod; mararka dhif ah federal; marar nadir ahna dawlad goboleed;
- ✓ **Sharciga ciqaabta:** ma cadda;
- ✓ **Boliska:** badanaaba waa wadaag; mararka qaar waa isla socod ama wadajir, marar dhif ah federal ama gobol;
- ✓ **Canshuuraha/canshuraha macaashka:** badanaaba federal, mararka qaar waa isla socod;
- ✓ **Canshuuraha shirkadaha iyo dakhliga qofka:** badanaa waa wadajir, wadaag, ama isla socod; mararka qaarna federal;

## **II. Qaybinta awoodaha fulinta**

Waxaa suurtoagal ah in la tilmaamo laba qaab oo waaweyn oo loo qaybiyo awoodaha xukuumadda dhexe iyo gobollada, si gaar ahna ugu salaysan qaybinta awoodaha fulinta. Iyadoo labada heer xukuumadeed, tan dhexe iyo midda gobolku ku dhawaad mar kasta ay leeyihiin laamahooda sharci-dejinta u gaarka ah ayaa howlaha fulinta waxay noqon karaan kuwa isku-dhaf ah.



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### **1. Nidaamka federalka ee labaalaha ah**

Nooca fulinta labaalaha ah waxuu ku saabsan yahay qaybinta awoodaha gaarka ee loo qoondeeyay heerarka kala duwan ee xukuumadeed ayadoo aysan jirin ama ay kooban yihiin awoodaha is dulsaaran ama isla socda. Heer kasta oo xukuumadeed wuxuu samaysanayaa hay'adahiisa maamul, kuwaas oo hirgalinaya siyaasadahiisa iyo shuruucdiisa. Nooca labaalaha ah waxuu nuxur ahaan ku saabsan yahay jiritaanka hay'ado maamul oo isbarbar socda ee heerarka federaalka iyo gobolka. Sidaa awgeed, hay'adaha xukuumadda dhexe waxay joogaan gayiga qaranka dhammaantiis waxayna si toos ah u fuliniyaan barnaamijyada xukuumadda dhexe. Federaalka labaalaha ah waxaa si gaar aha loogu yaqaan federaaladii ugu horreeyay sida Maraykanka iyo Canada oo lagu askumay habraaca nidaamka isku-biirdda.

Si kastaba ha ahaatee, xataa marka aysan jirin awoodo la wadaago, dhaqan ahaan farsa way adag tahay in si habboon loo kala sooco maadama arrimo badan ay leeyihiin dhinacyo heer qaran, gobol iyo xitaa heer caalami. Sidaa darteed, waxaa loo baahan yahay adeegsiga awoodo isla socda iyo kuwo wadaag ah oo aan ku qotomin sharci (de facto) marka labada xukuumadood ay leeyihiin awoodo kala duwan oo ku saabsan isla arrin dastuuri amd sharciyeed<sup>22</sup>. Hadaba, farsamo ahaan waxaa loo baahan yahay sidii lagu xiriirin lahaa hawlaha heerarka kala duwan ee xukuumadaha.

### **2. Nidaamka federaalka ee iskaashiga ama isku dhafka**

Nidaamka iskaashiga ama isku dhafka ah waxuu oggolyahay jiritaanka ikhtisaasaad ballaaran oo la wadaago iyo awoodo iyo hay'ado maamul oo is dul saaran. Meelaha awoodaha isla socda ay ka jiraan, xukuumadda federaalka ayaa badanaaba soo saartaa qaab-dhismeedka lagu dejiyayo sharciga halka faaffaahinta loo daayay shuruucda gobollada. Intaa waxaa dheer, in hay'adaha maamulka gobolka ay hirgelin karaan shuruucda iyo siyaasadda xukuumadda dhexe. Sidaa darteed, xukuumadda dhexe waxay yeelan kartaa hay'ado maamul ama shaqaale dawladeed oo tiradoodu ay yartahay. Tusaalaha ugu fiican ee qaybinta isku dhafka ah ee awoodaha fulinta waxaa laga heli karaa dalalka Koonfur Afrika iyo Jarmalka. Nidaamka Jarmalka ayaa gaar ahaan waxaa lagu fasiraa "federaalka maamuleed" sababtoo ah xukuumadda dhexe ayaa badanaaba waxay soo saartaa sharciga iyo siyaasadaha halka ay gobolladu hirgaliyaan shuruucdaas iyo siyaasadahaas ayadoo ay u sii dheer tahay samaynta shuruucdooda iyo siyaasadahooda u gaarka ah ee la xidhidha arrimo xaddidan.

### **3. Iskaashiga xukuumadaha u dhexeeya ee ku xusan Dastuurka sida KMG ah loo ansixiyay ee Soomaaliya**

Dastuurka sida KMG ah loo ansixiyay ee Soomaaliya si cad uma qeexayo qaybinta awoodaha u dhexeeya Dowladda Federaalka iyo Dowladaha Xubnaha ka ah Federaalka. Si kastaba ha ahaatee, waxa uu abuurayaa mabaadii' wada shaqeyn iyo

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<sup>22</sup> George Anderson Federalism: An introduction (Forum of Federations) (2008) 22.



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iskaashi si uu u hago xiriirka ka dhexeeya labada heer ee xukuumadda (Qodobada 50-53). Heer kasta oo xukuumadeed waxa looga baahanyahay in uu xitiraamo xuduudda awoodahooda dastuuriga ah iyo in uu ku dadaalo in la dhiso lana joogteeyo xiriir labo-dhinacle ah oo ku dhisan iskaashi iyo istaageerid kuna salaysan dareen midnimo qaran. Sidoo kale, Dastuurka ayaa dalbaya in heer kasta oo xukuumadeed ay ku wargeliso xukuumadaha kale arrimaha ku saabsan waxqabadkeeda iyo siyaasadaheeda oo saamayn ku yeelan kara heerarka kale ee xukuumadda ama gobollada. Dawladaha Xubnaha ah ayaa sidoo kale laga rabaa inay qaataan siyaasado u adeegaya qorshaynta iyo hirgelinta hawlaha hormarineed ee la wadaago. Mar kasta uu khilaaf dhaco, waa in ay isku dayaan in khilaafka lagu xalliyo wadahal iyo dib-u-heshiisiin, taasoo ku xiran halbeegyada dastuurka iyo sharciyada kale<sup>23</sup>.

Dastuurka ayaa sidoo kale u oggolaanaya Dawladaha Xubnaha ka ah Federaalka inay dhexdooda isla galaan ama ay la galaan Xuumadda Federaalka ah heshiisyo iskaashi oo fulintooda aysan *ku khasabanayn*, balse hoos imaanaya Dastuurka Federaalka ah iyo dastuurada Dawladaha Xubnaha ah oo ay khuseyso (Qodobka 52 (2)). Ma cadda sababta uu Dastuurku u oggolaan waayay in ay galaan heshiisyo ay fulintoodu ay *khasab tahay* Dawladaha Xubnaha ah dhexdooda iyo ayaga iyo Xukuumadda Federaalka, heshiisyadaas oo ku saabsan arrimo ay ikhtisaas gaar ah u leeyihiin ayadoo loo fiirinayo hadba sida Dastuurka u xaddiday, ayna dhici karto in la helo oggolaanshaha ama kormeerka Xukuumadda Federaalka. Dabeecadda heshiisyadaas ee khasbid-la'aanta ayaa wiiqi karta qiimahooda, kalsoonida lagu qabi karo, isla markaasna majo-xaabineysa wixtarkooda. Waddamada federaalka qaarkood, sida Canada, iyo Switzerland, ayaa la oggolyahay heshiisyo rasmi ah oo khasab ay tahay fulintoodu inay dhexmaraan gobollada iyo ayaga iyo Xukuumadda Federaalka.

### **III. Kala qaybsanaanta awoodaha garsoorka**

Nidaamka xukumadda federaalka waxaa lagu gartaa jiritaanka ilo kala duwan ee sharcigu ka soo baxo, kuwaas oo ay ka mid yahiin shuruuc ay sameyso xukuumadda dhexe, shuruuc ay sameyaan goballadu iyo sidoo kale sharuuc ay sameyaan dawladaha hoose. Dastuurada dawladaha federaalka waa inay sheegaan nidaamka maxkamadda damaanad qaadi kara sidii habsami iyo wax-ku-oolnimo lagu xallin lahaa khilaafaadka salka ku haya sharciyo kala duwan. Inkasta oo dawladaha federaalku ay samaysteen qaab-dhismeed maxkamadeed oo u gaar ah, haddana waxaa la tilmaami karaa seddex nooc oo la wadaago: qaab-dhismeedka maxkamad labaale/**kala qaybsan, kan isku-dhifan** iyo **kan midaysan**.

#### **1. Qaab-dhismeedka maxkamadda labaale ah**

Waddamada leh qaab-dhismeedka maxkamad labaaale ah ayaa xukuumadda dhexe iyo gobolladuba leeyihiin nidaam maxkamadeed oo u gaar ah (maxkamadda sare ilaa

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<sup>23</sup> Haddi lagu guudareysto xalinta khilaafaadka u dhexeeya Xukuumadaha dhexdooda, Maxkamadda Dastuuriga ah waxay awood u leedahay kama dambeyska xalinta arrintaan (Qodobka 109C (1) (e)).



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midda hoose). Maxkamadaha gobolku waxay fuliyaan sharciga gobollada, waxaana masuul ka ah maamulkooda iyo bixinta kharajkooda gobollada kala duwan oo ay khuseyso (iyo mararka qaar dawlada hoose). Maxkamadaha federaalkuna waxay fulinayaan sharciga federaalka ayada oo bixinta kharajka maamulkoodu uu saran yahay dawladda federaalka. Qaab-dhismeedka maxkamada labaaaleha ah meesha kama saarayo in ay maxkamadaha federaalku dabaqaan shuruucda gobollada iyo in kuwa gobolladu ay dabaqaan shuruucda federaalka. Hase yeeshee, mabda' ahaan, maxkamadaha heer kasta ayaa leh go'aanka kama danbeysta ah ee fasiraadda shuruucdooda.

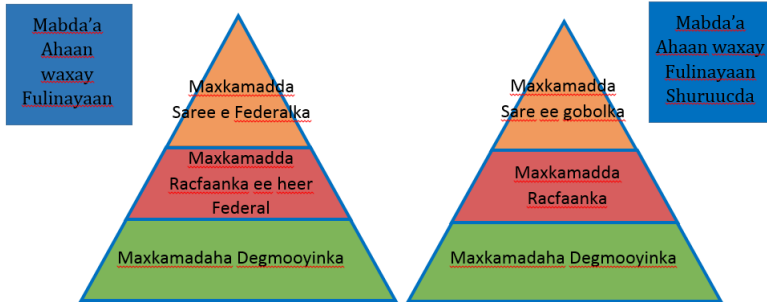
Dawlada federaalka qaarkood, waxaa go'aanada ugu dambeeya ee maxkamadaha gobolka racfaan looga qaadan kara, marka ay jiraan duruufo gaar ah, maxkamadda ugu sarreysa federalka. Dalka qaarkood, sida Ethiopia iyo Australia, maxkamadda ugu sarreysa ayaa dib-u-eegis ku samayn karta go'aannada maxkamadaha oo dhan, oo ay ku jiraan go'aannada maxkamadaha sare ee gobolka lana xiriira arrimo ku salaysan shuruucda gobolka. Dhanka kale, dalalka ay ka mid yihiin Mareykanka iyo Argentina, Maxkamadda federaalka ugu sarreysa waxaa keliya oo dib-u-eegis ku samayn kartaa go'aanada maxkamadaha gobolka marka arrintu ay ku lug leedahay ansaxnimada shuruucda federaalka, ama iswaafaqsanaanta shuruucda gobolka iyo shuruucda federaalka. Hadii ay dhacdo inay arrimo ka soo fulaan shuruucda gobollada, xukunnada ka soo baxa maamadaha ugu sarreeya Gobolka ayaa kama-dambeys ah. Intaa waxaa dheer, in dastuurada federaalku ay sida caadiga ah farayaan maxkamadaha gobolka inay aqoonsadaan ayna fuliyaan go'aannada maxkamadaha federaalka iyo maxkamadaha gobollada kale. Hadii ay timaado diidmo, shuruudaha diidmadaas lagu saleeyay waa in si cad loo sheegaa.

Qaab-dhismeedka maxkamadaha labaaaleha ah ayaa gobollada u xaqiijinaya madaxbanaani dheeraad ah iyo kala duwanaasho asaga oo gobollada u oggolaanaya in ay halabuur yeeshaan si ay u hindisaan qaab-dhismeed maxkamadeed oo ku habboon duruufahooda u gaarka ah. Gobol kasta ayaa magacaabaya garsoorayaashiisa u gaarka ah si ay u fasiraan una dabaqaan shuruucda gobolka. Si kastaba ha ahaatee, xiriirka ka dhaxeeya maxkamadaha federaalka ah iyo kuwa gobollada ayaa noqon kara mid aan sahanayn oo ku cle-celis ah. Intaa waxaa dheer, in qaab-dhismeedka maxkamadaha labaaaleha ah uu u baahanan karo shaqaale iyo kheyraad kale, taasoo laga yaabo in aan laga helin dalalka ku jira kala-guurka. Dalalka qaar oo leh qaab-dhismeedka maxkamadaha labaaaleha ah, sida dalka Ethiopia ayaa qaatay xalal horumarsan, ayada oo maxkamadaha gobolladu ay adeegsanayaan ikhtisaaska maxkamadaha dastuurka illaa iyo inta Baarlamaanka federaalka uu gobollada ka samaynayo maxkamadaha federaalka. Xukuumadda federaalka ee dalka Ethiopia ayaa daboolaysa kharjka la xiriira fulinta awoodaha la wakiishay. Dastuurka Australia ayaa sidoo kale wuxuu u oggolyahay in baarlamaanka federaalku uu u wakiisho maxkamadaha gobolka awoodaha garsoorka ee federaalka.



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### **Qaab-dhismeedka labaalaha ee maxkamadaha Mareykanka**



*F.G. Maxkamadaha federaalka waxay dabaqaan shuruucda gobollada marka ay jiraan duruufo cayiman ayadoo kuwa gobolkuna ay dabaqi karaan shuruucda federaalka. Si kastaba ha ahaatee, heer kasta wuxuu leeyahay go'aanka ugu dambeeya ee fasiraadda shuruuciisa. Maadaama gobolladu ay cayimaan qaab-dhismeedka maxkamadahooda waxaa jira kala duwanaasho qaab-dhismeedkooda la xiriira.*

### **2. Qaab-dhismeedka maxkamadaha isku-dhafan**

Waddamada federaalka oo leh qaab dhismeedka maxkamadaha isku-dhafan, waxay dhammaan heerarka maxkamadaha awood u leeyihiin in ay galaan dacwadaha ku salaysan sharuucda federaalka iyo sidoo kale sharuucda gobolka. Dacwadaha oo dhan waxaay gaari karaan maxkamadda ugu sarreysa ayada oo loo marayo habraaca racfaanka caadiga ah. Heer kasta ee maxkamadeed waxaa maalmula oo dhaqaalaha ku baxaya bixiya heerarka kala duwan ee xukuumadaha. Tusaale ahaan, dalka Nigeria, dawladda federaalka ayaa samaysa maxkamadda sare ee federaalka, maxkamadda racfaanka iyo maxkamadaha kale ee federaalka, oo ay ku jiraan maxkamadda shareecada iyo maxkamadaha dhaqanka iyo maxkamadaha Caasimadda Federaalka ee Abuja. Dawladda federaalka ayaa sidoo kale magacaabaysa garsoorayaasha maxkamadahaasi. Intaas waxaa dheer, in gobol kastaana uu leeyahay maxkamadda sare iyo maxkamadaha hoose, oo ay ku jiraan maxkamadaha shareecada iyo kuwa dhaqanka, kuwaas oo garsoorayaasha ay magacaabaan isla gobolladu. Si kastaba ha ahaatee, dhammaan go'aannada maxkamadaha gobolka waxaa looga qaadan karaa racfaan maxkamadda racfaanka iyo maxkamada sare ee Federaalka.

Dowladda federaalka ah ee Jarmalka waxay maamushaa maxkamadda dastuurka federaalka iyo maxkamada sare ee federaalka. Maxkamadaha kale waxaa kharajkooda bixiya maamulada gobollada, taas oo sidoo kale magacawda garsoorayaashooda. Maxkamadda ugu saraysa ee gobolka ayaa leh go'aanka ugu dambeeya ee fasiraadda shuruucda gobolka, halka dacwadaha ku lug leh sharciga federaalka racfaan loo qaadan karo maxkamadda ugu saraysa ee federaalka.

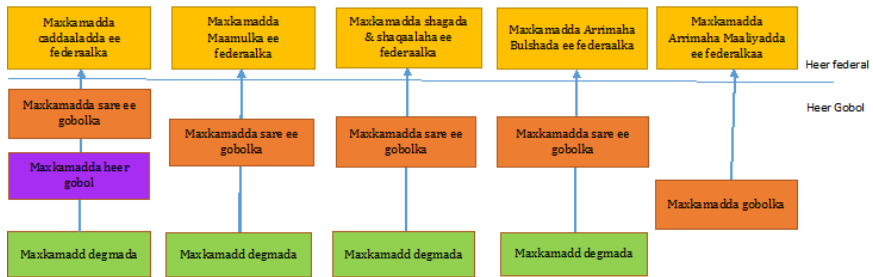


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Dalka Canada ayaa sidoo kale sameestay qaabu gaar ah ee nidaamka maxkamadda isku-dhafan. Dacwadaha hoos imaanaya sharciga federaalka ah iyo rafcaanka ka yimid go'aannada maxkamadaha federaalka waxaa galaya maxkamadaha federaalka. Maxkamadaha gobolka ayaa galaya dacwadaha ku saleysan shuruucda gobolka iyo dacwadaha ku salaysan shuruucda xuquuda aadanaha ee Canada. Dowladda Federaalka ayaa magacaabaysa garsooreyaasha maxkamadaha sare oo idil oo ay ku jiraan maxkamadaha gobollada iyo maxkamadaha racfaanka. Intaa waxaa dheer, maxkamadda sare ee federaalka ayaa dib u eegis ku samayn karta go'aannada maxkamadaha oo dhan, oo ay ku jiraan maxkamadaha gobolka. Si kastaba ha ahaatee, gobollada waxay sameynsan karaan heerarka hoose ee maxkamadaha ayaga ayaan magacaabaya garsooryaasha, mushaarkoodana bixinaya.

Nidaamka maxkamadda isku-dhafan badanaaba waxaa ka dhasha iska-horimaad aad u yar ee dhanka awoodda. Marka la barbardhigo nidaamka maxkamadda labaalaha ah, nidaamka isku dhafaka ah ayaa kharash yar madaama guud ahaan uu u baahan yahay maxkamado iyo garsoorayaal tiro yar. Si kastaba ha ahaatee, waxaa suurto gal ah in nidaamku wuxuu wiiqo mabda'a is-xukunka gobollada, gaar ahaan haddii maxkamadda ugu sarreeya dawladda dhexe ay dib-u-eegis ku samayn karto go'aannada maxkamadaha gobolka oo ku saleysan sharciyada gobolka.

### **Qaab- dhismeedka Maxkamadda midaysan Jarmalka**



### **3. Qaab-dhismeedka maxkamadda midaysan**

Nidaamka maxkamadda midaysan marka la eego dawladda federaalku waxay leeyihiin qaab-dhismeed nidaam hal maxkamad ah oo ay maamusho xukuumadda federaalka ahi. Maxkamadaha waxay dabaqaan shuruucda federaalka iyo kuwa gobolka. Nidaamka maxkamadda midaysan ayaa guud ahaan la mid ah kan maxkamadda dawladda nidaamka midaysan. Dalka Koofur Afrika, tusaale ahaan, nidaamka maxkamadda ayaa ka kooban hal maxkamad oo leh darajooyin kala sarreeya ayada oo Maxkamadda Sare ee Rafcaanku ay tahay maxkamadda ugu sarreeysa ee gasha arrimaha aan dastuuriga ahayn, halka Maxkamadda Dastuurku ay



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tahay maxkamadda ugu sarreeysa ee gasha arrimaha dastuureed. Dhammaan garsoorayaasha waxaa magacaabaya dowladda dhexe, oo sidoo kale maamusha, bixisana lacagta ku baxaysa maxkamadaha. Qaab-dhismeedka maxkamadaha midaysan waa nidaamka maxkamadeed ee ugu fudud uguna kharash yar. Waxaa kale oo faa'iidooyinkeeda ka mid ah ayadoo si isku mid ah oo joogto ah loo dabaqayo, loona fasirayo shuruucda. Si kastaba ha ahaatee, waxaysan gobollada u oggolayn awoodda inay magacaabaan garsoorayaasha fasiraya isla markaasna dabaqaya shuruucda ay laamaha sharci-dejinta ay sameeyeen, taas oo keeni karta inay wiiqdo mabda'a is-xukunka.

### **Qaab-dhismeedka maxkamadda midaysan ee Koonfur Afrika**



### **4. Qaab dhismeedka maxkamadaha Soomaliya**

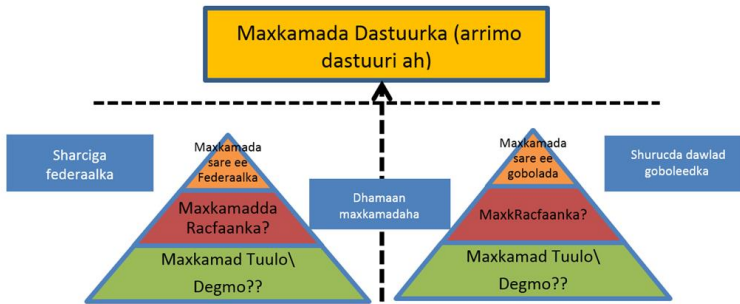
Dastuurka sida KMG loo ansixiyay ee Soomaliya wuxuu dhisayaa Maxkamadda Dastuurka iyo maxkamadaha sare ee heer Federaal iyo heer Dawladaha Xubnaha ka ah Federaalka (Qod. 108). Marka dhinac laga eego, qodobkaan wuxuu u muuqdaa in uu si maldahan u tilmaamayo dhisidda qaab-dhismeed maxkamad labaale ah oo leh Maxkamadda Dastuur oo gooni ah. Dhinaca kale, dastuurka ayaa awood u siinaya Baarlamaanka Federaalka ah in uu go'aamiyo qaab-dhismeedka maxkamadaha (Qod. 105(2)). Qodobka 105(2) ayaan si cad u sheegeyn in uu ka hadlayo qaab-dhismeedka maxkamadaha federaalka oo keliya ama sidoo kale inuu ka hadlayo kuwa Dalwaldaha Xubnaha ka ah Federaalka. Sida ku xusan Qodobka 120, wuxuu Dastuurku ka hadlayaa kaliya samaynta laamaha sharci-dejinta iyo fulinta ee Dawladaha Xubnaha ka ah Federaalka kuwaas oo lagu dhisayo dastuuradooda.

Awoodda Baarlamaanka Federaalka loo siiyay go'aaminta qaab-dhismeedka maxkamada Dawladaha Federaalka ayaa laga yaabaa in aysan waafaqsanayn nidaamka qaab-dhismeedka labaaleha ah (waa hadii ay tani tahay sida Dastuurka uu dejinayo). Gaar ahaan, waxay wiiqi kartaa mid ka mid ah faa'iidooyinka ugu waaweyn



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ee qaab-dhismeedka maxkamadda labaaaleha ah, kaasoo oggolaanaya in dawlad kasta oo xubin ka ah federaalka ay samaysato qaab-dhismeed maxkamdeed u gaar ah ayagoo tixgalinaya duruufaha degaankooda. Si kastaba ha ahaatee, go'aaminta dawladda federaalka ay ku sameynayso qaab-dhismeedka maxkamadaha Dawladaha Xubnaha ka ah Federaalka ayaa xaqiijin karta qaab-dhismeedyo garsoor oo midaysan, hoosna u dhigaysa kala duwanaanshaha qaab-dhismeed iyo jahwareer ka dhalan kara qaab-dhismeed maxkamad labaaale ah.



*F.G. Haddii Dawladaha Xubnaha ka ah Federaalka (DXKF) la siiyo awoodda ay ku go'aaminayaan qaab-dhismeedka maxkamadaha, waxaa suurtagal ah in qaab-dhismeedka maxkamadaha gobolladu ay kala duwanaa karaan.*

Inkasta oo Dastuurku aqoonsanyahay mabaadii'da iyo ujeedooyinka Shareecada, haddana wuu ka aamusay in la abuuri karo maxkamadaha shareecada. Sidoo kale ma cadda in qorayaasha Dastuurku u qaateen in maxkamadaha caadiga ah ay galaayaan arrimaha shareecada iyo kuwa xeer-dhaqanka. Waxaa guud ahaan waxtar u leh in dastuurada in ay si cad u nidaaminayaan in maxkamadaha shareecada la dhisi karo iyo heerka xukuumadeed ee dhisi kara. Waxaa tan la mid ah arrimaha xeer dhaqanka iyo hay'adaha caddaaladda. Ka hor 1962 waxaa jiray maxkamadaha shareecda oo bar-bar socday maxkamado aan shareecada aan qaabilsanayn. 1962 Xeerka Nidaamka Garsoorka ma dhisin maxkamado shareecada u gaar ah. Balse maxkamadaha caadiga ah ayaa galayay arrimaha shareecada iyo xeer dhaqameedka la xiriira khilaafaadka ku lug leh arrimaha gaarka ah, sida sharciga qoyska iyo dhaxalka.

Waddamada federaalka qaarkood sida Nigeria, dastuurka ayaa oggol in la dhiso maxkamado diimeed iyo kuwa xeer-dhaqameed hase ahaatee wuxuu u deynayaa gobollada in ay samaystaan maxkamadaha. Sidaas darteed, maxkamadaha shareecada oo heer federaal ah ayaa la dhisay, laakiin gobollada oo dhan ma lahan. Sidoo kale, dastuurada dalalka Kenya iyo Itoobiya wuxay oggolyihiin dhisidda maxkamadaha shareecada, laakiin iktisaaskoodu waxuu ku kooban yahay arrimaha ku lug leh sharciga qoyska haddii labada dhinac wada oggol yihiin awoodd





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maxkamadda. Dalka Itoobiya, maxkamadaha Shareecada oo heer faderaal ah iyo heer gobol ayaa la dhisay. Waddamada qaarkood, go'aannada maxkamadaha shareecada dib-u-eegis laguma samayn karo (sida Etoobiya) halka dalal kale (tusaale ahaan Kenya iyo Nigeria) maxkamadaha caadiga ah ay dib-u-eegis ku samayn kara go'aannada maxkamadaha shareecada.

### **IV. Qaab-dhismeedka Adeegyada xeer-ilaalinta ee dawladaha federaalka ah**

Dowladaha federaalka ayaa sidoo kale guud ahaan u baahan in ay go'aan ka gaadhaan in dawladda federaalka iyo gobollada ay yeeshaan xeer-ilaalin midaysan, ama inay yeelanayaan adeeyo xeer-ilaalin mid walba u gooni ah. Dawladdo badan oo federaal ah ayaa doortay qaab-dhismeedka labaalaha ah (sida Mareykanka, Itoobiya). Si kastaba ha ahaatee, qaar ka mid ah dalalka federaalka ah, sida Koofur Afrika iyo Russia, waxa ay doorbideen adeeg xeer-ilaalin midaysan oo hoos imaanaya xukuumadda dhexe.

Guud ahaan, qaab dhismeedka adeegga xeer-ilaalinta ee waddamo federaal ah ayaa badaanaaba waxaa saameyn ku leh laba arrimood. Arrinta ugu weyn ayaa u muuqata inay tahay qaab-dhismeedka maxkamadaha. Qaab-dhismeedka adeegga xeer-ilaalinta wuxuu muujinayaa qaab-dhismeedka maxkamadaha dalka. Dalalka qaatay qaab-dhismeedka maxkamadda labaalaha ah, dawladda federaalka iyo gobol kasta waxay leeyihiin nidaam maxkamadeed oo u gaar ah, sidoo kale waxay leeyihiin qaab-dhismeed nidaam **isbar-bar socda ee ah(labaale) adeegyada xeer-ilaalinta**. Tusaale ahaan, dalka Itoobiya iyo Maraykanka ayaa waxa ay samaysteen maxkamadaha labaalaha ah iyo sidoo kale nidaam xeer-ilaan labaalaha ah. Dastuurka Nigeria wuxuu faraya in la dhiso xafiiska xeer-ilaaliyaha guud ee heer federal iyo sidoo kale heer gobol. Xeer-ilaaliyaha gobolka wuxuu guud ahaan ka soo oogaa maxkamadaha oo dhan, oo aan ka ahayn maxkamada militariga, dambiyada ku xusan shuruucda ay sameeyeen sharci-dejinta gobolku. Xeer-ilaaliyaha guud ee federaalka wuxuu dacwad ku ogaa dambiyada ku xusan shuruucda federaalka. Waddamada adeegsada xeer-ilaalinta labaalaha ah, ayaa gobollada kala duwan u abaabuli karaan adeegga xeer-ilaalinta siyaabo kala duwan. Adeegga xeer-ilaalinta labaalaha ah ayaa xoojinaya mabda'a aayo-ka-talinta, waxuuna hormarinayaa madaxbanaanida gobollada. Si kastaba ha ahaatee, waxuu keeni karaa iska-horimaad ikhtisaaseed iyo hay'adihii oo ku cel-celis noqda.

Waddamada leh qaab-dhismeedka maxkamadaha midaysan ayaa u janjeera in ay qaataan nidaamka adeegyada **xeerilaalinta midaysan**. Tusaale ahaan, Koofur Afrika ayaa waxa uu samaystay maxkamadaha midaysan iyo sidoo kale adeeg midaysan ee xeer-ilaalinta oo hoos imaanaya Agaasimaha Qaranka ee Xeer-ilaaliyeyaasha. Qaab-dhismeedka xeer-ilaalin midaysan ayaa abuuraysa qaab-dhismeed fudud wuxuuna mesha ka saarayaa suurto galnimada iska-horimaadyo ikhtisaaseed. Si kastaba ha ahaatee, wuxuu xaddidaya faa'iidooyinka oggalaanaya in gobol kasta sameeyan karo xafiiska xeer ilaalin oo ku salaysan xaqiiqada ka jirta iyo baahidiisa. Waxa kale uu xaddidaya tijaabinta sameynta hay'adaha iyo wax-ka-qabashada caqabadaha ka dhalan kara dembiyada.



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Dalalka leh nidaamka maxkamadda midaysan ayaa u janjeera in ay samaystaan **adeegga xeer-ilaalin isku-dhafan**. Dalka Jarmalka ayaa samaystay nidaam maxkamadeed oo isku-dhafan iyo sidoo kale nidaam xeer ilaalin oo isku-dhafan, asag oo xeer-ilaaliyaha guud ee federaalku uu badanaaba la shaqeeyo maxkamadaha sare ee Federaalka. Xeer-ilaaliyeyaasha federaalka ayaa masuu'l ka ah inay ka matalaan xukuumadaha gobollada Maxkamadda Caddaaladda ee Federaalka oo ah maxkamadda ugu sareysa ee gasha kiisaska madaniga iyo kuwa ciqaabta. Haase yeeshee, waxaa kale oo ay ka soo dhex oogi karaan maxkamadaha gobollada dambiyada federaalka qaarkood, sida argagaxisnimada, been-abuurka iyo dambiyed abaabulan. Xeer-ilaaliyeyaasha gobollada waxay ka dhex oogaan dambiyada dhammaan maxkamadaha gobollada. Waxaa muhim ah in la ogaado in xaafiiska xeer-ilaalinta federaalku uusan ku lahayn awood kormeer xaaafiisyada xeer-ilaalinta gobollada. Waxaa wehliya maxkamadda, in qaybinta awoodaha la xiriira sharciga ciqaabta uu saameyn ku yeelan karo qaab-dhismeedka adeegyada xeer-ilaalinta. Hadii labada heer xukuumadeed ay leeyihiin awood ay ku soo saaraan shuruucda ciqaabta, adeegyada xeer-ilaalinta labaaleha ah ayaa markaas habboon. Dhanka kale, hadii awoodda samaynta sharciga ciqaabta ay si gaar ah u leedahay hal heer xukumadeed, waxaa haboon adeeg xeer-ilaalin midaysan.

Dastuurka sida KMG ah loo ansixiyay ee soomaaliya ayaa oggol dhisidda Xafiiska Xeer-ilaaliyaha Guud. Si kastaba ha ahaatee, ma timaamayo uu hawlaha xafiiska qabanayo. Sida ku xusan Xeerka Nidaamka Garsoorka ee 1962, Xafiiska Xeer-ilaalinta Guud waxuu mas'uul ka ahaa adeegyo ay ka mid ahaayeen kuwa xeer-ilaalinta. Dastuurka sidoo kale si cad uma qeexayo in Dawladaha Xubnaha ka ah Federaalka ay samaysan karaan adeegyo xeer-ilaalin u gaar ah, ama in dambiyada oo dhan, oo ay ku jiraan kuwa ka dhaca Dawladaha Xubnaha ka ah Federaalka, ay oogeysa Dawladda Federaalku.

### **V. Qaab dhismeedka Ciidamada Qalabka-sida iyo Booliska Dawladaha Federaalka**

Dhamaan dawladdaha federaalka, ciidamada qalabka sida waxay hoos imaanayaan dawladda federaalka. Si kastaba ha ahaatee, qaar ka tirsan dawladdaha federaalka oo ku samaysmay nidaamka isutagga ama isku-biiridda sida dalalka, Maraykanka iyo Australia, waxay u ogolaanayaan gobollada inay dhistaan ciidamada miliishiyada ah. Dalka Mareykanka, guddoomiyaha gobolka ayaa sidoo kale, wuxuu gacanta ku haya 'ilaalada qaranka si ay uga hortagaan xaaladaha degdegga ah, sida masiibooyinka dabiiciga, sidoo kale, waxaa la geeyaa goobaha oo ay ka howlgalaan marka ciidamada booliska ee gobolka aysan awood u lahayn xaqiijinta nabadda iyo kala danbeynta. Ma jiro dal federal ah ee ka tirsan Africa oo ogolaanaya dawlad goboleedyada inay dhistaan oo ay maamushaan ciidamo miliishiya ah ha ahaadeen kuwa caadi ah ama aan caadi ahayn.



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Sidoo kale, dhamaan dalalka federaalka, xukuumadda federaalka ayaa dhisaysa ciidanka boolis oo u gaar ah si ay u meelmariyaan qaar ka mid ah ama dhammaan shuruucda dalka. Intaa waxaa dheer, inta badan dalalka federaalka waxay u ogolaanayaan gobollada in ay dhistaan ciidamo booliis oo iyaga u gaar ah si ay u fuliyaan sharciyada gobolka. Dalalkaasi, dawladdaha federaalka ahi waxaa inta badan loo ogol yahay in ay isticmaalaan hay'adaha gobolka si ay u fuliyaan sharciyada federaalka. Dhismaha adeegyada booliska gobolka waxay ka dhalayaan baahida gobollada ay u qabaan in ay fuliyaan shuruucda taasoo adkeyneysa madax-bannaanidooda.

Dalal qaar ah oo ka tirsan federaalka, sida Koonfur Afrika iyo Nigeria, dhaqangelinta sharci waxay si gaar ah u hoos imaanaysaa awoodda xukuumadda federaalka. Sida oo kale, gobollada ma lahan ciidamo boolis oo iyaga u gaar ah. Si kastaba ha ahaatee, dalka Koonfur Afrika, magaaloyinka waawayn, sida Johannesburg, Cape Town, Pretoria iyo Durban, waxay dhisteen boolis degmada u gaar ah si ay u fuliyaan sharciyada waddooyinka iyo sharciyada gobolka. In la baabi'yo booliska dawlada hoose ee Nigeria waxa keentay cabsi laga qabo in saraakiisha gobolka ay isticmaali karaan ciidamada booliska gobolka si ay ugu adeegtaan danahooda gaarka ah iyo in ka hor-yimaadaan awoodda xukuumadda federaalka.

Dastuurka sida kmg ah loo ansixiyay ee Soomaaliya, ciidamada qalabka sida waxay hoos imaanayaan dawladda dhexe (Qod.126). Dastuurka ayaa dammaanad qaadaya xaqa muwaadin kasta si loogu tixgeliyo jagooyinka ciidamada qalabka sida iyadoo aan la takoorayn. Gaar ahaan, waxa uu mamnuucayaa takoorka ka dhanka ah haweenka. Dastuurka ma dalbaayo in ciidamada qalabka-sida ay u dhan yahay dhamman Soomaliya qaybaheeda kala duwan, sida, tusaale ahaan, Itoobiya, Nigeria iyo Kenya. Dastuurka Nigeria wuxuu dalbayaa dhisidda guddi federaal ah oo u xil-saaran shaqooyinka inay u soo baxaan hab siman oo cadaalad ah, waxayna ku xiran tahay ogolaanshaha Golaha Shacabka, si loo qaybiyo dhammaan jagooyinka dawladda, oo ay ku jiraan ciidamada qalabka-sida ee federaalka. Ma cadda in xubnaha ka tirsan federaalka loo ogol yahay inay yeeshaan ciidamada qalabka sidaa oo iyaga u gaar ah. Si kastaba ha ahaatee, xubnaha ka tirsan federaalka waxay awood u leeyihiin in ay samaystaan sharci u gaar ah iyo ciidamada booliska gobolka si ay uga qay-bqaataan ilaalinta nolosha iyo hantida muwaaddiniinta iyo dhawrista xasilloonida iyo ammaanka degaannadooda iyagoo kaligood ah ama kaashanaya ciidammada booliska federaalka.

## **E. Habka maaliyadda ee nidaamka federaalka**

Habka maaliyadda ee nidaamka Federaalka wuxuu la xidhiidha qaybinta dakhliga (badanaa dakhliga cashuuraha iyo khayraadka dabiiciga ah) iyo awoodaha kharajka ee qaybaha kala duwan ee dawladda. Waa arrin muhiim ah qaybinta hantida iyo khayraadka dalalka federaalka. Kala qaybinta awoodda la xiriirta qaybinta



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kheyraadka dhaqaale ee dabiiciga ah (nidaamka maaliyadeed ee federaalka) waa mid ka mid muranka iyo iska-horimaadka ka imaanaya awoodaha kala sarreeya. Kala qaybinta awoodda maaliyadeed waa mid ka sahlan qeybinta awoodaha kale ee sharci-dejinta iyo fulinta, taas oo ka dhigaysa arrimaha maaliyadeed midda ugu muhiimsan oo maalin walba la xiririrta siyaasadda.

Qaybinta awoodaha maaliyadeed ayaa si toos ah waxay ugu xirantahay qeybinta awoodaha sharci-dejinta oo kale. Tusaale ahaan, inkasta laga yaabo in gobolladu leeyihiin awoodo xeer-dejin, haddana, haddii ay awoodda dakhli uruurinta ugu weyn ay iska leeyihiin dawlada dhexe, gobollada waxay ku xirnaanayaan bixinta dhaqaalaha ee kaga imaaneysa dawladda dhexe taasoo wiiqaysa madaxbannaanida gobolada. Waxaa intaa dheer, nidaamka maaliyadeed ee federaalka wuxuu sare u qaadi karaa ama wiiqi karaa caafimaadka dhaqaalaha qaranka. Tusaale ahaan, tartanka gobollada in ay keeni kartaa tar-tanka dhanka hoose<sup>24</sup>.

### **Nidaamka maaaliyadeed ee federaalka wuxuu la xidhiidha su'aalaha qaarkood:**

- **Wa maxay heerka dawladeed ee dakhliga aruurinaysaa ?**
- **Ilaa heerkee ay gobolladu deyn qaadan karaan?**
- **Wa maxay heerka dawladeed ee kontoroolaysa kharajka?**
- **Sidee dakhliga qaranka loo wada qaybsanayaa?**
- **Sidee dakhliga ka soo baxa kheyraadka dabiiciga loo qaybsanayaa?**

Dawlada federaalka way ku kala duwan yihiin kala qaybinta awoodda ururinta dakhliga iyo kharashka. Si kastaba ha ahaatee, culimada ayaa qeexday mabaadii'da guud ee ka mid ah qaybaha awoodaha maaliyadeed. Guud ahaan, waxa hageyso qaybinta awoodaha maaliyadeed mabaadii'da u qoondaynta kheyraadka iyo kobaca dhaqaalaha oo dhinac ah iyo mabaadii'da sinnaanta iyo ilaalinta isku-dheelitirnaanta iyo xasilloonida siyaasadeed ee gobolka, oo dhinaca kale ah.

### ***Jadwal: Mabaadi'da hagaysa nidaamka maaliyadeed ee federaalka***

<b>Dhaqaale wax- ku ool ah</b>	Awoodaha maaliyadeed waa in loo qaybiyaa hab lagu xaqiijin karo in si hufan loo isticmaalaa dhaqaalaha.
<b>Cadaalad ah</b>	Qaybinta awoodaha waa in la xaqiijiyaa in qof kasta uu helo adeegyo isu-dhigma iyadoo loo eegin in gobolka uu deggan yahay.
<b>Habboonaansho</b>	In la isku dayo si loo xaqiyo in heer kasta ee xukuumadeed

<sup>24</sup> Fikradda tartanka waa arrin gobol kasta isku dayaysasi ay u soo jiidato ganacsi iyo maalgashi iyo degdka soo degaaya iyagoo hoos u dhigaaya ama baabiinaaya heerarka sharciyeed ku saabsan arrimaha muhiimka ah, sida deegaanka ama shaqada. Waa nooc ka mid ah tartan oo dhaawacaaya danaha dhammaan ama inta badan gobollada iyo dadkooda ku nool.



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	ay ururin karto lacag si ay u daboosho qeyb weyn oo ka mid ah waajibaad-yadeeda kharasheed.
<b>La-xisaabta</b>	Heerka xukuumadeed ee urururisay dakhliga waa in sha-cabkeeda uu la xisaabtami karaa.
<b>Maalmul sahlan</b>	Waa in la sameeyaa dadaallo lagu yareeynayo kharashka lagu ururinaayo dakhliga ee canshuur bixiyaasha gobolka.
<b>Dhiirigelin hal-abuurka</b>	Qaybinta awoodaha maaliyadeed waa in aanay wiiqin hal-abuurka iyo tartan caafimaad leh oo ka dhexeeya gobolka.
<b>Saadaalin iyo xasilooni</b>	Kala qaybinta awoodaha maaliyadeed waa inay noqoto mid ay dhammaan heerarka dawladaha leeyihiin dakhli la saadaalin karo oo xasilloon.

Si mabaadii’daasu u yeelato raad wax-ku-ool ah, waxaa loo baahan yahay isku-dheelli-tir xubno tartamaya. Tusaale ahaan, in la xaqiijo in ay helaan adeegyo siman taasoo ay dhici karto in aysan waafaqi karin isticmaalka ugu hufan ee khayraadka. Arrintaan awgeed dawladdu waxay xoogga saareysaa mid kastoo ah mabaadiidaa. Sida marka la qeybinayo awoodaha kale, dheelitirka awoodda siyaasadeed ayaa saamayn ku leh dheelitirka qaybinta awoodaha maaliyadeed.

**Mabaadi’da sinaanta, iyo waxtarka iyo la xisaabtanka hagaya kala qeybinta awoodaha maaliyadeed ee Soomaaliya**

Dastuurka kmg loo ansixiyay ee Soomaaliya ma nidaaminaya kala qeybinta awoodaha maaliyadeed. Waxuu si fudud u tilmaamayaa in kala-qaybinta awoodaha iyo kheyraadka ay ka wada-xaajoonayaan kuna heshiinayaan dawladda federaalka iyo dawladaha xubnaha ka ah federaalka. Si kastaba ha ahaatee,

dastuurka waxa uu dejinayaa mabaadii muhiim ah ee haggaaaysa sidii wax loo kala qaybsan lahaa. Sidaa awgeed, mas’uuliyadda dakhli ururinta waa in la siiyaa hadba heer xukuumadeedka sida wax-ku-oolka ah u qaban karta hawshaas (Qodobka 50(b)). Waxaa intaa dheer, dawladda federaalka waxay mas’uul ka tahayin ay xaqiijiso in qay-bkasta oo Jamhuuriyadda Federaalka Soomaaliya ka tirsan hesho adeegyo siman iyo taageero isla mid ah (Articles 50(diyof)). Ma jiro mabda’ la xidhiidha qaybinta kharajka. Si kastaba ha ahaatee, mabaadi’da guud ee wax-tarka ah ee la xiriira kala qeybinta awoodaha ayaa lagu dhaqi karaa qaybinta awoodaha la xiriira (Qodobka 50(b)).

**I. Qaybinta Awoodaha Dakhli-Ururinta**

Qaybinta awoodaha dakhli-ururinta way ku kala duwan yihiin dawladaha federaalka. Ma jiro hal nidaam oo fiican ee la xiriira qoondaynta masuuliyadda kharaska, Haddaba mabda’ Guud ee wax-ku-oolka ah ee la xiriira qeybinta awoodaha waxaa sidoo kale loo isticmaali qeybinta awoodaha kharash-kareynta. Dowladda dhexe ayaa



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inta badan waxay leedahay ilaha ugu muhiimsan dakhliga iyo uruurinta dakhliga oo ka badan kharajka ay bixinayaan. Dhinaca kale gobollada waxay uruuriyaan in ka yar kharajka ay bixiyaan. Tusaale ahaan, xukuumadda federaalka ee Nigeria waxay ururisaa in ka badan 90% dakhliga guud. Wadamada federaalka oo leh nidaamka baahsan, sida Kanada iyo Switzerland, dowladda dhexe waxay ururisaa inka yar 50% dakhliga. Si kastaba ha ahaatee, xitaa dalalka federaalka ee aadka u baahsan, gobollada badanaa iskuma filna oo inta badan waxay u baahan yihiin in dawladda dhexe ay daboosho baahidooda iyo kharashka ayku gudanayaan xilalkooda.

Guud ahaan gobollada waxay leeyihiin awoodo ay ku ururin karaan dakhli kuwaasoo awood u siin kara in ay daboolaan baahidooda dhanka kharashka adeegyada lagama-maarmanka u ah dadka degan deegaanka. Sidoo kale, dadka deegaanka ku nool ee gobol kasta ama degaan kasta waa in ay bixiyaan dhaqaale lagu fulinaayo adeegyada ay badanaaba si gaar ah ugu fa'iidaysanayaan dadka degaanka. Sababaha mabaadii'daan keentay ayaa ah labo.

### **Habka ka jira dawladda federaalka waxay caddaynayaan saddex qaybood oo ka mid ah ilaha canshuuraha iyo dakhliga,:**

- **Ilaha dakhliga u gaarka ah heer kasta ee dawladda;**
- **Ilaha dhakhliga wadaagga ah iyo;**
- **Isku-wareejinta xukuumadaha dhexdooda.**

Haddii gobolada dhaqaale ahaan ay ku xiranyihiin dowladda dhexe, waxaa wiiqmaya madaxbanaanida gobolada. Intaa waxaa dheer, haddii gobollada ay ka uruuriyaan dakhliga dadka degan, dadka deegaanka way la xisaabtami karaan marka laga eego xagga kharashka ay bixinayaan gobolka. Waxaa intaa dheer, kala- duwanaashaha saldhigga u canshuurta gobolka waxay caawin kartaa in la hubiyo in dakhliga gobolka uusan waxyeelo kaga imaanin sabab la xiriirta is-bedelidda saldhigga canshuurta xukumadda awgeed.

Culimada way ku kala qaybsan yihiin in gobollada ay yeelan karaan awoodo badan ee canshuur urururin ah aan xadidnayn iyo canshuur saldhigya u ah gobolada. Si looga fogaado tar-tan waxyeello keenaya, dhaqaaleyahannada qaarkood ayaa soo jeediyay in gobollada la siiyo oo keliya awoodo canshuur- qaadis oo ku saleysan canshuurta go'an, sida cashuurta hantida maguurtada ah oo kaliya, halka dawladda dhexe la doorbidayo in ay awood u leedahay inay soo rogto saldhigga canshuurta guurtada ah, sida canshuurta dhaxalka, canshuurta dakhliga qofka iyo cashuurta shirkadaha, ama in ay awoodaasi ay noqoto mid wadaaga ah. Tusaale ahaan, tartanka gobollada sida Kanada iyo Australia waxay keentay hoos u dhac u hor-seeday heerka canshuurta dhaxalka, iyo xataa tan saldhigga canshuurta ah. Dhaqaaleyahaano kale waxay soo-jeediyeen in tartanka iyo tijaabinta canshuurta waa mid ka mid ah faa'iidooyinka federaalka waxayna ku taliyeen in gobollada ay yeshaaan awoodo ay ku soo rogi karaan canshuurta hantida guurtada ah. Weli dhaqaaleyahanno kale ayaa waxay ku talinayaan in saldhigyada canshuurta guurtada ah ay go'aamiso dowladda dhexe,



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laakiin gobollada waa in la siiyaa awoodo kala duwan ee heerka canshuurtasi si kor loogu qaado tar-tan wanaagsan ee u dhaxeeya gobollada.

Intaa waxaa dheer, waxa aguuud ahaan lagu talinayaa in dowladda dhexe ay la-haato awoodaha dejinta saldhigga canshuuraha oo si aan sinneyn loogu qaybinayo gobollada, sida canshuurta khayraadka dabiiciga ah, si looga hortago isku dheeli-tir la'aan gobolada.

**Guud ahaan, aragtida ku sabaasan awoodaha baahinta dakhli aruurinta waxay hormarinaysa isla-xisaabtanka iyo ka jawaabidda gobollada dadka deegaanka iyo xoojinta madaxbannaanida dhaqaale ee gobolka. Dhinaca kale, baahinta xad-dhaaf ah waxay abuuraysaa dhibaatooyin laxiriira hufnaan dhaqaale iyo maamul fudud, islamarkaana waxay kordhinaysaa kharashka maamulka iyo u hogaaansanaanta canshuur bixiyaasha (cabsi ah ' canshuurta dulsar ah'). Waxa kale oo ay keeni kartaa inay carqalad keento tartanka canshuurta (dhibaataada ka iman karta tar-tanka ilaa meesha u hooseysa). Heerarka sare ee is-waafajinta canshuuraha (ku siman iyo kuwa kala sareeya). Sidaa daraadeed waxaa laga yaabaa in loo baahan yahay in dalalka la maamulo canshuuraha aadka u baahsan. Baahinta awoodda maaliyadeed waxay xadeyn kartaa awoodda xukuumadda dhexe si ay u kabto isu-dheelitir la'aanta dakhliga guud ahaan gobollada taasoo looga baahan vahav mabaadi'da sinnaanta.**

Hadi heer xukuumadeed ay leedahay awood ay ku ururiin karto cashuurta, taas macnaheedu ma aha inay maamulayaan canshuurtaasi. Sida waafaqsan mabda'a maamulka sahlan, dalalka federaalka intooda badan cashuurta waxaa ururiya dawladda federaalka, waxayna la qaybsataa gobollada. dalal yar oo federaal ah, sida Switzerland iyo Jarmalka, gobollada ayaa ururiya canshuuraha oo dhan, oo ay ku jiraan canshuurta federaalka, kuwaas oo lagu wareejiyo xukuumadda federaalka. Marka loo xilsaaro gobollada maamulka canshuurta federaalka waxaa laga yaabaa in dhibaatooyin la taaban karo ay abuurmaan, sida habka ururinta ee gobol kasta oo kala duwan aan, taas oo dhib iyo kharash badan u keenayso hawlaha gobollada dhexdooda si ay ugu hoggaansamaan waajibaadka canshuurta.

***Jawdalka: Habka kala qeybinta awoodaha dakhli-ururinta ee la xiriirta canshuuraha waaweyn*<sup>25</sup>**

<p><b>Dakhliga Canshiirta qofka</b></p>	<p>Dowladda Federaalkaa ayaa leh saamiga ugu badan ee cashuurta dakhliga, gaar ahaan wadamada wax-wada qaybsigu loo arkaa arrin muhiim ku ah bulshada. Belgium iyo Koonfur Afrika, dawladda federaalka ayaa kontoroosho canshuurta dakhliga. Dalka Jarmalka, canshuurta dakhliga waxaa wada wadaagga xukuumadda federaalka</p>
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<sup>25</sup> Xogta jadwalkan waxaa iska leh G. Anderson *Fiscal Federalism: A Comparative Introduction* (2010) OUP CUP Chapter 4.



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	<p>iyo gobollada. Si kastaba ha ahaatee, wadamo badan oo federaal ah waxay ogolaanayaan in gobolada ay canshuuraan canshuurta dakhliga shakhsiga ah, inta badan awoodaha canshuurta wadagga ah (tusaale, Canada). Dalka Nigeria, dawladda federaalka ayaa qaada canshuurta dakhliga ee shaqaalaha iyo dadka deggan dhulalka federaalka ah, halka gobollada ay qaadaan inta harsan. Dalka Itoobiya, dawladda federaalka ah waxay qaadaa canshuurta dakhliga shaqaalaha qaranka iyo shaqaalaha ururrada caalamiga ah, halka gobollada ay qaadaan canshuurta dakhliga shaqaalahooda.</p>
<b>Canshuurta dakhliga shirkadaha</b>	<p>Dawladda dhexe ayaa inta badan kontoroolaysa canshuurta dakhliga shirkadaha iyo sidoo kale maamulkooda, taas oo in badan hoos u dhigaysa kharajka shirkadaha. Laakiin qaar ka mid ah dawladdaha federaalka ah, sida Maraykanka, Switzerland iyo Kanada, waxay ogolaanayaan in gobollada ay qaadaan canshuurta shirkadaha (xaaladdan oo kale waxay dalbeysaa oo muhiim ah in la iswaafajiyo). Dalka Itoobiya, canshuurta dakhliga ee shirkadda waxaa si wada-jir ah u ururinaya dawladda federaalka iyo gobolalada. Dalka Garmalka, canshuurta dakhliga oo dhan waxa si siman u wadaagaya xukuumadda federaalka iyo gobollada.</p>
<b>Canshuurta dhoofinta iyo soo dejinta</b>	<p>Mar kasta waxaa maamula dawladda federaalka.</p>
<b>Canshuurta lagu daro qiimaha (canshuurta iibka iyo midda sanadlaha ah ee dalalka qaarkood)</b>	<p>Maadama ay adag-tahay canshuurta iibka waxaa inta badan qaadaa oo maamusho xukuumadda federaalka ah (sida Koonfur Afrika, Nigeria iyo Switzerland). Qaar ka mid ah dawladdaha federaalka sida Argentina iyo Itoobiya, waa la wada wadaagaa. Dalka Jarmalka gobollada ayaa maamulo canshuurta iibka, laakiin dakhliga waxaa wadaagga xukuumadda federaalka iyo gobollada. Qaybinta dakhliga ka soo baxa canshuurta iibka waa qayb ka mid ah nidaamka maaliyadeed ee Jarmalka waana dakhli ekeysiinaya gobollada taasoo ay ku kala duwanyihiin gobollada sida ay u qeybsanayaan.</p>
<b>Canshuurta hantida</b>	<p>Canshuurta hantida waxaa inta badan ay ku baahsan tahay gobolada. Wadamada qaarkood, sida Koofur Afrika, saldhigga canshuurta waxaa go'aamiya dawladda dhexe, halka maamulka deegaanka ay go'aamiyaan heerka canshuurta.</p>

**II. Awoodda u xilsaaran kharajka**

Kharashka badanaa wuxuu la xidhiidhaa su'aasha ah waa tee heer xukuumadeedka u qabanaysa adeeg gaar ah dadweynaha. Dawladaha federaalka waa kala duwan yihiin saamiga guud ee kharashka dadweynaha ee dawladda federaalka ah iyo gobolada. Dawladaha federaalka ee leh nidaamka dhexe, sida Malaysia, dawladda dhexe ayaa in ka badan 80% kharashka dawladda bixineysa kaddib markii dawladdaha loo sameeyo kharash wareejin. Dawladaha federaalka, sida Kanada, Switzerland, iyo Jarmalka, dawladda dhexe waxay bixisaa in ka yar 40% oo ka mid ah kharashka kaddib markii dawladdaha loo sameeyo kharash wareejin.





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Heerka xukuumadeed oo leh awooda lagu sameeyo siyaasad gaar ah ee ku saabsan kharajka lagama maarmaanka u ah ayaa fulisa siyaasaddaas. Caadii ahaan kharajka ayaa waxaa la socda mas'uuliyad sharciyeed. Sidaas daraaddeed arrintan waa qaabka laba laabka kharajka, dalalka ku dhaqmaana nidamkan waxaa ka mid ah Maraykanka, Kanada, Australia, iyo dawlad badan ee Latin America.

Dhinaca kale, dalalka federaalka oo leh awoodda wadaagga ah iyo nidaamka fulinta isku dhafan ee siyaasadda waxaa badanaa ansixiya dowladda dhexe waxaana fuliya xukuumadaha gobollaada, dawladdaha gobollada waxay bixiyaan kharashka, in-kasta ay dowladda dhexe dabooleyso qaar lacagaha kharajka ah oo ay bixinayaan gobollada. Nidaamka isku-dhafan waxaa ku dhaqma dalalka Switzerland, Jarmalka liyo KoofurAfrika. Dalalka Nigeria iyo Hindiya waxay ku dhaqmaan nidamka laba laabka ah iyo nidaamka isku dhafan.

Nidaamka isku dhafan wuxuu dalka u keenayaa siyaasad qaran oo cad. Si kastaba ha ahaatee, waxay u baahan tahay heer sare oo iskaashi ah waxayna keeni kartaa siyaasad cakiran. Maamulka siyaasadeed ee labo jibaaran waxay hoos u dhigaysaa siyaasad cagiran hase ahaatee waxay horseedaysaa in hawlaha ay si ballaran u laba-laabmaan ayna hoos u dhigto tayada. Tusaale ahaan, haddii sharciyeynta beeraha lagu nidaaminaayo awoodda wadaagga ah, labada dawladdood federaalka iyo gobollada ayaa laga yaabaa inay leeyihiin xafiisyada beeraha, sida dalka Kanada. Waxaa intaa dheer, xukuumadda federaalka waxay isticmaaleysaa in awoodaha ay ku wareejin karto gobollada si ay saamayn ugu yeelato siyaasadda gobollada ay sida gaarka ah u leeyihiin taasoo wiiqaysa is-xukunkooda.

**Mabda'a ahaan heer xukuumadeedka leh awooda lagu sameeyo siyaasad gaar ah oo lagu bixinaayo kharashka lagama maarmaanka u ah fulinta siyaasadda. Si kastaba ha ahaatee, dawlad federaal badan, gobollada waxay hirgeliyaan siyaasadda ay ansixiyay xukuumadda federaalka.**

Guud ahaan, heerka xukuumadeed ee ugu dhow waa tan matisha dadka ka-faa'iideysta adeegyada guud ay iyadu bixisa, haddaba Dawladaha hoose guud ahaan waxay bixiyaan adeegyo ku kooban degmooyinka, sida nadaafadda, waddooyinka deegaanka, iyo arrimaha amniga, taasoo ay ka faa'idaaysanayaan dadka deegaanka iyo gobollada deriska ah si waxtar leh ama si wax-u-dhimi karta. Sidaa darteed dadka deegaanka waa in ay la xisaabtami karaan dowladda gobolka, iyo faa'iidada weyn oo ku jirto waxay tahay in la ogaan karo in shacabka degan loo adeegay iyo in kale<sup>26</sup>. U-dhowaasha awgeed, dowladda gobolka iyo kuwa degmada waxaay si wax-tar leh ugu jawaabayaan baahida dadka deegaanka. Waxaa intaa dheer, gobollada waxay mudnaanta siinayaan adeegyada qaarkood wayna kala duwan yihiin gobollada, sida caadiga ah waxay qabanayaan adeegyada. Tusaale ahaan, kharajka ku baxaya

<sup>26</sup> G. Anderson *Fiscal Federalism: A Comparative Introduction* (2010) 10.



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arrimaha dhaqanka iyo afafka wax abadana fuliya gobolada, inkasta oo ay dowladda federaalka ku siin karto kaalmo dhaqaale.

Dhinaca kale, adeegyada ay ka faa'ideysanayaan dadka deggan gobollo kala duwan ama dhammaan gobollada, sida difaaca dalka ama kaabayaasha u dhexeeya gobollada, adeeggaas waxaa fulinayaa dawladda dhexe. Sidoo kale, qaar ka mid ah adeegyada dabeecadooda gaarka ah waxay u baahanyihiin siyaasad guud iyo ku dhaqan gaar ah oo saameynaya dalka oo dhan, Tusaale ahaan, adeegyada cimilada iyo cabbiraadaha waxaa bixisa dawladda dhexe.

Waxaa intaa dheer, barnaamijyo leh saamayn qaybinta, sida daryeelka bulshada iyo barnaamijyada ammaanka-bulshada, waxaa guud ahaan la siiyaa dawladda federaalka si ay u suurto gasho in adeegyo siman ay gaarsiiso dalka oo idil. Sidoo kale, dowladda federaalka ah ayaa guud ahaan gacanta ku haysa maamulka kharajka. Tusaale ahaan, kharashka ku saabsan barnaamijyada daryeelka badanaa wuu isbedelaa xilli kasta taas oo keenaysa degnaasho la'aan la xiriirta isku-dheelitirka xisaabeedka gobolka iyo xasiloonidiisa. Waxaa intaa dheer farqiga u dhaxeeya nidaamyada daryeelka, wuxuu keeni kara dhaqdhaqaaqa dadka saboolka iyagoo aadaya gobolada qaniga ah. Tan ugu muhiimsan ee farqigu keeni kara waa sinnaan la'aan ku saabsan bixinta adeegyada taaso wiiqaysa daacadnimada nidaamka federaalka. Haddaba masuuliyad fedreraal ah ama ugu yaraan mid la-wadaago waa muhiim. Haddii kale, barnaamijyada waa in ay raad ku yeeshaan gobollada si waafaqsan heerka ugu yar ee dowladda federaalka ah dejisay.

**Jadwalka: Qaybinta Masuuliyadda ugu waawayn ee kharajka<sup>27</sup>**

<b>Difaace</b> (la socio boliiska kama mid aha difaaca)	Had iyo jeer waa masuuliyadda dawladda federaalka, inkastoo dalka Australia iyo Maraykanka ay Gobolada xaq u leeyihiin in ay bixiyaan kharajka maleeshiyada.
<b>Daryeelka caafimaadka</b>	Badanaa waxaa maamula dawlad goboleedyada, inkasta oo dawladda dhexe ay inta badan saameyn weyn ku yeelanayso kharajka iyo mararka qaar saamayn ku yeelan karto awoodaha sharci-dejinta, gaar ahaan marka caafimaadka ay hoos imaanayso awoodda wadaagga ah.
<b>Daryeelka (oo ay ku jiraan caymiska shaqo la'aanta iyo dakhliga amniga, iyo arrimaha bulshada, sida lacagta carruurta) iyo hawlgabka</b>	Inta badan waxay hoos imaanaysaa dawladdafederaalka, ama waa maamul la-wadaaggo. Dalka Belgium iyo Austria gobollada ayaa masuul ka ah adeegyada bulshada, oo uu ku jiro daryeelka. Dalka Hindiya gobollada ayaa ka mas'uul ka ahcaymiska shaqo la'aanta.

<sup>27</sup> Xogta jadwalkan waxaa iska leh G. Anderson *Fiscal Federalism: A Comparative Introduction* (2010) 16-17.



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<b>Waxbarashada iyo cilmi barista</b>	Waxbarashada aasaasiga ah iyo dugsiga sare waxaa ku dhawaad maamula gobollada, inkastoo qaar ka mid ah dawladdaha federaalka ay hoos timaadaa waxbarashada awoodaha wadaagga ah. Ma jirto hannaankii cad ee la xiriiira waxbarashada ka dambeysa dugsiga-sare, inkasta mararka qaar ay dawladdaha federaalka door muhim ah ay ka qaataan marka la eego awoodaha gaarka ah, iyada oo ay taageero dhaqaale siinaysa sida taageerada ardayda. Dalka Koofu Afrika, waxbarashada sare waxay gaar u tahay dawladda federaalka, halka waxbarashada heerka hoose ay wadaag tahay. Dawladdaha federaalka ayaa badanaa hormuud ka ah kharashka ku baxaya cilmi-baarista, in kasta oo dawlad goboleedyada federaalka qaar ka mid ah sida Jarmalka, gobolada ayaa qayb kharashka ku dara.
<b>Kaabayaasha</b>	Kaabayaasha ugu waayayn waxaa inta badan qorsheeya oo maal-gelya dawladda dhexe, inkastoo fulinta ay tahay mas'uuliyad wadajir ah. Kaabayaasha degaanada, sida wadooyinka maxaliga ah waxaa mas'uul ka ah gobolada.

### **III. Xirriika xukuumadaha ee qaybsiga iyo isku-wareejinta dakhliga**

Dakhliga ay soo saarto heer kasta oo xukuumadeed, waxaa laga laga yaabaa in xukuumadda aysa awood u yeelan inay daboosho baahida kharashka iyo waajibaadka. Guud ahaan, dawladda dhexe waxay ururisaa lacag badan iyada oo loo marayo canshuurta iyo amaah ka badan waajibaadkeeda kharashka, halka gobollada leeyihiin waajibaad kharash ka badan lacagta ay ay ururiyaan. Tani waxay abuurtaa isu-dheelitir la'aanta toosan (vertical imbalance). Waxa kale oo laga yaabaa in dheelitir la'aanta siman (horizontal imbalance) marka qaar ka mid ah gobollada waxay ururiyaan lacag ka badan waajibaadkooda kharash, halka qaar kalena ay ururiyaan lacag ka yar baahida kharashka ay u baahan yihiin. Haddaba haddii aan wax laga qaban isku-dheelitirid la'aantaas dakhli uurin waxay keeneysaa sinnaan la'aan la xiriirta adeegyada uu gobol kastaa uu bixiyo.

Dawladdaha federaalka ayaa inta badan siisa qaybsiga dakhliga iyo wareejintaa maaliyadeed oo toos ah gobollada si ay u daboolaan qayb ka mid ah kharashyada gobolada. Qaybsiga dakhli ururinta dawlad goboleedka iyo wareejinta waxay caawinaysaa in ay soo koobto isku- dheelitir la'aanta ka taagan dakhli-kharashka, si ay u gaaraan heerka ugu hooseeya ee adeegyada dadweynaha ee gobollada oo dhan (wada-qaybisiga), iyo si loo dhiiro geliyo hadafka dawladda federaalka. Si kastaba ha



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ahaatee, habka iyo muhiimadda ay leedahay isla-wadaagidda iyo wax kala-wareejinta dawladaha federaalka wey ku kala duwan yihiin. Wadamada qaarkood oo leh nidaam canshuureed ee dhexe, sida Nigeria iyo Koonfur Afrika, qaybsiga canshuurta iyo wax kala wareejinta federaalka ayaa daboolaya ilaa 90% baahiyahada kharashka ee gobolladaas. Gobolada canshuuraha baahsan, sida Kanada iyo Switzerland, qaybsiga canshuurta iyo wax u kala wareejinta xubnaha federaalka waxay daboolayaan in ka yar (ka yar 25%) xaddiga kharashyada gobolka.

Mabaadi'da hagaysa qaybsiga dakhliga iyo wareejinta maaliyadeed way ku kala duwanaa karaan dalal kala duwan. Tusaale ahaan, dalka Jarmalka, hadafka uu leeyahay inuu gaaro waa sinaan isku-midl ah ee la xiriirta heerka nolosha guud ahaan dalka. Dalka Koonfur Afrika, ujeeddada waa in la hubiyo isu-wareejinta kheyraadka si cadaalad ah. Halka dalka Canada hadafka uu yahay in la gaaraa adeegyada dadweynaha oo macquul ah ee u dhiganta heer canshuur oo macquul ah. Sidoo kale, Argentina mabaadi'da sinnaanta, midnimo, iyo guusha oo ah darajo la mid ah horumarinta heerka nolosha iyo fursadaha loo siman yahay oo ku dhan dhulka qaranka si uu u hago qaybsiga dakhliga. Faahfaahinta qaybsiga iyo isku wareejinta waxaa inta badan lagu xusay sharciiga federaalka. Tiro ka mid ah dalalka, sida Nigeria, Koonfur Afrika iyo Hindiya waxay u baahan yihiin dhisidda guddiyo ka taliya faahfaahinta dakhliga la wadaagayo.

**Dhaqaale siinta dawladda dhexe ay siinayso gobollada iyo gobollada dhexdooda ay is-asiinayaan waxay dabooleysaa khasaaraha khrajka. Waxaa kaloo muhiim ah in la hubiyo in muwaadiniinta ay ku noolaadaan heer isku dhigma adeegga dadweynaha iyo heerka nolosha iyadoon loo eegayn goobaha ay degan yihiin.**

Wax-iskuwareejinta xukuumadaha dhexdooda ayaa waxay yeelanaysaa qaab la mid ah wadaagga dakhliga canshuuraha ee federaalka, ama isku-wareejin maaliyadeed oo leh qaab deeq shuruudeysan iyo shuruud la'aan qaadan karta. Wadaagidda canshuuraha waa habka ugu weyn ee wareejinta lacagta dawladda dhexe oo loogu wareejiyo gobollada, dalka Jarmalka, Austria iyo Nigeria, Kanada, Mexico iyo Maraykanka inta badan waxay isticmaalaan deeq shuruudeysan iyo shuruud la'aan ah si ay u gudbiyaan kheyraadka gobolada. Isku darka wadaagga canshuurta iyo wax kala wareejinta maaliyadeed waxa laga isticmaalaa Australia, Belgium, Hindiya, Brazil iyo Spain.

Habka wadaagga canshuuraha waxay timaadaa marka lacagaha ay ka yimaadaan canshuur ururin, gaar ahaan xukuumadda dhexe ay soo uruuriso, waxaa loo qaybinayaa heerarka kala duwan ee xukuumadaha taasoo saldhig u ah qaabka loo sameeyay. Qaybsiga dakhliga waxaa loo isticmaali karaa oo keliya marka la eego canshuuraha gaarka ah (Ethiopia), ama waxaa dhamaystiraya kuwa ururinaya dakhliga cashuurta federaalka (Koonfur Afrika). Marka la wadaagayo qaar ka mid ah canshuurta saldhig ah, xukuumadda federaalka ayaa adeegsan karta waxa culimada



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ugu yeeraan 'ciyaaraha' halkaas oo ay u sare ugu qaadaan qiimaha ku saabsan canshuuraha aysan qasabka ku ahayn in ay la wadaagaan, halka ay hoos u dhigi karaan cashuurta la wadaago. Tusaale ahaan, dalka Hindiya oo keentay ka mid noqoshada dhamaystirka ururinta canshuurta ee habka la wadaagayo.

Habka wadaagga canshuuraha waxaa dheer, ama si ka duwan, in gobol kasta uu heli karo qayb ka mid dakhliga federaalka. Wareejin-taasi waxaa badanaa saameyn ku yeelan kartaa deeqaha xisaabta sababaha soo socda midood: tirada dadweynaha iyo cufnaanta, dakhliga qoys kasta, heerka horumarka gobolka, awoodda canshuurta uruurinta ama taageeridda gobolka iyo arrimo kale. Nigeria inta badan waxay tixgelinaysaa mabaadi'da sinnaanta ee gobolada, dadka, iyo awoodda maaliyadeed. Hindiya waxay tixgelinaysaa dhammaan arrimahaan oo idil. Pakistan inta badan waxay tixgelinaysaa tirada dadweynaha.

Deeqaha waa mid aad u dabacsan si ay u xaliso isu-dheelitir la'aanta iyo gaaridda heer siman adeegyada guud ahaan gobolada oo dhan. Waxa deeqaha lagu xidhi kara shuruud ama shuruud la'aan. Waa mid guud ama barnaamij gaar ah. Deeqaha shuruudaha ku xiran ayaa badanaa ah kuwa ku dhaqmo nidaamka federaalka ee labalaabka ah tasoo xukuumadda federaalka ay ku leedahay awoodo kooban in ay ansixiyaan shuruucda hageeysa qaabka hawlgalka siyaasadda heer gobol. Deeqaha guud waxay u ogolaanayaan in gobollada in ay go'aansadaan kharajkooda mudnaanta kowaad u leh. Deeqaha shuruudaha ku xiran ayaa la dhaleeceeyey maadaama ay u oggolaanayaan dowladda federaalka in ay u isticmaasho khayraadka si ay u hesho tanaasulaadka gobolada. Intaa waxaa dheer, marka shuruudaha u gudbinta ay ku xiran yihiin barnaamij gaarka ah oo ay ku jiraan taageero ka timid gobollada, taasi waxay keeni kartaa suurtagalnimada xaddiga mudnaanta kharashka ku baxa gobolka arrimaha mudnaanta kowaad u leh.

Wareejinta maaliyadda federaalka waxay inta badan ku salaysantahay shuruudo dastuuri ah ama sharci. Xukuumadda federaalka marka waxa ku waajib ah in ay sameeyso wareejinta. Tusaale ahaan, dalka Koonfur Afrika, dawladda federaalka ayaa looga baahan yahay inay qeexo wada qaybsi siman dakhliga qaranka ee la siinaayo gobollada iyo dawladda hoose. Si kastaba ha ahaatee, xukuumadda federaalka ayaa sidoo kale cayimaysa awoodda gaarka ah ee wax loogu gubinaayo gobollada. Sida gudbinta awooda gaarka waxaa ku xiran shuruudo iyo waxa laga yaabaa in looga baahdo isbeddel gaar ah ama in ay is-waafaqaan deeqaha ka imaanaya gobolada.

**Xukuumadaha dhexdooda wareejinta waxay ku imaan kartaa qaybsiga dakhliga cashuuraha kaga imanaya federaalka, ama u wareejinta ee ku imaan karto deeqaha. Habka canshuurta wadaaga ah waxay timaadaa marka xukuumadda federaalka ay la wadaagto lacagta ka timaado canshuurta ee gobollada oo ku saleeyeen hab qaacido degsan. Deeqda Federaalka waxaa laga yaabaa in lagu bixiyo shuruud ama shuruud la'aan.**



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Qaybsiga canshuuraha iyo kala sareynta waareejinta maaliyadda dhaqaalaha waxay abuuri kartaa caqabado awood aan isku dheelitirnayn. Intaa waxaa dheer dib u habaynta lagu sameeyo habka waxay keeni kartaa inay wax ka qabto isku dheelitirnaanta u dhexeysa gobolka. Nidaamyada federaalka wey ku kala duwan yihiin marka la eego isu-dheelitir la'aanta. Qaybsiga canshuurta ilaa xadka iyo nidaamyada maaliyadeed ee isu-dheelitir la'aanta, waxay keenaysaa in la hormariyo sinaata u dhexeysa gobollada. Qaar ka mid ah dowladaha federaalka, sida Jarmalka iyo Austria, waxay isku dayeen xaqiinta barnaamijka sinnaanta gobolada iyada oo loo sameynayo barnaamijyo isku mid ah. Ujeedada barnaamijyada isku midka ah waxay keenaysaa in dhammaan gobollada ay yeeshaan qaab qaran oo isku halbeeg leh. Nidaamkaasi isku dheeli-tirka ah waa mid aad u adag oo badanaa waxay sare u qaadaa dakhli ururinta iyo khrajka ay u baahanyihiin dawlad goboleedka.

### **IV. Deemaha ay qaadanayaan gobollada**

Deymaha waa mid ka mid ah hababka kor loogu qaadayo dakhliga. Guud ahaan, dawladaha dhexe waa loo oggol yahay inay soo amaahato lacag, inkastoo ay ku xirnaan karto sharuudo dastuuri ah ama mid sharci ah oo ay ku jiraan mamnuucidda noocyo qaarkood oo amaah ah taasoo keeni karta khatar badan ama aysan dabooli karin amaahdaas. Tusaale ahaan, dalka Jarmalka, miisaaniyadda dawladaha federaalka iyo gobollada waa in mabda' ahaan la isku dheelitiro iyadoo aan la eegin dakhli (cusub) amaah. Si kastaba ha ahaatee, dawladaha federaalka waxay amaahan kartaa lacag ilaa xad aan ka badnayn tiro cayiman ee dakhliga wax soo saarka oo loo yaqaano GDP (oo hadda aan ka badnayn 0,35 % of GDP ah). Dawlad goboleedyada looma oggola inay kordhiyaan lacagta ay u baahan yihiin oo deen ahaan ay u qaataan awgeed. Si gaar ah dawladaha federaalka iyo xubnaha ka tirsan federaalka labaduba waxay lacag ku heli karaan amaah marka ay dhacaan masiibooyin dabiici ah iyo xaalad degdeg ah oo aan caadi ahayn aysanna koontorooli karin.

Way ku kala duwan yihiin dawladaha federaalka dhexdooda xaaladaha iyo duruufaha ay dawlad goboleedyada ku amahan karaan lacag. Habka keliya ee wax looga qaban karo arrintanin loo oggolaado heerar kasta oo xukuumadeed oo ku xiran beehidooda iyadoo looga baahan yahay in si ay masuuliyad ku dheehan tahay ay ugu kharaj gareeyaan deemankaas. Si kastaba ha ahaatee, dawladaha federaalka way ka fogaadeen inay qaataan habkan furan. Qaar ka tirsan dawladaha federaalka, sida dalka Australia, shuruudaha ku xiran heer kasta oo xukuumadeed ay ku amahan karaan lacag waxay ku imaamanayaan wadahal iyo heshiis.

Dalka Nigeria, amaahashada gudaha iyo mid dibadaba labaduba waxaa si gaar ah u hoos imaansaa awooda gaarka ah ee dawladaha federaalka. Sidoo kale, dawlad goboleedyada waxay deyn ku heli karaan inay oggolaato dawladaha federaalka. Dalalka Koofur Afrika iyo Brazil, gobollada iyo dawladaha hoose waxay amaahan karaan kharashyada marka ay ansixiyaan golaha qaranka ee sharci dejinta. Dalka Brazil, aqalka sare ayaa go'aaminaya xadka iyo shuruudaha xaaladaha wadarta amaahda ee gobolka. Dalka Ethiopia gobollada waxay lacag ka amaahan karaan oo keliya gudaha



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iyo shuruudo ay dejisay xeerdejinta federaalka. Sidoo kale, dalka Hindiya gobollada waxay lacag ka amaahan karaan oo keliya gudaha. Dowlada federaalka Hindiya ayaa damaanad qaadaysa amaahda gobolka.

Dastuurka sida ku meel gaarka ah loo ansixiyay ee Soomaaliya si cad uma sheegayo arrinta amaahda. Si kastaba ha ahaatee, Qodobka 124 (b) wuxuu dal-bayaa in lagu dhaqmo shuruudca federaalka oo tilmaamaysa dhisddaa maareynta maaliyadda, oo ay ku jirto qayabaha ay federaalka damaanad qaadayso in la siiyo daymo xubnaha ka tirsan Federaalka. Qodobkani waxuu u muuqdaa in loo qaato in dawlada xubnaha ka ah Federaalka ay amaahan karaan lacag. Waxaa lagu talinayaa in si faahfaahsan loo nidaamiyo qaabka wax lagu amaahdo.

### **V. Dakhliga laga helo khayraadka dabiiciga ah**

Qaybinta khayraadka dabiiciga ah badanaa si siman looguma qaybiyo dhamaan gobollada dalka oo idil. Sidaas daraadeed, dakhliga laga helo khayraadka waxay abuuri karaan awoodo aan sinnayn ee dakhliga gobolka. Qaybinta dakhliga laga helo kheyraadka dabiiciga ah waa mid ka dhasha khilaafaad marka loo firiyo nidaamka maaliyadeed ee federaalka taasoo ay keeni karto khilaafaad. Marka la eego maamulidda qaran, kheyraadka dabiiciga waxay abuuri karaan dakhli balaaran oo muhiim ah oo lagu maalgeliyo adeegyada siman iyo horumarka dalka oo dhan. Gaar ahaan wadamada uu dakhliga ka soo xaroodo kheyraadka dabiiciga oo noqoneysa qayb weyn oo ka mid ah heerka wax soo saarka dalka (GDP) ee dalka, ama kaydka lacagaha qalaad, saamaynta ay ku leedahay dhaqaalaha guud ahaan waa wax la taaban karo (tusaale, Nigeria iyo Venezuela). Sidaas darteed, xukumadda federaalka ah ee dalalkaas ayaa gacanta ku haysa khayraadka dabiiciga ah si wax-ku-ool ah ay u maareeyaan dhaqaalaha guud, taasoo laga yaabo in aanay noqon wax-ku-ool haddii gobollada ay xakameeyaan khayraadka. Dhinaca kale, maamullida gobolka ee khayraadka dabiiciga waxay hormarinayaasa la xisaabtanka shacabka kuwaasoo si toos ah wax-yeelo uga soo gaaraya soo saaridda kheyraadkaas. Intaa waxaa dheer, xaqiiqada ah in khayraadka dabiiciga ah ay meel gaar ah ku urursanyihiin, maamulka gobolka lagama yaabo in uu abuurto dhibaatooyin maamul oo la taaban karo.

#### **Saddex arrimood oo muhiim ah ee la xiriira khayraadka dabiiciga ah:**

- **Heerarkii dawladeedkee ayaa leh khayraadka dabiiciga ah?**
- **Heerarkii dawladeedkee ayaa maamulaya khayraadka dabiiciga ah?**
- **Heerarkii dawladeed ayaa ururinaysa dakhliga laga helo khayraadka dabiiciga ah?**

Waxaa jira kala duwanaansho weyn oo ka mid ah dalalka federaalka ah ee la xiriira sida ay u maareyn lahaayeen arrimaha lahaanshaha, koontoroolka iyo maamulka iyo



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qaybsiga dakhliga berriga ee kheyraadka dabiiciga. **Khayraadka dabiiciga ah ee laga helo badaha** waxaa inta badan leh oona maamusha xukuumadda federaalka. Si kastaba ha ahaatee, qaar ka mid ah dalalka federaalka, sida dalka Nigeria iyo Australia, waxay ansixiyeen qaab wadaag ah ay la yeelanayaan gobollada. Dalka Brazil, dakhliga laga helo **badaha waxaa khayraadka** dabiiciga ah wadaagaya gobolada ku xeeran iyo dawladda hoose. Dalka Kanada, dawladda federaalka ayaa ku wareejinaysa dhamaan dakhliga laga helo khayraadka badaha xeebaha gobollada xuduudka la leh meelaha laga helay wax soo saarkaas.

### **1. Lahaanshaha khayraadka dabiiciga ah**

Arrinta lahaanshaha khayraadka badanaa waa mid caadifad ahaan iyo siyaasad ahaanba muuqata. Nidaamka federaalka oo ku yimid habka isku-biiridda, sida USA<sup>28</sup>, Kanada iyo Australia, dastuurka wuxuu u daynayaa lahaanshaha iyo koontoroolka iyo faa'idooyinka laga helo kheyraad dabiiciga gobollada. Dalalka Koonfur Afrika, Nigeria iyo Venezuela, kheyraadka dabiiciga ah waxaa iska leh dawladda dhaxe iyagoo matalaya shacabka wadanka. Qaar ka mid nidaamka federaalka, sida dalalka Rushka iyo Pakistan, lahaanshaha khayraadka dabiiciga ah waxaa si wadajir ah u leh dawladda federaalka iyo xubnaha ka tirsan federaalka labaduba. Wadamo federaal ah qaarkood ayaa doortay inaysan ka hadlin arrinta lahaanshaha hase ahaatee ay maareeyso oo keliya khayraadka dabiiciga ah iyo dakhliga ka soo xaroonayo. Tani waxaa lagu sameeyey dalka Sudan ee dastuurka kmg ah ee 2005 ee la xiriirta maamulka iyo qaybinta dakhliga ka soo baxa saliidda.

### **2. Maareynta Kheyraadka Dabiiciga ah**

Go'aannada ku saabsan su'aalaha la xiriira lahaanshaha khayraadka dabiiciga ah ma ahan kuwo muhiim u ah xalinta arrimaha heerka xukuumadda oo awood u leh sharcidejinta ku saabsan maamulka iyo gacan ku haynta khayraadka dabiiciga ah, ama wadaagidda faa'iidada ka soo baxa khayraadkaas. Hadaba arrinta lahaanshaha waa mabda'a siyaasadeed, maamul wanaaga iyo hawgalka khayraadka waxay u baahan tahay in la tixgeliyo dhanka dhaqaalaha. Sidoo kale, dastuurka waxaa laga yaabaa inuu gobollada kala tashto lahaanshaha khayraadka dabiiciga ah hase ahaatee uu qeexo in la siiyo Qaranka ama inay maamulaan khayraadka labadooda ayna sabab u tahay caqabadaha awoodda heer gobol. Tusaale ahaan, dalka Hindiya, gobollada waxay leeyihiin lahaanshaha khayraadkooda dabiiciga ah. Si kastaba ha ahaatee, dawladda federaalka ayaa maamulaysa kheyraadka dabiiciga waxayna ka heshaa saamiga ugu badan dakhligaas. Awoodda maamul waa mid muhiim ah oo dhalinaysa muran badan maadaama ay la xiriirto in ay tilmaamto xaq dhabta ah iyo faa'idooyinka ka imaanaya kheyraadkaasi.

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<sup>28</sup>. In si waafaqsan mabaadi'da sharciga caadiga ah, kuwa la haanshaha gaarka ah iyo milkiilayaasha kheyraadka dabiiciga oo ku hoos jirta dhulka ay gaarka u leeyahiin. Sidaas oo kale ayay ku dhaqmaan dalka Kanada.





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Qoondaynta awoodda xeer-dejinta iyo fulinta ee maamulidda khayraadka dabiiciga ah kasoo si gaar ah ugu dhex-yaal hal gobol waxa guud ahaan la tixgeliyaa arrimo badan oo ay ka mid yihiin<sup>29</sup>:

- **Karti iyo awood:** Heerarkee xukumadeed ayaa leh awooda iyo kartida lagu hormarin karo laguna maamuli karo kheyraadka dabiiciga ah sida ugu fiican?
- **Cadaalad:** Sidee heerarka ugu hooseeya ee adeegyada bulshada guud ay u xaqiijin karaan gobollada ama maamul goboleedyada, hadii hantida kheyraadka laga helo oo keliya gobol ama gobollo yar?
- **La-xisaabtan:** Sidee ayaa lagu hubin karaa la-xisaabtanka ugu wayn ee dadka ku nool deegaanka arrimaha la xiriira ka faa'ideysiga xaddhaafka ah kheyraadka dabiiciga ah?
- **Danaha Qaranka:** Ma jiraa xeer dawladeed oo nidaaminaya arrimaha gaarka ah ee hormarinta kheyraadka dabiiciga ah oo loo baahan yahay? Miyaa loo baahan yahay qabasho hawlo gaar ah? Ma loola dhaqmaa si ka duwan qaybaha kala duwan ee dalka (tusaale ahaan maareynta kheyraadka)?

**Lahaanshaha khayraadka dabiiciga ah looma isticmaali karo awooda maamulka; lahaanshaha iyo/ama maamulida kheyraadka dabiiciga looma isticmaali karo si gaar ah oo loo helayo dakhliga ka soo baxa kheyraadka.**

Qoondaynta fulinta iyo awoodda sharci dejinta dawlad goboleedka ayaa hormarin kara isla-xisaabtanka sababtoo ah dawlad goboleedyada si fiican ayay go'aan uga gaari karaan baahida iyo mudaaanta shacabkooda. Awoodaha gobolka ayaa sidoo kale wuxuu leeyahay dano toos ah uu ku sameeyo badanaa kheyraadka goboladooda. Dhinaca kale, haddii si loo horumariyo awoodda kheyraadka dabiiciga ah la siiyo dawladda dhexe, kooxaha xukunka haya uma hayaan dan lagu hormarinayo gobollada oo u gaar ah.

Kartida iyo awoodda la xiriirta in lagu horumariyo siyaasad heer qaran ee ku saabsan khayraadka dabeeciga ah waxay u baahan tahay u qoondaynta awoodaha sharci-dejinta iyo fulinta ee dawladda dhexe. Gaarahaan, ka maqnaanshaha qorsho midaysan ee qaranka wuxuu keeni karaa tar-tanka hoose oo ka dhexeeya gobollada oo soo jiidato maalgashi iyagoo bixinaaya heshiis qodobadiisa soo jiidanaya maalgashadayaasha sida cashuurta oo laga yarreyo ama hoosna looga dhigo heerka degaanka iyo shaqaalaha. Waxaa intaa dheer, u qoondaynta awoodda xeer-dejinta iyo awooda maamul gobollada iyaduna waxay keeni kartaa in isu-dheelitir la'aanta awoodda la xiriirta awoodda dakhliga iyo kharashka ee gobollada. Isu-dheelitir la'aanta waxay keeneysaa in la siiyo dhaqaale badan si loo simo heerka noloshu iyo

<sup>29</sup> Nicholas Haysom and Sean Kane 'Negotiating natural resources for peace: Ownership, control and wealth sharing' (2009) 15, Centre for Humanitarian Dialogue, Briefing Paper, October 2009.



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adeegyada bulshada taasoo dabooli karta xiisad iyo dareen ka dhex dhasha gobollada dhexdooda iyo heerka nololaha bulshada iyo adeegyada bulshada loo qabaanayo, taas oo abuurii karaan xiisado iyo colaad ka dhex aloosanta gobolada.

Waa in la ogaadaa in dastuurka uu sidoo kale kala qaybin karo ama siinayo awoodaha la wadaago ee la xiriira khayraadka dabiiciga ah halkaas oo khayraadka dabiiciga ah si wada jir loo maamulo. Tusaale ahaan, dawladda dhexe waxay tilmaamo ka bixinaysaa siyaasadaha iyo shuruucda lagu maamulayo khayraadka halka gobollada ay fulinayaan sharciyada iyo siyaasadahaas. Dalka Itoobiya, tusaale ahaan, maamulidda khayraadka kaynta iyo macdanta baaxada hoose waxaa iska leh gobollada, halka dawladda federaalka iyo gobollada si wadajir ah u maamulaan macdanta baaxad weyn oo dhan iyo hawlaha batroolka iyo gaaska. Haddii kale, gobollada ayaa dhisaya iskaashi xukuumada dhexe iyo gobollada oo ay hirgeliyaan siyaasada iyo maamulidda kheyraadka. Waxaa laga yaabaa in hay'ad madaxbannaan ay kalsooni ku qabaan dhammaan heerarka xukuumadeed ay fuliso hawlaha.

### **3. Qaybsiga dakhliga ka imaanaya keyraadka dabiiciga**

Awoodda sharci ee lagu maareeynayo khayraadka dabiiciga ah ma aha mid tusinaysa heerkee xukuumadeed ayaa iska leh awoodaas gaarka ah inuu la haado dakhli ka soo baxa khayraadka. Si kastaba ha ahaatee, sababaha ka dambeeya go'aanada la xiriira maamulka khayraadka waxay inta badan la xiriirtaa kartida iyo hufnaanta dhaqaalaha, halka qaybsiga dakhliga inta badan waxay keenaysaa siyaasadad degan iyo in si cadaalad ah loo qaybsado dakhliga ka soo baxa khayraadka qaranka. Guud ahaan, heerka gobol uu maamulayo kheyraadkaasi wuxuu ka helayaa saami dakhliga ka imaanay kheyraadkaas. Si kastaba ha ahaatee, dalka Pakistan, dawladda federaalka ah ayaa maamusha khayraadka hase ahaatee dakhliga wuxuu adaayaa gobolladooda.

Dakhliga ka imaanaya qaybaha kale, qaybsiga dakhliga ka soo baxa khayraadka dabiiciga ah sida caadiga ah waxay ku baxaysaa kharashka oo masuul ay ka yihiin dawladda dhexe iyo gobollada. Tusaale ahaan, qaybinta dakhliga ka soo baxa khayraadka dabiiciga ah inta badan waxaa lagu fuliyaa rrimaha bulshada (tusaale ahaan hawlgabka, daryeelka caafimaadka, caymiska shaqo la'aanta) ama kabidda ee badeecadaha asaasiga ah.

**Isqabsiga ku saabsan qaybsiga dakhliga waxay tahay in gobolka kheyraadkaas laga helo la siinayo mudnaanta gaar ah ee dakhliga laga helo khayraadka dabiiciga, ama dhamaan dakhliga, oo ay ku jiraan dakhliga ka soo xarooda khayraadka, waa in loo qaybsadaa nidaam si siman.**

Arrinta muranka badan dhalisa ee ku saabsan qaybsiga dakhliga waxay tahay in gobolka laga soo saaro kheyraadkaas uu yeesho saami gaar ah ee laga helo khayraadka dabiiciga, ama dhamaan dakhliga, oo ay ku jiraan dakhliga ka soo xarooda khayraadka, waa in loo qaybsadaa si siman. Dhinac marka laga eego, waxaa jira dood ah in goboladaasi soo saaro waa in loo helo qayb gaar ah sida magdhow



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waxyeellada deegaanku ay sababtay soo saaridda khayraadkasi, kharashka kaabayaal la xiriiira adeegyada warshadaha, iyo maalgelinta loo baahan yahay marka khayraadka ay baaba'aan. Dhinaca kale, gobollada kheyraadkaasi waxay ka helayaan shaqaale, maalgashiga iyo faa'iidooyinka kale ee dhaqaalaha. Siismada la siinayo mudnaan gaar ah ee dakhligaas waxay keeneysaa faa'iidooyin aan cadaalad ahayn marka loo eego gobollada kale. Gobollada laga soo saaro kheyraadkaas waxay isticmaali karaan faa'iido maaliyadeed si ay u bixiyaan dhiirigelin maaliyadeed si ay u soo jiidato maalgashi dheeraad ah, ganacsatada iyo dadka, taas oo noqon karta in dhaqaale ahaan ay la wareegaan.

Halka wadamo qaar gobolka dakhliga ka soo baxa saliidda looma tixgelinayo marka la xisaabinayo xaddiga dhaqaalaha la siinayo gobolada, sida dalalka Nigeria iyo Venezuela, gobollada soo saaro saliida wey helaan faa'iidooyinka maaliyadeed oo wax-ku-ool ah. Halka dawladu federaal ah ay leeyihiin sinaan buuxda, faa'iidooyinka laga helo dakhliga ka soo baxa khayraadka dabiiciga ah waxaa laga yaabaa in aanay keenin isu dheelitr la'aanta maaliyadeed oo siman. Tusaale ahaan, Australia, inkastoo gobollada ay koontoroolaan maamulka iyo dakhliga laga helo khayraadka dabiiciga ah, waxaa jira siyaasadda sinaanta buuxda taasoo hoos u u dhigaysa saameynta isku-dheeli-tirnaanta dhaqalaha. Si kastaba ha ahaatee, wadaagga dakhliga ka imaanaya kheyraadka dabiiciga ah wuxuu keenayaa inuu sare u qaado isku filnaanshaha gobollada soo saro kheyraadkaas taasoo loo arko inay tahay nidaamka balaaran ee isu gudbinta dhaqalaha, sida sinaanta iyo qaacido federaal ah ee dhaqaalaha lagu kala siiyo.

Xaqiiqdii dhaqanka siyaasadeed iyo caadooyinka jira marka laga tago afkaarta iyo mabaadiida dhaqaale ayaa go'aaminaya heerka wadaagga dakhliga. Wadamada qaar sida, Rushka, mabda'a qaybsiga wuxuu la xiriiira dhamaan qaybsiga dakhliga. Sidoo kale, gobollada laga helo khayraadka dabiiciga ah waxay helayaan qayb ka mid ah dakhliga ka soo baxa khayraadka .

Dalka Nigeria, ilaha gobolka laga hela khayraadka dabiiciga wuxuu helayaa ugu yaraan 13% dakhligii ka soo baxa khayraadka batroolka uu soo saaray dhulkooda iyo biyaha xeebaha gacmeed ku xiga. Dalka Indonesia, sharciga ayaa qeexay 15% dakhliga saliidda iyo 30% dakhliga gaaska lagu wareejiyo gobolada asal ahaan laga helay. Waxaa la siiyay u qoondayn gaar ah gobolka Aceh kaasoo helaya 70% dakhliga saliidda iyo gaaska. Sidoo kale Brazil, ilaha gobollada iyo degmooyinka laga helaa wuxuu helayaa qayb ka mid ah dakhliga laga helo khayraadka dabiiciga. Dalka Malaysia ilaha gobollada laga hela wuxuu xaq u yeelanayaa kala bar dakhliga khayraadkaas (hase ahaatee mahan dakhliga ka soo baxa khayraadka kale).

Dalalka kale, gobollada soo saara kheyraad ma helaan faa'ido gaar ah. Dalka Mexico, tusaale ahaan, dowladda federaalka ayaa u wareejinaysa dakhliga ka imaanaya kheyraadka iyo dakhliga kale iyadoo faa'ido gaar ah aysan halayn gobollada soo saaro kheyraadka. Sidoo kale, dalka Russia, gobollada soo saara ma helaan faa'ido gaar ah. Si kastaba ha ahaatee, mabda'a ku dhaqanka ee dhammaan dakhliga cashuurta, gobollada soo saara si weyn ayay ka faa'ideystaan khayraadkaas.



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Dastuurka sida kmg ah loo ansixiyay ee Soomaaliya ma nidaaminayo lahaanshaha, maamulka iyo qaybsiga dakhliga ka soo baxa khayraadka dabiiciga ah. Wuxuu u daayay 'qoondaynta' khayraadka dabiiciga ah ee Soomaaliya in laga sameeyo mustaqbalka wada xaajoodo u dhexeeya dawladda federaalka iyo xubanaha ka tirsan federaalka (Qodobada 44 iyo 54). Mabda'a ah in caddaalad lagu hago qeybinta kheyraadka ee ku xusan (Qodobka 50 (e)). Dastuurku wuxuu ballan qaadayaa xaqa ah qof walba in ay qayb ka mid ah kheyraadka dabiiciga ah ee dalka hesho (Qodobka 25 (2)). Intaa waxaa dheer, Qodobka 45 (2) wuxuu waajib uga dhigayaa qof walba in ay ka qayb qaataan horumarinta, fulinta, maareynta, xannaanaynta iyo ilaalinta khayraadka dabiiciga ah iyo deegaanka. Dastuurka ayaa sidoo kale dalbaya dawladda federaalka ilaalinta deegaanka, iyo ka hortagga wixii waxyeellayn kara khayraadka dabiiciga ah iyo Deegaanka dalka ee

Dastuurka wuxuu u oggolaanayaa heer kasta oo xukuumadda in ay hesho qaar ka mid ah dakhliga ka soo baxa khayraadka dabiiciga ah. Tusaale ahaan, gobollada waxay helayaan xaq gaar ah, canshuuraha shatiyada, canshuuraha wax soo saarka, canshuuraha dakhliga shirkadaha waawayn iyo canshuuraha dhoofta waxaa lagu maamulayaa heer qaran ah (tusaale ahaan kanada). Marka laga eego ururinta, heer kasta oo xukuumadeed wuxuu si toos ah u soo ururin karaa dakhli u gaar ah. Habkaasi waxay abuuri kartaa culeys maamul ee la xiriira fulintiisa. Si ka duwan, dakhliga waxaa ururinaya hal heer xukuumadeed, taasoo markaas ku wareejinaya saamiyada ee heerarka kale. Habkan labaad wuxuu u baahan yahay is aaminaad dhinacyada wuxuuna abuuri karaa walaac la taaban karo oo ku saabsan waqtiga iyo hufanaanta dhaqaalaha lagu wareejinayo iyo sidoo kale dhiiragelin siyaasadeed ee ka iman karta hanaanka qeybinta.

***Jadwal: Lahaanshaha, Maareeynta iyo qaybsiga dakhliga Bariga ee kheyraadka shidaalka ee dawladda Federaalka ah<sup>30</sup>***

Wadamada	Lahaanshaha	Maareeynta	Qaybsiga Kheeyraadka
<b>Argentina</b>	Gobollada	Gobollada	Gobollada /federaal
<b>Australia</b>	Gobollada	Gobollada	Gobollada
<b>Brazil</b>	Federaal	Federaal	Federaal/ Gobollada/Dawladda hoose
<b>Kanada</b>	Gobollada	Gobollada	Gobollada
<b>Ethiopia</b>	Federaal	Federaal/ Gobollada	Federaal/Gobollada

<sup>30</sup> Xogta labada jadwal waxaa iska leh G. Anderson 'Reflections on oil and gas in federal states'. Qora G. Anderson *Oil and Gas in Federal Systems* (2010) 378.



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<b>Hindiya</b>	Gobollada	Federaal	Federaal/ Gobollada
<b>Malaysia</b>	Gobollada	Federaal	Federaal/ Gobollada
<b>Mexico</b>	Federaal	Federaal	Federaal
<b>Nigeria</b>	Federaal	Federaal	Federaal/Gobolo
<b>Pakistan</b>	Mideysanfed- eraal/Gobollada	Federaal	Gobollada
<b>Ruska</b>	Mideysan fed- eraal/Gobollada	Federaal	Federaal
<b>Mareykanka</b>	Gobollada /federaal/gaar ah	Gobolla- da/federaal	Gobollada/mid gaar ah
<b>Venezuela</b>	Federaal	Federaal	Federaal

*Jadwal: Lahaanshaha, Maamulkaiyo qaybsiga dakhliga Bariga ee kheyraadka shidaalka ee dawlad goboleedyada*

<b>Wadanka</b>	<b>Lahaanshaha</b>	<b>Maamulka</b>	<b>Qaybsiga</b>
<b>Argentina</b>	Federaal	Federaal	Federaal
<b>Australia</b>	Federaal	Mideysan	Federaal
<b>Brazil</b>	Federaal	Federaal	Feder- al/Gobollada/dawladda hoose
<b>Kanada</b>	Federaal	Gobollo/mideysan	Gobollada
<b>Hindiya</b>	Federaal	Federaal	Federaal
<b>Malaysia</b>	Federaal (Gobol- ka Borneo)	Federaal	Federaal (Gobolka Bor- neo)
<b>Mexico</b>	Federaal	Federaal	Federaal
<b>Nigeria</b>	Federaal	Federaal	Federaal/Gobollada
<b>Pakistan</b>	Federaal	Federaal	Federaal
<b>Rushka</b>	Federaal	Federaal	Federaal
<b>Mareykanka</b>	Federaal	Federaal	Federaal
<b>Venezuela</b>	Federaal	Federaal	Federaal



## **F. Qaybinta awoodaha Siman iyo kuwa aan Sinayn**

Wadamada badan oo federaal ah, qaybinta awoodaha dastuuriga ah- oo ay ku jiraan awoodaha kor loogu qaadayo dakhliga iyo awoodaha la xiriira khayraadka dabiiciga ah –waxa loogu fuliyo hab isku mid ah dhamaan gobollada oo dhan. Xaaladaha noocaas ah, qaybinta **awoodaha waa ay ka siman yihiin**. Si kastaba ha ahaatee, kala duwanaanta taariikheed, siyaasadeed iyo mid dhaqaale, dastuurka wuxuu ku fulinayaa awoodaha iyo xilalka kala duwan ee gobollada kala duwan. Xaaladahan, qaybinta **awoodaha waa mid aan sinnayn**. Tusaale ahaan, Kanada, gobolka Quebec oo looga hadlo luuqada Faransiiska ayaa la siiyay awoodaha ka badan gobollada looga hadlo luuqada Ingiriiska. Tusaale ahaan, ugu yaraan saddex ka mid ah sagaalka garsoore oo ka tirsan maxkamadda sare ee Kanada waa inay ka yimidaan Quebec, halka gobollada kale aysan lahayn damaanadaas. Sidoo kale, dalka Spain, madaxbanaanida gobollada ayaa waxaa lagu aasaasay waqtiyo kala duwan oo ku salaysan wada-xaajood u dhexeeya dawladda dhexe iyo gobollda himilada leh. Sidaas darteed, qaar ka mid ah madaxbanaanida goboladda, sida gobollada Catalonia iyo Basque, waxay leeyihiin awood ka badan mida gobollada kale.

Intaa waxaa dheer waddamada qaybsiga awoodaha ee dastuurka siman, dhab ahaantii waa kuwo aan hadana sinnayn, maadaama dawladda federaalka ay u wakiilanayso qaar ka tirsan awoodeheeda gobollo qaar ah taasoo ku xiran awoodaha gobollada iyo baahidooda. Awoodaha qaybsiga aan sinayn waa mid sidoo kale laga helo kara nidaamka dawladda dhexe iska leh ee baahsan kaasoo gobollada qaar kood ay ku noolyihiin kooxo laga tiro badan yahay ayaa waxaa la siiyaay awoodo ka balaaran kuwo kale. Tusaale ahaan, nidaamka baahsan ee boqortooyada Ingriiska, Scotland waxay leedahay awood ka balaaran qaybaha kale sida Wales. Baarlamaanka Scottishka tusaale ahaan wuxuu kuwa duwan yahay canshuurta dalka ilaa 3%.

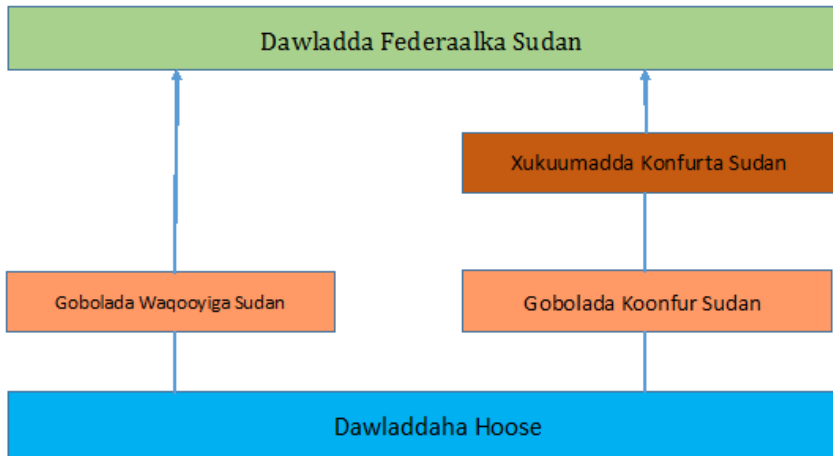
**Nidaamka Federaalka aan sinayn wuxuu u ogolaanaya inuu wada raali gelinayo kala duwanaan dhaqan iyo bulsho-weynta oo ka mid ah gobollada kala duwan. Si kastaba ha ahaatee, tani waxay wiiqaaysaa mabaadi'da mataalada siman iyo isla-xisaabtanka, sida gobollada qaar ka mid ah waxay yeelan doonaan awoodo dheeraad ah ee heer degmo ka badan, hase ahaatee awoodaha heer federaalka ah waa loo siman yahay gobollada kale.**

Intaa waxaa dheer, awooda kala sareeya ee gobollada kala duwan, dastuurro qaar ah ee dawlado federaal ah waxay dhisayaan **hay'ado aan sinayn**. Tusaale ahaan dasuurka kmg ah ee dalka Sudan ee 2005 wuxuu dhisay xukuumadda Koonfurta Sudan, taas oo u adeegaysay si dhex-dhexaadin ah oo u dhexeeya gobollada Koonfurta Sudan iyo xukuumadda federaalka. Ma lahayn mid la mid ah gobollada waqooyiga Suudan mid taas la mid ah.



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### **Hay'adaha aan sinayn sida waafaqsan Dastuurka kmg ah ee Sudan**



Faa'iidada ugu weyn ee federaalka aan sinnayn waa awoodda lagu raali galinayo kala duwanaa dhaqan iyo bulsho weynta oo ka mid ah awooda dhexe ee gobollada kala duwan. Waa mid leh dabacsanaan loo adeegsado heerarka kala duwan ee qaybinaya awoodaha iyo xilalka ku salaysan baahida iyo awoodda gobol kasta. Kala duwananshaha aan sinnayn sida, qaar ka mid ah gobolada in ay ku baaqi karaan madax-bannaani buuxda, oo halis ku ah sii jiritaanka nidaamka federaalka, ama diido inuu ku biiro federaalka.

Mid ka mid ah walaaca ugu weyn ee la xiriira nidaamka federaalka aan sinayn waa in gobol kasta ay u badan tahay inay is-barbar dhigaan baaxadda awoodaha iyo gudashada xilalka ay la leeyihiin gobollada kale tassoo keeni karta in ay dalbadaan awoodo iyo xilal badan. Waxaa ka dhalan kara dareen ugu dambeyntii keeni karta in heshiis dheeraad ah oo siman la agaasimo. Si kastaba ha ahaatee, gobollada xoogga badan sidoo kale laga yaabaa in si joogto ah ay u doonayaan awoodo dheeraad ah, iyo taasoo ugu dambeyntii keeni karto xitaa inay go'aan (tusaale Catalonia ee dalka Spain).

Waxaa dhici karta in ay timaado walaac rasmi ah in nidaamka aan sinnayn uu wiiqi karo mabaadiida sinnaanta matalaadda ee dimuqaraadiga ah iyo la xisaabtanka. Nidaamka aan sinnayn ee federaalka ah wuxuu u ogolaan karaa wakiilada gobollada awood ballaaran oo ay ku go'aamin karaan arimaha hoos imaanaya awoodooda ee la xiriira gobolada kale, halka wakiilada qaranka ee gobolada kale aysan lahayn awood ay wax ku go'aamin karaan sida gobolada leh is-xukun hoose arrimo la mid ah kuwa iyaga go'aamin karaan. Tani waxay dhibaato ku tahay nidaamka dimuqaraadiga ah, gaar ahaan goobaha wakiillada cod-bixiyaasha ee gobolada is-xukunka hoose leh ay haynayaan isku-dheelitirka. Si looga fogaado dhibaataadaan, waddamo qaar ah sida



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Boqortooyada Ingiriiska waxay door-bidayaanka in ay ku baahiyaan awoodaha isbar-bardhigga ah dhammaan gobolada oo dhan, ama ay meesha ka saaraan wakiilada gobollada oo leh awooda go'aan gaarista arrimaha la xiriira gobolada madaxabannaan oo leh is-xukun. Dhanka kale, ka saaridaasi waxay wiiqaysaa is-dhexgelka gobollada is-maamulka leh iyo gobollada kale ee dalka taasina waxay xoojinaysa dalabka ah in la siiyo awoodo ballaaran oo keeni kara ka go'itaan dalka.

Dastuurka sida kmg ah loo ansixiyay ee Soomaaliya ma caddaynayo in la ogol yahay qaybinta awoodaha aan sinnayn. Wuxuu sheegayaa oo keliya qaybinta awoodaha in lagu go'aamin doono wada-xaajood u dhexeya dawladda federaalka iyo dawladda xubinta ah dawladda dederaalka. Sidoo kale, dastuurka si cad uma qeexayo suuragalnimada hay'adaha aan sinnayn. Dastuurka kama dam-bayska ah waxaa la filayaa in uu siiyo waajibaadyo iyo xuquuqo gaar ah qaar ka tirsan xubanaha federaalka. Tusaale ahaan, Dastuurka kama danbeysta ah waxaa laga yaabaa inuu soo jiito in Somaliland si nabadgelyo ah ay ugu ku soo biiraan xubnaha federaalka iyadoo loo ogolaanayo xaq u gaar ah iyadoo la eegayo xaalad gaar ah awgeed.

### **G. Wakiilada gobollo ee heer federaal ah**

Labada arrimood ee saldhig u ah nidaamka federaalku waa is -xukunka heer gobol iyo xukun-wadaag heer dawladda qaran. Mid ka mid ah hababka lagu fulin karo mabda'a xukunka -wadaagga oona u yeelan karo raad wax-ku-ool ah waa in la saameyaa hay'ado iyo habraacyo lagu xaqiijinaayo matalaadda iyo ka qaybgalka gobollada ee geedi socodka go'aan ka gaaridda ee dawladda dhexe, gaar ahaan go'aanada saamaynta ku yeelanaya arrimahooda. Habka rasmiga ay gobollada kaga qabgelayaan geedi socodka go'aan qaadashada dawladda dhexe waa aqalka matalaadda ay ku leeyihiin aqalka labaad.

Samaynta laba aqal ee sharci-dejinta, iyadoo aqalka labaad ay wakiil ka yihiin danaha gobollada, waxaa caadi ahaan loo arkaa in ay lagama maarmaan u tahay nidaamka dawladda federaalka. Si kastaba ha ahaatee, qaar ka mid ah dawladda federaalka oo yar-yar, sida Saint Kitts iyo Nevis, uma dhisna aqalka labaad. Sidoo kale, dastuurka xubinta ka tirsan Federaalka ee Micronesia ma dhisayo aqal labaad oo gaar ah. Si kastaba ha ahaatee, gobol kasta waxaa si siman u matalaya hal wakiil oo ugu matala aqalka (Aqalka Congress), marka lagu daro xubnaha kale ee loo doortay oo ku salaysan tirada dadweynaha. Wakiillada matala gobollada mudo xiliyeeddooda waa afar sano, halka wakiilada kale ee ka socda dadweynaha ay muddo xilliyeed-kooda uu yahay muddo laba sano ah. Aqalka Labaad ee Venezuela waxaa la baabi'iyay sanadkii 1999. Sida uu dastuurku dhigayo, baarlamaanka qaranka waxaa looga baahan yahay in ay la tashato xubnaha sharci-dejinta ee gobolada marka sharci la saameynayo oo saameyn ku leh gobolada. Intaa waxaa dheer, sharci-dejinta





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gobollada waxay ay leeyihiin awood ay ku curiso sharciyo oo ay hor-keento baarlamaanka qaranka ee la xiriirta arrimaha iyaga khuseeya.

Qaab-dhismeedka iyo awoodda aqalka labaad ee fedaraalka way ku kala duwan yihiin dawladdaha federaalka.

### **I. Qaab dhismeedka Aqalka labaad**

Qaab-dhismeedka la xiriira aqallada labaad wey kala dubanyihiin. Qaar ka mid ah wadamada federaalka, gobal walbaa waxuu leeyahay tiro **wakiilo isla eg**, ayadoo aan loo fiirineynin tirada dadka, juquraafi ahan, ama baaxada dhaqaale. Qaabkaan ayaa waxaa raaceen dalal ay ku jiraan Nigeria, Koofur Afrika, Switzerland, iyo Mareykanka.

#### **Labo mabda'ayaa guud ahaan haga wakiillo goboleedyadda aqalka labaad:**

- **Mabda' sinaanta: dhamaan gobolada waxey helayaan tiro isla eg iyadoo aan loo fiirineenin baaxadooda;**
- **Wakiil loo eegaayo baaxdda: Goboladda waaweyn ayaa helaan tiro ka badan tirooyinka ay helaan kuwa yar yar ee aqalka labaad.**

Taas ayaa waxaa lagu qeexay in ay tahay mid aan dimuqoradiyad aheyn madaama ay gobalka ugu dadka badan iyo kuwa ugu dadka yarba ay ku wada leeyihiin cod isku mid ah sharci-dejnta dawladda dhexe.

Qaar kamid ah wadamada federaalka ayaa waxey soo bandhigeen **nidaamka matalaadda ku salaysan baaxada awoodeed** kaasoo goballada la is-ugu bar-bardhigo tirada dadweyne ay leedahiiin, iyadoo aan loo eegeynin tiro isku-dheeli- tirin ee matalaada ugu sareeyso. Sidoo kale, matalaaldda ku salaysan baaxadda awoodeed waxay keenaysaa in ay ka tiro bataan goboladda yar yar. Tusaale ahaan, Austria, dalka gobolka ugu weyn ayaa hela 12 wakiillo. Gobollada kalena waxey helaan tiro wakiilo ku dheeli-tiran dadkooda, markii loo bar-bardhigo gobalka baaxadda ugu weyn. Si kastaba ha ahaatee, gobolka ugu dadka yar ayaa hela ugu yaraan seddax wakiilo. Dalka Hindiya tiradda wakiilada ee gobol walbaa ayaa wuxuu u dhexeyaa 31 ilaa 1. Markii lagu daro kuwa uu magacaabo madaxweynaha Hindiya kuwaas oo ah 12 oo ah dadka wax ku soo biiriya farshaxanka, sugaanta, culuumta, sayniska iyo adeegyada bulshada.

Sidoo kale, dawladda Jarmalka, dawlad gobleed kasta ayaa waxaa looga qoondeeyay ugu yaar seddax kursi aqalka labaad. Dawlad goboleedka ay ugu yaraan labo million oo qof degantahay waxay helayaan afar kursi; kuwa ay daganyihiin in kabadan lix malyan ayaa hela 5 kursi; kuwa ay daganyihiin in ka badn todoba milyan ayaa hela 6 kuri. Waxaa lagamamaar-maan ah in la xuso in codadka halkii dawlad goboleedba loo dhaqangaliyo sidii hal unug. Dawlad goboleed kasta waxay codkooda siinaysa ama u diidaysaa waxii markaas loo soo-jeediyay ee loo codeynaayo. Waxaan la ogoleen in codadka la ka qeybiyo waxeyna ka dhigaysaa dhamaan codadkaas kuwa aan sax



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ahayn ama wax kama jiraan ah. Go'aanka waxaa qaadanayaa oo keliya hadii dadka ugu badan ay u codeeyaan waxa markaasi codka loo qaadayay.

Wadamo qaarkood waxay qaateen **nidaamka matalaad u gaar ah kaasoo** aan la mid ahayn noocyada aan kor ku soo sheegnay. Dalka Kanada aqalka labaad wuxuu ka kooba yahay wakiilo u qaybsan afar qaybood aan shardi ahayn inay ahaadaan gobolada. Afartaas qeybood ayaa waxaa lagu magacabaa, Gobollada Galbeed, Ontario, Quebec, iyo, Maritimes, mid walbana waxuu leeyahaay 24 wakiilo. Qaar kamid ah kuraasta aqlaka sare ayaa sidoo kale waxa loo qoondeeyay Newfoundland iyo Labrarodor iyo 3 dhul oo ay dawlado maamusho.

Dawlada Isku-tagga Imaraadka Arabta, Golaha sare oo u taliya isku-tagga Imaaraadka wuxuu ka kooban yahay 7 gobol oo sameeyay isku-tag. Golaha waa awooda federaalka ugu sareeysa ee arrimaha sharci dejinta iyo fulinta. Intaa waxaa dheer golaha qaranka ee federaalka wuxuu dib u eegid ku sameeyaa shuruucda federaalka wuxuuna talooyinkiisa u gudbiyaa inta uusan ansixin ka hor golaha ugu sareeya ee qaranka oo ka kooban 40 wakiillo. Labada imaaro ee ugu waaweyn waxay leeyihiin 8 wakiilo; labo kale waxey leeyihiin 6 wakiilo kiiba; halka sadaxda ugu yar-yarna ay leeyihiin 4 wakiilo kiiba, sidaa darteed golahooda qaran waxay leeyihiin qaab matilaad oo ku saleysan wakiillo miisaameed.

Dalka Ethiopia, aqalka federaalka waxuu matalaa qaranka, muwaadiniinta, iyo shacabka (kooxaha qoowmiyadaha) ee Ethiopia, Si kastaba ha ahaatee, golaha sharci-dajiyaasha ee gobollada ayaa waxay magacaabaan wakiiladooda. Qoomiyad walbaa waxay leedahay ugu yaraan hal wakiil iyo hal xubin wakiil oo loo fiirinayo milyankii kasta ee guud ahaan dadka dalka degan. Tirada wakiilada ee gobal walbaa waxay ku xirantahay tirada iyo baaxada qoomiyada daggan halkaas. Ma jiraan wax la yiraahdo tirada ugu badan ee wakiilada, a ha ahaato mid ku xiran gobol ama qoomiyad. Gobolada isku mid-ka ah waxay leeyihiin wakiilo tiro isku-dheeli-tiran, halka gobollada yar-yarna, oo ay degan yihiin qoomiyado badan oo kala duwan ay helayaan matalaad tiro badan.

Qodobka 72 ee dastuurka kumeel-gaarka ee Somalia ayaa sadaalinayaa in dhaamaan aqalka sare si toos ah loo doorto. Tirada xubnaha ka mid noqonayaan waa ineysan dhaafin 54 laguna saleeyaaa maamul gobaleedyadii jiray ka hor 1991. Xubin kastoo ka tirsan federaalka waxay helayaan tiro isla- eg oo wakiilo ah. Iyadoo markaas la fiirinaayo suurtagalnimada in goballada qaar ay ka koobnaan karaa in kabadan maamul gobaleedyada kale ee jira, haddaba shardiga lagu soo dooranayo xubnaha aqalka sare oo saldhigga looga dhigayo 18kii gobol ayaa waxay keeni kartaa in ay shardigaasi waafiqi weyso si loo xaqiijiyo matilaad siman oo ay u dhanyihiin dhammaan dawlad goboleedyada.



## **II. Qaabka lagu soo xulayo xubnaha aqalka labaad**

Xubnaha aqalka labaad waxaa lagu soo xuli karaa siyaabo kala duwan. Hababka badanaa lagu soo xulo xubnaha aqalka labaad waa sida soo socota:

### **1. Doorashooyin toos ah**

Qaar kamid ah wadamada federalka dadka ku sugan gobalda ayaa si toos ah u doorta dadka ka mid noqonayaa aqalka labaad. Doorshada tooska ah ee xubanaha waxay xaqiijinaysaa in xubnahaas ay matalaan shacabka gobolka oo aysan ahayn kuwo matala xukuumadaha gobollada. Wadamada sida tooska ah ay dadka u soo doortaan xubnaha wakiillada ka mid noqonayaa aqalka labaad ayaa waxaa ka mid ah Nigeria, Mareykanka, Australia, iyo Argentina. Guud ahaan, aqaallada labaad oo ka kooban wakiilada sida tooska loo doorto ayaa guud ahaan ka awood baalaaran kuwa iyagu sida aan tooska ahayn loo doorto ama loo magacaabo.

Dorashada ayaa waxaa loo qaban karaa hab wadajir ah sida tiro (Nigeria) ama habka isku dheeli-tirka ee nidaamka doorashada (Austria). Dalka Nigeria gobal kasta waxaa loo qaybiyaa 3 deegaan doorasho, iyadoo qofkii ku guleysta degaan walba loo dooranaayo in uu kamid noqodo Senatka (deegaanka maagaalo madaxda waxay leedahay kaliya 1 wakiil). Waxaa sidoo kale suurtagal ah in hal xisbi kaliya uu ku guuleesto dhamaan kursiyada uu leeyahay gobal kaliya. Dalka Australia mid-kastoo ka tirsan lixda (6) gobol wuxuu leeyahay 12 wakiil oo lagu soo doorto nidaamka isku dheeli-tirka doorashooyinka. Ilaa 1975, Dulka Waqooyiga iyo magaalo madaxda ayaa kiiba wuxuu leeyahay min labo wakiil oo siyaado ah oo la soo doortaa. Qaabka isku dheeli-tirka doorashada ayaa wuxuu u xaqiijinayaa in musharaxiinta ay xambaarsanyihiin fikrado iyo siyaasado kala duwan oo lagu doortaa gobal walba. Argentina, gobol walbaa iyo magaalada madaxda Buenos Aires, waxay leeyihiin sedex (3) wakiil. Xisbiga helaa codadka ugubadan gobalka ayaa wuxuu ku guleestaa 2 kursi, halka xisbiga asaga ku soo xigaa uu qadanayo kursiga 3 aad ee haray. Dalka Maraykanka, dowlad goboleed kasta waxay ku leedahay labo (2) wakiilo oo aqalka labaadka mid noqonayo. Casimada, Washington DC, malaha wax wakiilo ah.

Muddada wakiilada aqaalka labaad ee sida tooska ah loo doorto yaa ku kala duwan dawlada federaalada. Dalka Nigeria, muddo xilliyeedka aqalka labaad waa afar sano, tasoo la mid ah muddo xilyeedka xubnaha aqalka kowaad. Dalka Kanada, aqalka labaad sanad ama muddo xilyeed ma laha, wakiilada waxay xilka hayaan ilaa uu ka gaaro da'da hawl gabka ee 75 jir. Marka loo eego muddada xubnaha aqalka koowaad waa shan sano. Dalka Brazil, aqalka labaad muddo xilyeedkooda waa sideed sano, markii loo barbardhigo afarta sano xubnaha aqalka kowaad ka midka ah. Dalka Mareekanka, Australia, iyo Hindiya, aqalka labaad muddo xilyeedkooda waa lix sano oo la cusbooneysiin karo, markii loo barbardhigo labada sano oo dalka Mareekanka, sadaxada sano ee dalka Australia, iyo shanta sano dalka Hindiya ee xubnaha aqalka kowaad.



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Dastuurka kumeel gaarka e Somalia ayaa waxuu tilmaamayaa xubnaha aqalka saare in sitoos ah loo soo doorto (Qodobka 75). Xubnaha aqalka sare muddo xiliyeedkooda wuxuu ahaanayaa mudo afar sano oo la cusboonesiinkaro, taasoo lamid ah aqalka kowaad (Qodobka 60).

### **2. Magacaabista golaha sharci-dajiyasha ee gobolada**

Qaar ka tirsan dawladdaha federaalka, sida Brazil, Hindiya iyo Austria, golaha sharci-dejinta ee gobolada ayaa magacaba xubnaha aqalka labaad. Habkan wuxuu xaqiijina-yaa matalaad wanaagsan ee danaha dawlad goboleedka, halka si toos ah loogu soo dooran lahaa. Dastuurka ama sharciga ayaa dalbaya in xubnaha matalaya ay noqdaan kuwo isku dheeli-tiran ee golaha sharci dejinta gobolka ay khuseyo. Tusaale ahaan, dalka Austria, golaha sharcidejinta gobolka ayaa dooranaya wakiilada si waafaqsan mabaadii'da isku dheelitirka matalaada, Si kastaba ha ahaatee, ugu yaraan hal kursi waa in loo damaanad qaad xisbigii leh tirad labaad ee ugu badan kursiyada baarlaman goboleedka, ama xisbiyo badan ay leeyihiin tiro isku mid ah ee kuraasta, ama xisbiga helaa codka ugu tirada badan ee doorashadii ugu danbeysay ee baarlamaanka gobolka.

### **3. Magacaabista Dawlad Goboleedyada (Fulinta)**

Qaar kamid ah wadama federaalka, sida, Jarmalka, dowlad goboleedyadu waxay magacaabaan wakiilada ka mid noqonayaa aqalka labaad. Nidaamkan ayaa si haboon u xaqiijiya matalaadda xukuumad goboleedyada, maadama wakiillada matalaya ay u shaqaynayaan sida iyagoo wakiil ka ah xukuumada gobolka. Si kastaba ha ahaatee, magacaabista xubnaha aqalka laabad oo ay magacabeyso dowlad goboleedyada waxay hormarisaa awoodda siyaasadeed ee dowlad goboleedyada, inkastoo ay arintan curiyaamineyso golaha sharcidejinta gobolka in ay saameyn badan ay ku yeelato siyaasad sameynta federaalka gaar ahaan waddamada maamulkoodu yahaay mid federal oo arimaha siyaasadada ay go'aamiso dawladda dhexe gobolladana ay hirgeliyaan siyaasadaas. Si kastaba ha ahaatee, hadii hay'adaha sharci-dajinta gobolka ay soo abaabulaan dowlad goboleedyada, sharci-daji-yasha ayaa si aan toos ahayn sameeyn ugu yeelanaya qaab dhismeedka aqalka labaad.

### **4. Magacaabista Dawladda Federaalka**

Kanada waa dalka keliya ee madaxa xukuumadda federaalka ay soo magacaabaan xubnaha aqalka sare. Sidaa daraadeed waxaa lagu dooday in aqalka labaad aysan si wax ku ool ah u matalin gobollada ama dadka degan, inkastoo ay qabanayaan hawlo kale oo muhiim ah, sida xakamaynta rabitaannada aqlabiyada aqalka hoose. Xaqiiqadii, maadaama aysan lahayn sharciyad dimuqraadi ah aqalka labaad marar dhif ah ayuu diidaa shuruucda uu ansixiyay aqalka hoose.



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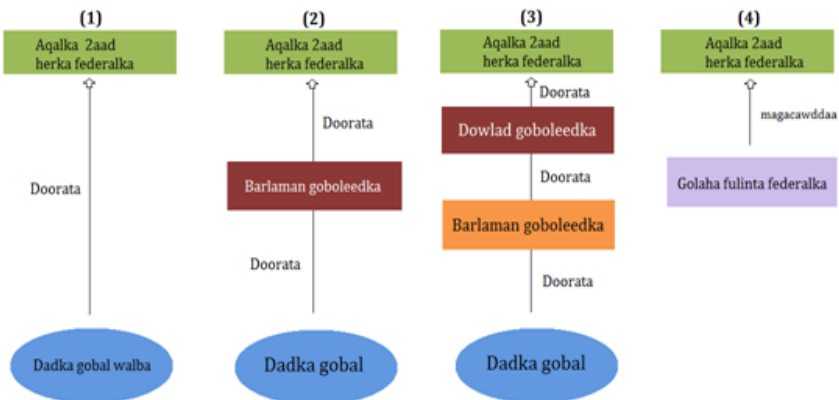
**5. Nidaamka isku dhafan**

Dastuurka dalka Itoobiya waxuu ogolaanayaa in si toos ah loo doorto xubnaha ama ay magacaabaan golaha sharci-dejinta ee gobolka. Muddo xil-haynta xubnaha waxay ku xiran tahay waqtiga golaha sharci-dajiyaasha iyaga doortay kaasoo ah 5 sano. Xulashada waxaa loo daayay golaha sharcidejinta gobollada. Waqtigaa hada la-joogo, golaha sharci-dajiyasha ee gobolka ayaa doorta dhamaan xubnaha. Si kastaba ha ahaatee, waxaa suurtagal ah in mustaqbalka in gobolada qaar ay si toos ah u doortaan wakiilladooda.

Sidoo kale, dalka Switzerland, qaabka loo doorto xubnaha aqalka labaad ayaa waxaa go'aan ka gaara gobollada naftooda (Cantons).

Dalka Koonfur Africa, wafdi ka kooban 10 xubnood ayaa matala gobolkasta, guddoomiyaha gobolka (ama xubin ka tirsan golaha sharci dajinta uu soo magacaabay guddoomiyaha) iyo seddex wufuud u soo magacaabay golaha gobolka iyadoo markaas la fiirinayo ogaalashaha guddoomiyaha gobolka iyo madaxda xisbiyada siyaasadeed oo xaqa u leh matalaadda ayaa noqonaya wufuud gaar ah oo la soo xulo hadba waqtiga loo baahdo. Lixda wakiilada harsan waa wakiilo joogta ah oo uu soo magacaabo golaha sharci dejinta ee gobolka si waafaqsan magacaabista xisbiyada xaqa u leh in ay matalaan. Wakiilada joogtada ma ahan kuwo ka tirsan golaha gobolka. Hadii xubin ka tirsan sharcidejinta gobolka loo magacaabo wakiil joogta ah, qofkaas wuxuu luminyaa xubinnimada sharci dejinta. Waxaa muhiim ah in la ogaado in dastuurka uu dalbayo matalaadda isku-dheelitiran ee xisbiyada siyaasadeed uu matalaayo golayaasha gobolka. Muddo xil-haynta gobolka waxay ku xiran tahay mudada sharci-dejinta gobolka kaas oo iyaga magacabaay.

**Qaabab ka kaladuwan ee lagu soo xulo Aqalka Labaad**





### **III. Codeynta Aqalka Labaad**

Ma jiraan sharciyo degsan oo lagu maamulo habka cod-bixinta ee aqalka labaad. Gobolada qaar ee wadamad federalka qaatay sida, Jarmalkaiyo Koonfur Africa, dad walba oo deggan gobol waxey leeyihin hal meel oo codeyn. Dalka Jarmalka wakiilada waa ina ay codka dhiibtaan iyadoo ay racayaan nidaamka ay dowlad goboleedyada dajiyaan. Tani waxay xaqiijinisa wakiilada ugu wax-tarka badan ee uu yesho dowlad goboleedka. Wadamada kale, sida Mareekanka, Itoobiya, Nijeeriya, codeeynta waa mid shakhsi ah. Codeynta shakhsiga loo codeynayo waa mid ay ka mideysan-yihiin wadamo oo xubnahooda si toos ah loo soo dooranayo.

Dastuurka ku-meel gaar ee Somalia si qaas ah uma go'aamin qaabka codeynta ee aqalka sare. Sidaa darteed ma cadda in dadka ka mid ah gobollada ay qof qof u codeeyn doonaan iyo in koox koox ay u codeynayaan.

### **IV. Awoodda Aqalka Labaad**

Aqalka labaad waxuu sameeyaa howlo muhiim ah ay ka mid yihiin wax-ka- bedelka dastuurka illaa magacaabista saraakiisha gobolada.

#### **1. Awooda sharci-dajinta**

Aqalada labaad ee dhamaan wadamaa federalka ayaa waxay ka qeyb-qaataan hab-raaaca shaarci samyanta ama qaar kamid ah sharciyada federalka. Qaar ka mid ah waddamada federalka qaatay, sida, Nigeria, Argentina, iyo Mareykanka, aqalka labaad waxuu ku lug lahaadaa samaynta dhamaan sharciyada. Dalka Jarmalka wuxuu ku lug leeyahay samaynta dhamaan shuruucda. Si kastaba ha ahaatee, ansaxinta ugu dambeyso ee aqalka labaad waxaa loo baahan yahay oo keliya marka dastuurka si cad uu u qeexayo ansixintaas, tasoo abuureysa in aqalka labaad uu xaq u yeesho awooda codaka qayaxan ee aqalka labaad. Ansixinta qasabka ah ee aqalka labaad waxay badanaa la xiriirtaa danaha dawlad goboleedka, hase ahaatee mararka qaar waxay la xiriirtaa arrimo kale, sida Midowga Yurub ama shuruuc la xiriita qaxootiga. Dalka Belgium aqalka labaad wuxuu ku lug-yeeshaa samaynta dhamaan sharciyada, marka laga reebo, ansaxinta miisaaniyadda iyo xisaabaadka dawlad goboleedyada, sidoo kale shuruucda la xiriita masuuliyadda madaniga iyo dambiyada wasiirada iyo dejinta damaanadda iyo u qoondeynta wadani-nimada.

Dastuurada waddama qaar, sida Kanada iyo Argentina, waxay tilmaamayaan in shuruuc gaar ah sida shuruucda lacagta ay horkeeni karaan aqalka koowaad. Dalka Brazil, hindise-sharci ka yimaada dhinaca madaxweynaha iyo maxkamadda sare ee federaalka ayaa la horgeeynaya aqalka koowaad. Dalka Australia, aqalka labaad ma curinayaan shuruuc la xiriirta lacagta. Intaa waxaa dheer, aqalka labaad waxba kama bedeli karaan shuruucda canshuuraha ama dakhliga lahaanshaha ama lacagta ka imaanaysa hawl sanadeedka caadiga ah ee xukuumadda, ama soo-jeedinta wax ka bedelka shuruuc la xiriirtaa arrimahas taasoo sare u qaadeysa soo-jeedin wax ku



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darid ama culeys ku ah shacabka. Arrimahan, aqalka labaad wuxuu codsan karaa oo keliya in laga daayo ama wax laga bedelo arrimahan midkood ama fulinta arrimahan kuwaasoo ay ka baaraan degayaan aqalka wakiilada. Dalka Koonfur Afrika aqalka labaad wuxuu curin karaa oo keliya shuruucda saameynta ku leh danaha gobollada. Dalka Austria aqalka labaad ma curin karo wax sharci ah. Hase ahaatee, wuu soo-jeedin karaa isagoo soo marsiinaya xukuumadda, kaasoo soo-jeedinta u gud-binaaya aqalka hoose /aqalka koowaad.

Xeerkan guud ee ka qaybgalka aqalka labaad ee habraaca shuruucda waxaa si weyn uga gooni ah dalka Ethiopia kaasoo ansixinta shuruucda federaalka aan looga baah-nayn ansixin ama talo soo-jeedin aqalka labaad. Si kastaba ha ahaatee aqalka labaad wuxuu leeyahay awood balaraan sida awooda fasiraada dastuurka, in si daban uu u koontoroolo habraaca sharci dejinta ee aqalka koowaad. Aqalka labaad wuxuu sidoo kale xaq ku leeyahay ansixinta dastuurka.

Aqalka kowaad wuxuu ku- lug leeyahay ansixinta shuruucda federaalka iyo siyaasadaha. Waxaa jira arrimo guud ahaan ka reebban dhaqankan. Tusaale ahaan, dalka Maraykanka, ansixinta heshiisyada caalamiga ah, magacaabista garsoorayaasha iyo saraakiisha dib-lumaasiyiinta ah waxaa magacaabaya madaxweynaha wuxuuna u baahan yahay seddex meelood labo meel aqlabiyadda aqalka labaad. Aqalka ko-baad/aqalka hoose kuma lug laha. Sidoo kale, dalka Argentiin madaxweynaha ayaa isagoo haysta aqlabiyadda seddex meelood labo meel ee aqalka labaad wuxuu magaacaabayaa garsoorayaasha maxkamadda, sidoo kale wuxuu ku dhawaaqayaa dagaal wuxuuna magacaabayaa diblumaasiyiinta iyadoo ay ansixinayaa aqlabiyadda aqalka labaad. Dalka Brasil, xubnaha maxkamadda sare ee federaalka waxaa maga-caabaya madaxweynaha Jamhuuriyada iyadoo ay ansixinayaan aqalka sare ee fed-eraalka. Marka laga reebo arrimahan gaarka ah, aqalka koowaad ayaa mar-kasta ku hawlan ansixinta shuruucda federaalka.

Markii si wadajir ah loo aqriyo Qodobada 79, 82, iyo 83aad ee Dastuurka kmg ee Somalia waxay muujinayaan in aqalka sare ee baarlamaanka federaalka Soomaaliya uu lug ku leeyahay dhamaan samaynta sharciyada, aysan ahayn oo keliya shuruucda saameynta ku leh dawlad goboleedyada. Hadaba aqalka labaad wuxuu qayb wax ku ool ah ka qaadanayaa geedi socodka samaynta shuruucda federaalka.

## **2. Awooda diidmada codka qayaxan ee aqalka labaad ay ku samayn karto shar-ci**

Hadafka awoodeed ee codka diidmada qayaxan ee aqalka labaad uu kula tiigsanayo sharciga waxay tilmaamaysaa saameynta gobollada ay ku leeyihiin sameynta siyaasada heer federaal.



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### ***Awooda diidmada qayaxan ee loo adeegsado qaanuunka (Diidmada kama danbeysta ah)***

Dastuurada federaalka way ku kala duwan yihiin saameynta codeynta aqalka labaad. Wadamada qaar, waxaa suuragal ah in sharciyada aysan dhaqangalin iyadoo aysan ansixin aqalka labaad. Tusaale ahaan arintan, marka laga eego Dalka Mareynkana waxay saameyneysaa dhamaan shuruucda, halka dawladda Germany uu Dastuurka si cad u tilmaamayo meelaha badanaa ay saameynta ku leeyihiin gobollda. Aqalka kowaad ma burin karo codka diidmada qayaxan ee aqalka lalabaad.

Hadii ay dhacado in arrin la isku raaci waayo, Dastuurku wuxuu dalbayaa in labada aqal ay sameyaan guddi baarlamaan oo wadajir ah (inta badan waxaa la magacabaa guddi dhaxdhaxaad) si markaas loo xalliyo khilaafka. Dalka Koonfuru Africa, gudiga dhaxdhaxdinta waxaa loo sameeyaa shuruuc saameyn ku leh danaha gobollada. Hadii guddiga dhex-dhexaadinta uu gaari waayo xal u dhexeeya muddo cayiman oo loogu talagalay hindise sharciyeedka wuu dhacayaa. Dalka Germany aqalka labaad wuxuu dalban karaa guddiga dhex-dhexaadinta inay iskugu yeeraan sharci kasta iyadoo loo eegynin in sharcigaas uu saameyn ku leeyahay gobollada iyo in kale, ama in looga baahan yahay ogolaansho aqalka labaad.

Wadama qaar, sida Baraziil, waxay shuruucda isaga dhex gooshayaan labada aqal ilaa iyo inta ay ka ansixinayaan nuqulka. Sidoo kale, dalka Mareykanka sharciga ayaa isaga gooshaya labada aqal inkastoo farsamo ahaan la samynayo guddi isku-xir ah oo aan rasmi ahayn.

### ***Awoodda joojinta kmg ah ee dhaqan-galka hindise sharciyeed (diidmada qayaxan ee dib-u-dhigista)***

Arrimo la xiriira shuruuc gaar ah, ansixinta ama aragtida Aqalka Labaad ayaa dhici karta in loo baahan yahay. Si kastaba ha ahaatee, diidmada sharciyada ee Aqalka labaad waxay hakinaysaa oo keliya dhaqangalka sharciga. Xaaladaha noocaas ah, dastuurka ayaa oggolaan kara ansixinta sharciga ee aqalka kowaad, ka dib markii laga baaraan-dego diidmada iyo aragtida aqalka labaad. Tusaale ahaan, Aqalka labaad Austria ma diido karo sharci uu ansixiyay aqalka kowaad oo Waxay soo gudbin kartaa oo kaliya sababaha diidmada ee sharciga la soo jeediyay. Aqalka kowaad wuu tixgelinkara ama wuu diidi karaa. Waxaa intaa dheer, Aqalka labaad ma soo jeedin karaan diidmo qaraarada uu ansixiyay Aqalka kowaad ee ku saabsan miisaaniyadda federaalka, iyo ansixinta miisaaniyadda kama-dambeysta ah, ururinta ama wax-ka-bedelidda deynta federaalka, ama soo bandhigidda hantida federaalka. Sidoo kale, dalka Koonfur Afrika, shuruucda la xiriirta ee saamaynta ku lahayn gobollada, diidmada aqalka labaad waxay hakinaysaa dhaqan-galka sharciga oo kaliya.

Si ka duwan, dastuurka wuxuu oggolaan karaa in aqalka kowaad uu ansixiyay sharci balse taasi waxay imaan kartaa marka ay dhacdo muddo wakhti oo loogu talagalay, taasso ogolaanaysa in si xoogan looga baaraan-dego sharcigaas. Tani waxaa isticmaala dalalka Spain iyo Malaysia.





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Dastuurka ayaa sidoo kale wuxuu dalbaayaa in loo baahan yahay aqlabiyad ka hor inta aqalka labaad go'aannadiisa aan la jebin. Sidaa awgeed, dalka Rushka aqalka kowaad, wuxuu ku burin karaa go'aanka aqalka labaad cod aqlabiyad ah oo dhan seddax meelood laba meel. Dalka Garmalka, haddii ansixinta aqalka labaad uusan si cad loogu qeexin qodob ku xusan dastuurka, Aqalka kowaad wuxuu ku burin karaa go'aanka aqalka labaad cod aqlabiyad fudud, ama saddex-meelood labo meel haddii aqalka labaad ay ku diidaan sharci ugu yaraan sadde- meelood laba.

Sida uu dastuurku Hindiya dhigayo, marka aqalaka labaad uu diido sharci, fadhi wada jir ah ee labada aqal ayaa la isugu yeerayaa si ay ugu codeeyaan sharcigaas.

Sida ku cad dastuurka Koofurta Sudan, aqalka labaad wuxuu ku lug leeyahay oo kaliya shuruucda saameyanta ku leh gobollada. Shuruucda ay ansixiyaan aqalka kowaad waxaa loo dirayaa guddiga isku-xirka kaasoo go'aan ka gaaraya in sharcigaas uu saameyn ku leeyahay gobollada iyo inkale. Haddaba haddii ay dhacdo in sharcigaas loo diro aqalka labaad, wuxuu ku ansixin karaa ama ay wax ka bedeli karaan cod aqlabiyad saddex-meelood laba markaas kadibna waxaa toos loogu dirayyo Madaxweynaha si uu u saxiixo, iyadoo aan loo baahannayn in la weydiisto ogolaasho aqalka kowaad. Intaa waxaa dheer, aqlka labaad wuxuu ansixin karaa sharci ku saabsan arrimaha saameeynta ku leh gobollada isagoo adeegsanaya cod aqlabiyad saddex-meelood- laba kadibna si toos ah loogu dirayyo Madaxweynaha, iyadoo aan loo baahanin in sharciga loo celiyo aqalka kowaad.

Dastuurka dalka Australia wuxuu tilmaamaya in shuruucda ay wada ansixiyaan labada aqal si uu u noqdo sharci. Haddii ay dhacdo in lagu heshiin waayo, Wakiilka Guud ee Boqorada oo ah Barasaabka-Guud ayaa kala diraya labada aqal. Haddii aqaladal cusub ay ku heshiin kari waayaan sharci la soo jeediyay, wuxuu Barasaabka-Guud isugu yeerayaa fadhi wada jir ah ee labada aqal.

Sida ku xusan Dastuurka kmg ah ee Soomaliya, Aqalka Sare wuxuu leeyahay awoodda diidmada shuruucda uu ansixiyay Golaha Shacabka. Si kastaba ha ahaatee, Golaha Shacabka ayaa cod aqlabiyad seddax meelood labo ku burin karo diidmada ama wax ka bedelka hindise sharciyeedka Aqalka Sare (Qod. 83). Codka diidmada Aqalka Sare ma ahan mid kama dambeysa ah.

### **3. Awoodda la xiriirta wax-ka-bedelka Dastuurka**

Arrinta udub-dhexaadka u ah nidaamka federaalku waa in hal heer oo dawladda ah aysan wax-ka-bedeli karin awood qaybsiga dastuuriga ah iyadoo ogolaansho laga helin kuwa kale. Tani waxay u baahantahay in gobollada ay go'aan ku leeyihiin geeddi-socodka wax-ka-beddellidda Dastuurka, ama ugu yaraan qodobada saameeynta ku leh awoodaha iyo waajibaad-kooda. Haddii dawladda dhexe si is-keed ah ay wax ugu bedeli karto awoodaha dastuuriga ah ee gobollada, haddaba qorshahaasi ma aha nidaam federaal ah, hase ahaatee waa nidaamka baahinta awoodda mideysan. Gobollada ayaa ka qaybgalaaya habraaca wax ka bedelka si toos



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ahna u ansixinayo wax-ka-beddelka la soo jeediyay iyagoo u marayo sharci-dejintooda, ama iyada oo loo marayo ansixinta aqalka labaad, taas oo wakiil ka ah danahooda.

### ***Ansixinta labada aqal iyo aqlabiyad gaar ah oo looga baahan yahay gobollada***

Geedi socodka wax-ka-beddelka dastuurada ugu adag waxay u baahan yihiin ansixinta sare ee uma baahna oo keliya labad aqal ee baarlamaanka hase ahaatee sidoo kale wuxuu u baahan ogolaasho qaybgaar ah oo ka mid ah golaha sharci-dejinta gobolka (tusaale, Nigeria, Itoobiya, iyo Maraykanka).

### ***Ansixinta labada Aqal loo baahan yahay (aan loo baahnayn gobollada)***

Dalka Jarmalka, wax-ka-beddelka dastuurka waa in lagu ansixiyaa aqlabiyad gaar ah ee aqalka kowaad iyo aqalka labaad ee baarlamaanka. Aqalka labaad waxaa loo tixgeliyaa in uu si buuxda u matalo gobolada. Sidaas awgeed, ma jirto shardi ah in la helo ogolasho kala gooni ah ee gobolada.

### ***Ogolaashaha Aqalka labaad waxaa loo baahan yahay mararka qaar***

Wadamada qaarkood, sida Austria, ansixinta aqalka labaad ayaa loo baahan yahay oo kaliya marka wax-ka-beddelka u saamayn ku leeyhay danaha gobolka. Sidoo kale, dalka Koofur African aqalka labaad wuxuu ku lug leeyhay oo kaliya marka wax-ka-beddelka Dastuurka uu saamayn ku leeyahay gobollada, qiyamka aasaasiga ah ee Dastuurka ama shuruucda xuquuqaha.

### ***Ansixinta labada aqal iyo afti dadweyne***

Dalka Australia, aqlabiyad buuxda ee labada aqal ee Baarlamaanka Federaalka waa marka ay ansixinayaan wax-ka-beddelka Dastuurka ee la soo-jeediyey. Sidoo kale wax-ka-beddelka waa in lagu ansixiyaa afti dadweyne ee shacbaka dalka Australia oo dhan oo ay wehliso codka aqlabiyadda dadka gobollada ee doorasho xaq u leh. Marka ay labada Gole ay ku heshiin-waayaan wax-ka-beddelka la soo jeediyay, Barasaabka Guud ee Boqorada ayaa u gudbinayaa wax-ka-beddelka ay soo jeediyeen labada aqal ee baarlamaanka afti dadweyne. Wax-ka-beddelka wuxuu dhaqan-galayaa marka ay ansixiyaan dadweynaha Australia oo dhan iyo cod aqlabiyad ah ee gobollada. Xaaladaha oo dhan, haddii ay wax-ka-beddelka la soo jeediyay wax u dhimeeyso wakiilada gobolad aee ka tirsan labada aqal ee baarlamaanka, ama wax-ka-beddelayso xuduudaha gobolka, ama saamayn ku leedahay qodobada la xiriira xuduudaha gobolka, aqlabiyadda codbixiyaasha ee gobolka ama gobolada ay dhibaataadu saameysey waa in ay ogolaadaan wax-ka-beddelkaas.

Sida ku xusan dastuurka ku meelgaarka ah ee Soomaaliya, dhammaan wax-ka-beddelka Dastuurka waa in la ansixiyaa kadib dhammaadka xilliga kowaada ee Baarlamaanka Federaalka ah wuxuuna u baahan yahay ansixinta aqlabiyadda saddex-meelood-laba tirada guud ee labada aqal ee Shacabka iyo Aqalka Sare (Qodobka 132).



#### **4. Awoodaha la xirriira ansixinta Miisaaniyadda**

Arrinta kale oo muhiimka ah ee dawladda federaalka waa ansixinta miisaaniyadda adawladda dhexe. Maadaama miisaaniyadda ay leedahay mudnaan iyo qiyamka dawladda federaalka, ilaa xadka ay gobollada ay lug ku leeyihiin habraaca ansixinta miisaaniyadda waxay ku xirantahay xulashada siyaasadda ee xukuumadda federaalka ah. Inta badan dawlado federal ah, gobollada ayaa lug ku leh habraaca miisaaniyadda iyagoo u marayaa aqalka labaad oo aysan si toos ah u maraynin sharci-dejinta ama xukuumadda. Inta badan wadamo federaal ah, aqalka kowaad ayaa mas'uuliyadda koowaad leh ee la xiriirta ansixinta miisaaniyadda; dalal kale, doorarka aqalka labaad wuu xadidan yahay wuxuuna bixinayaa soo-jeedimo oo ay tahay in ay tixgeliyaan aqalka kowaad; halka dalal kale ay qabaan in aqalka labaad uu si siman oo la mid ah aqalka koowaad uu ugu lug-leeyahay curinta iyo ansixinta miisaaniyadda.

#### ***Ansixinta labada aqal oo loo baahan yahay***

Dalalka Nigeria iyo Maraykanka, miisaaniyadda waxaa guud ahaan dejiya madaxa fulinta wuxuuna hor-geynayaa labada aqal ee baarlamaanka. Sida sharciyada kale, labada aqal waa inay ansaxiyaan nuqulka miisaaniyadda ka hor inta aan la hirgelin.

#### ***Doorarka xadaysan ee aqalka Labaad***

Dalka Koofur Afrika, Pakistan, Indonesia, Australia, iyo Jarmalka, mas'uuliyadda ugu weyn ee baaritaanka iyo ansixinta miisaaniyadda waxaa iska leh aqalka koowaad. Si kastaba ha ahaatee, dal kasta aqalka kowaad waa inuu helaa faalada iyo talooyinka aqalka labaad. Si kastaba ha ahaatee, aqalka kowaad kuma khasbana faalada iyo talooyinka aqalka labaad.

#### ***Door aysan lahayn aqalka labaad***

Dalka Itoobiya iyo Mexico, awoodda ansixinta miisaaniyadda dawladda federaalka waxaa si gaar ah u leh aqalka kowaad. Aqalka labaad malaha door rasmi ah ee habraaca miisaaniyadda. Dalka Itoobiya, aqalka kowaad waa inay ansaxiyaan xitaa miisaaniyadda aqalka labaad.



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Sida ku xusan Dastuurka ku meel gaarka ah, Golaha Wasiirrada ayaa diyaarinaya miisaaniyad-sannadeedka (Qodobka 99(d)). Dastuurka ayaa mamnuucay in Baarlamaanka uu diyaariyo miisaaniyadda (Qodobada 69 (2) iyo 80 (1) (b)). Sida dhammaan dalalka kale, awoodda ugu dambeyntii ansixineysa miisaaniyadda waxaa iska leh hayadda sharci-dejinta. Si kastaba ha ahaatee, dastuurka ku meel-gaarka ma cadda in miisaaniyadda ay u baahan tahay oggolaansho Golaha Shacabka oo keliya, ama sidoo kale Aqalka Sare. Qodobka 111D (4) (c) wuxuu tilmaamayaa in 'qiyaas' kharashyadda Baarlamaanka Federaalka (labada aqal) waa in ay diyaariyaan Guddiga Adeega Baarlamaanka kaddibna uu ansixiyaa Golaha Shacabka. Qodobka 111D (4) (c) wuxuu tilmaamayaa oo kaliya miisaaniyadda Baarlamaanka Federaalka, ee ma tilmaamayo miisaaniyadda fulinta, garsoorka iyo xubnaha kale ee dawladda. Sidaa darteed, xadka Aqalka Sare uu lug ku leeyahay ansixinta miisaaniyadda hayadaha kale aan ka ahayn Baarlamaanka Federaalka ma cadda.

Qodobka 124 (a) awood Baarlamaanka Federaalka ku ansixinaayo sharci qeexaya qaab lagu maamulaayo diyaarinta, jadwalka iyo habraaca loo soo bandhigo miisaaniyadda Dawladaha xubinta ka ah Federaalka iyo degmooyinka oo ku imaanaysa qaab daah-furnaan, wax-ku-oolnimo iyo la-xisaabtan leh, Qodobkan ma tilmaamayo habraaca lagu nidaaminaayo miisaaniyadda federaalka.

### **5. Awoodo kale**

Aqalka labaad wuxuu gudanayaa xil kale oo dheeraad ah, oo ay ku jiraan magacaabista garsoorayaasha maxkamadda sare, magacaabista iyo/ama maxkamadeynta madaxa dawladda iyo madaxda kale ee xukuumadda, iyo ansixinta heshiisyada caalamiga ah. Ka qaybgalka aqalka labaad ee magacaabidda garsoorayaasha Maxkamadaha Dastuurka/sare ee heer federal ah waa arrin muhiim ah, maadaama ay u saamaxayso wakiillada gobollada in ay cod ku yeeshaan qaabdhismeedka maxkamadaha kuwaasoo awood u yeelanayo xalinta khilaafaadka ka dhasha dawladda federaalka iyo dawlad goboleedyada dhexdooda.

Awoodaha aqalka labaad ee dalka Ethiopia waa mid iyaga u gaar ah. Sida kor ku xusan, aqalka wuxuu ka kooban yahay shaqsiyaadka matalaya kooxaha qowmiyadeed, aysan matalaynin gobollada si toos ah. Waxaa intaa dheer, aqalka kuma lug laha habraaca Xeer-dejinta caadiga ah, inkastoo ay ku lug leedahay habraaca wax-ka-bedelka dastuurka. Si kastaba ha ahaatee, waxa uu leeyahay awoodo la taaban karo oo leh dabeecad garsoor iyo sharci-dejin. Awoodaha ay leedahay waxaa ka mid ah: fasiraadda kama-dambaysta ah ee Dastuurka, go'aanka xuquuqda kooxaha qowmiyadeed in ay madaxbanaani qaataan; Go'aanka ku saabsan qeybsiga dakhliga laga soo uruuriyo ilo canshuureed ay si wadajir ah federaalka iyo gobolka u wada leeyihiin; go'aaminta habka bixinta lacagaha kabo ah ee Dowladda Federaalka siinayso gobolada; iyo awoodda ay ku xalan karaan u khilaafaadka ama isfaham la'aan u dhaxmarta gobollada.



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Waxa intaa dheer door-kooda sharci-dejinta iyo wax-ka-beddelka dastuurka ka sokow, aqalka Sare ee barlamaanka Soomaaliya wuxuu ku lug leeyahay doorashada iyo maamuus ka-qaadidda Madaxweynaha Jamhuuriyadda. Aqlka ayaa sidoo kale wuxuu ku lug leeyahay ku dhawaaqidida xaalad dagaal iyo xaalad deg-deg ah. Waxaa intaa dheer, Qodobka 71(i) wuxuu qeexayaa in Aqalka Sare oo ka qayb-qaadanayaan magacaabidda Garsoorayaasha Maxkamadda Dastuurka iyo Guddiyada Madaxbannaan qaarkood. Si kastaba ha ahaatee, qodobada la xiriira magacaabista garsoorayaasha Maxkamadda Dastuurka (Qodobka 109B) iyo Guddiyada Madaxbannaan (Qodobka 112) si cad uma qeexayaan doorka Aqalka Sare ee habraaca magacaabista.

### **H. Xiriirka iskaashiga xukuumadaha iyo xallinta khilaafaadkooda u dhexeeya**

Federaalka wuxuu la xiriraa qaab-dhismeedka dawladda, taas oo fulinaysa awoodaha gaar ah taas oo adeegsanaysa awoodo gaar ah oo cayiman. Jiritaanka heerarka kala duwan ee xukuumadda oo ka dhexeeya awoodo tartan waxaa lagama-maarmaan ah in la helo hay'adda isku-xirka xiriirka iskaashiga xukuumadaha dhexdooda. Badanaa Hay'adaas iyo habraaca lagu aasaasayo si ay isugu dubaridaan iskaashiga xukuumadaha dhexdooda waxay ku salaysan yihiin sharciyo. Jiritaanka heerarka maamul madaxbannaan ee xukuumadda ayaa sidoo kale wuxuu u baahan yahay in la aasaaso hay'adaha iyo habraacyo lagu xallinaayo khilaafaadka u dhexeeya dawladda dhexe iyo gobollada iyo sidoo kale gobolada dhexdooda.

### **I. Hay'adaha Isku-xirka xiriirka-Iskaashiga Xukuumadaha**

Dastuurada Federaalka inta badan ma dham-aystirna oo wuxuu u ba-aahan yahay gortan joogta ah iyo wada-xaajood. Taa awgeed, nidaamka federaalka waxaa lagu maamulaa nidaam qoran oo ku salaysan xeerarka dastuurka iyo sharciga, hase ahaatee waxaa sidoo kale uu ku salaysan yahay wada-xaajood joogto ah iyo tanaasul. In la aqoonsado xaqiiqda, dawladda federaalka inta badan waxay samaystaan

**Samaynta hay'ado rasmi ah iyo kuwa aan rasmi ahayn ee isku xirka hawlaha heerarka kala duwan ee xukuumadda waa muhiim si loo hubiyo xiriirka iskaashiga oo isdhammaystiraayo.**

hay'ado rasmi iyo kuwa aan rasmi ahayn oo ku hawlan isku-xirka hawlgelinta joogtada ah ee nidaamka kala sareeya iyo midka

siman ee heerarka kala duwan ee xukuumadaha. Inkastoo dastuurada qaarkood ay si fudud u qeexayaan mabaadii'da lagu maamulaayo xiriirka-iskaashiga hay'adaha sharciga ee mustaqbalka, kuwa kale waxay dejiisanayaan mabaadii'da iyo sidoo kale hay'adaha ku haboon. Madashaan waxay xaqiijinaysaa hawlgelin joogta ah oo u dhexeysa heerarka kala duwan ee dowladda.



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Wadamada qaar, sida dalka Jarmalka, madashu way tiro badan tahay weyna baahsan-tahay taasoo ay si joogta ah uga qayb-qaadanayaan madaxda fulinta, Golayaasha sharci-dejinta, iyo wasaaradaha iyo hay'adaha gaar ah. Si kastaba ha ahaatee, si loo hubiyo xaaladda, madashu waxaa lagu dhisaa hab sharci ee caadi ah ama heshiis (oo ah mid rasmi ah iyo midaan rasmi ahayn) ee u dhexeeya heerarka kala duwan ee dowladda. Sidoo kale, Dastuurka Koonfur Afrika ayaa si cad u qeexaya mabaadii'da gaar ah ee la xiriiro nidaamka iskaashiga federaalka hase ahaatee wuxuu u dhaafayaa qaab-dhismeedka iyo hay'adaha hormarinaayo oona fududeeynayo xiriirka iskaashiga xukuumadaha sharci uu soo saaro Baarlamaanka. Si la mid ah, Xeerka Nidaamka Xiriirka Iskaasiga Xukuumadaha, kaasoo dhigaaya habab isku-xirka hawlaha xukuumadaha oo dhan ee bixinaysa adeegyada, waxaa la ansixiyay sanadkii 2005. Xeerka wuxuu dhisayaa Golaha Isku xirka Madaxweynaha (PCC), taas oo ah hay'adda isku-xirka ugu weyn ee ah heer qaran, oo ka kooban Madaxweynaha, Madaxweyne ku-Xigeenka, Wasiirrada muhiimka ah, Guddoomiyaasha gobollada iyo Ururka Dawlada Hoose ee Koofur Afrika. Waxa kale oo uu abuurayaa madal ay isugu yimaadaan madaxda fulinta gobollada, oo lagu magacaabo Madasha Isku-xirka Guddoomiyaasha Gobolka, oo ka kooban guddoomiyaasha, xubnaha dawladda hoose ee Fulinta Golaha Gobolka (MEC), iyo Duqeyda Degmooyinka. Madasha waxa si joogto ah looga hadlaa oo looga tashtaa xiriir iskaashiga arrimaha horumarinta ee gobolka, iyo sidoo kale dhaqan-gelinta siyaasada iyo sharciga heer qaran iyo heer gobol.

Dastuurka ku meel gaarka ah ee Soomaaliya wuxuu qeexayaa qaar ka mid ah mabaadii'da lagu hormarinaayo iskaashiga iyo wax wada qabsiga (Qodobada 51-53). Si loo hubiyo habsami-u-socodka hawlaha iskaashiga, Dastuurka wuxuu qaabeeyay laba madal oo joogtada ah. Midka hore, madaxda fulinta Xukuumadda Federaalka iyo Dawladaha xubinta ka ah Dawladda Federaalka waa inay isugu yimaadaan sannad kasta kulan si ay uga wada-hadlaan oo iskuna afgarataan arrimo muhiim u ah qaranka. Intaas waxaa sii dheer, madaxweyneyaasha Dawladaha xubinta ka ah Federaalka iyo saraakiisha sare waa in si joogto ah ay uga wada hadlaan arrimaha si wadajirka ah saameynta ugu leh gobolladooda. Waxaa intaas dheer madashaas joogtada ah, Dastuurka wuxuu ogol yahay in Baarlamaanka Federaalka uu dhiso hay'ado iyo habraacyo lagu fududeeyo is-dhexgalka iyo xalinta khilaafaadka ka dhex-dhasha heerarka kala duwan ee Xukuumadda iyadoo aan loo baahan maxkamadaha.

Madasha kor ku xusan waa in loo eegaa si guud ee dhanka Guddiga Isku-Xirka Xukuumadaha ee Soomaaliya oo doorkooda yahay hubinta iskaashiga joogta ah iyo xiriirka Dowladda Federaalka iyo Dawladaha xubnaha ka Dowladda Federaalka. Guddiga waxaa sidoo kale uu u xilsaaran yahay xallinta khilaafaadka maamulka, siyaasada iyo garsoorka ama khilaafyada u dhexeeya dawladda federaalka ah iyo mid ka mid ah dawladaha xubinta ka ah Dawladda Federaalka, ama Dawladaha xubnaha ka ah federaalka dhexdooda. Jiritaanka dhowr qaab-dhismeed ee isku-xirka nidaamka kala sarreeya iyo midka siman ay ka dhalan karto is-faham la'aan iyo tar-tan. Sidaa darteed waxa muhiim ah in la caddeeyo oo la iswaafajiyo doorka madasha kala duwan iyo sida loo waafajin lahaa hawsha Guddiga isku-xirka xukuumaddaha.



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Madasha dastuuriga ah ee Soomaaliya, iyadoo la hormarinaayo doorkooda, haddana waxay horis-taagi kartaa wax-abuurka iyo tijaabinta iyadoo wiiqaysa xiriirka iskaashiga siyaasadaha iyo howlaha heerarka kala duwan ee xukuumadaha. Si kastaba ha ahaatee, waxaa suurtagal ah in la fahmo madasha lagu dhisay nidaamka dastuuri ah ee Soomaaliya oo ah saldhigga aasaasiga ugu hooseeya. Sidoo kale, madallo dheeraad ah oo noqon kara kuwo rasmi ah iyo kuwo aan rasmi ahayn waxaa lagu dhisi karaa nidaam sharci ah ama heshiis hadba sida loo baahdo. Tusaale ahaan, xitaa haddii dastuurka uusan si cad u sheegayn in waxa muhiim ah in la dhiso sharciga dib-u-habeynta xukuumadaha dhexdooda iyo is-waafajinta guddiyada si loo dhiirrigeliyo iskaashiga sharciyada, oo ay ku jiraan habka qoritaanka sharciyada, iyo in la siiyo kaalmo farsamo oo noqonaya qaab faallo ah sharciyeed ah oo ay diyaariyaan gobollada. Guddigaan wuxuu sidoo kale talo siin karaa dhammaan xukuumadaha oo dhan si loo xaliyo khilaafka dhanka sharciga oo ah lagama-maarmaan taasoo u sabab ah sharciyada fara badan uu keenayo qaabka federaalka. Qaabka ah in la aasaaso madal dheeraad ah waxay si gaar ah muhiim u tahay marka Dastuurka kama-dambeysta ah uu u qoondeeyo arrimaha hoos imaanayo awoodda wadaaga ah ee Xukuumadda Federaalka iyo Dawladaha xubinta kaah.

## **II. Xalinta khilaafaadka xukuumadaha dhexdooda ah**

Xataa hadii ay jiraan hay'ado iyo habab ay isku kaashanaayaan xukuumadaha, waxaa hubaal ah in ay jiri doonaan khilaafaad la xiriira iskaashiga iyo qaybsiga awoodaha. Sidaa awgeed, dastuurka federaalka waa in uu dejiyaa habraacyo iyo hay'ado awood buuxda loo siiyo in ay ka gaaraan go'aan kama-dambeys ah iyo xalinta khilaafaadka ka dhasha xukuumadda dhexe iyo midda gobollada.

Halka dawlado fara badan ay samaysteen nidaam garsoor oo lagu xalin karo khilaafaadka ka dhex-dhasha xukuumadaha dhexdooda, ayaa hadana qaar kale waxay qaateen nidaam aan ahayn mid maxkamadeed.

**Khilaafka u dhexeeya heerarka kala duwan ee xukuumadda badanaa way dhacaan, hadana sidoo kale lama fursan karo. Inta badan khilaafka waxaa lagu xaliyaa hab siyaasadeed. Si kastaba ha ahaatee, dastuurka ayaa sidoo kale dejiyay habab lagu xallinaayo khilaafaadka marka siyaasadda lagu guuld dareysto xallinta arrimahaas.**

### **1. Habab garsooreed**

Wadamo ugu badan federaallada maxkamadda ugu sarraysa ee federaalka ayaa xalinaysa khilaafaadka xukuumadaha dhexdooda ka dhasha. Dalka Koofur Afrika, Maxkamadda Dastuuriga ah waxay leedahay awoodda ugu horeysa iyo midda ugu dambaysa ee xalinta khilaafaadka u dhexeeya dawladda dhexe iyo gobollada iyo sidoo kale ka midka ka dhexsha gobollada dhexdooda. Dastuurku wuxuu dalbaayaa in dhinacyada khilaafaadka u dhexeeya ay marka hore sameeyaan dadaal maangal ah si loo xalliyo khilaafaadka si wadaxaajood ah. Maqnaanshaha dadaalka lagu xalliyo



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khilaafka iyo niyadsami-wanaag, Maxkamadda waxay dib ugu soo celin kartaa dhinacyada ka dhexeeya khilaafaadka. Dastuurrada dalaka Nigeria iyo Argentina ayaa sidoo kale waxay awood u siinayaan maxkamadda sare ee Federaalka si ay xaliso khilaafaadka ka dhex dhasho xukuumada.

Iyadoo la eegayo muhiimadda ay leedahay maxkamadaha federaalka ugu sareeya ee xalinta khilaafaadka xukuumadaha dhexdooda, habka lagu magacaabay xubnaha maxkamadaha waxaa haboon in lagu dhiso si isku-dheelitran oo xukuumadaha dhexdooda. Dawladdo federaal ah, xukuumadda dhexe iyo midda gobollada (iyadoo caadi ahaan la marayo aqalka labaad) waxay ku lug leeyihiin magacaabidda garsoorayaasha. Si kastaba ha ahaatee, habraaca ay heerka dawlad goboleedyada kaga qeyb qaadanayaan magacaabista garsooraysha way ku kala dawan yihiin. Tusaale ahaan, dalka Jarmalka, aqlka koowaad iyo labaad mid kasta wuxuu magacaabayaa kala bar xubnaha ka tirsan Maxkamadda Dastuuriga ah. Koofur Afrika dhanka kale, aqalk labaad kuma lug laha soo-magacaabist xubnaha Maxkamadda Dastuuriga ah oo Garsoorayaasha Maxkamadda Dastuurka waxaa soo magacaabey Madaxweynaha Jamhuuriyadda oo la tashanaya Guddida Adeega Garsoorka iyo xisbiyada siyaasadeed ee mucaaradka ah. Dalka Maraykanka, Madaxweynaha ayaa soo magacaaba garsoorayaasha kaddibna waxaa ansixiya aqalka sare, aqalka hoose kuma lug laha soo-magacaabista garsoorayaasha, haddaba Dalka Kanada, saddex ka mid ah sagaal garsoore oo ka tirsan Maxkamadda Sare waa in ay ka yimaadaan Quebec.

## **2. Habab aan garsoor ahayn**

Waddamada qaarkood ayaa doortay in lagu xalliyo khilaafaadka hab aan garsoorka ahayn. Dalka Itoobiya, awoodda lagu farsirayo Dastuurka iyo lagu xallinayo khilaafaadka xukuumadaha dhexdooda waxaa leh Golaha Federaalka, oo ka kooban wakiillo ka socda kooxaha qowmiyadeed. Maxkamadaha caadiga ah ma laha awoodda dib-u-eegista Dastuurinimada sharciyada oo dhan, sida sharciyada federaalka iyo sidoo kale shuruudca gobolka.

Dalka Swizland, maxkamadda ugu sarraysa dawladda federaalka ayaa go'aan ka gaareyso khilaafaadka sharciga ee ka dhexeeya dawladda federaalka iyo gobollada, ama gobollada dhexdooda, iyo is-waafaqsanaanta shuruudca gobollada iyo sharciga federaalka. Hase ahaatee ma laha awoodda su'aasha ah fasiraadda dastuurinimada sharciga federaal ah. Haddii 50, 000 oo muwaadiniin ah ama sideed gobolada ay duraan sharciga federaalka 100 maalmood gudahood ka dib markii la ansixiyay, sharcigaas waa inla soo gudbiyaa afti dadweyne.





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Dastuurka ku meel gaarka ah ee Soomaaliya wuxuu ka dalbayaa heerarka kala duwan ee dawladaha in ay isku dayaan in lagu xalliyo khilaafaadka si wada-hadal iyo dib u heshiisiin (Qodobka 50(g)). Haddii uu guul dareeysto wadahadalka, awoodda kama-dambaysta ee xallinta khilaafaadka xukuumadaha dhexdooda waxaa leh Maxkamadda Dastuurka ah (109C Qodobka(1)(d)). Dastuurku si gaar ah uma dalbaayo in ay Maxkamaddu hubiso in dhinacyada is-khilaafsan ay billaabaan wada-hadal iyo dib-u heshiisiin ka-hor inta aysan oggolaanin in la xalliyo khilaafaadka. Si kastaba ha ahaatee, mabaadi'da Federaalka ayaa qeexaysa Qodobada 51 iyo 52 in loo baahan yahay dadaallo. Waa in la ogaadaa in garsoore ka tirsan Maxkamadda Dastuurka uu soo magacaabay Golaha Shacabka si waafaqsan magacaabidda Golaha Adeegga Garsoorka (Qodobka 109B(2)). Inkastoo Dastuurka uu sheegayo in Aqalka Sare oo ka qayb qaadanayo magacaabidda garsoorayaasha (Qodobka 71(i)), hadana ma cadeeynayo habkaas.

### **III. Iswaafaqsan la'aanta shuruucda federaalka iyo kuwa gobollada**

Nidaamka federaalku wuxuu dejinayaa qaab ka kooban haya'daha dowladda oo kala duwan oo leh awoodo kala duwan. Dhammaan dalalka federaalka, dastuurka federaalka waa sharciga ugu sareeya dhammaan sharciyada kale oo ay ka mid yihiin dastuurada gobollada. Haddii sharciyada gobolka ay ka sarreeyo dastuurka federaalka, habkaasi wuxuu ku dhow yahay nidaamka konfederasyon ee ma ahan nidaam federaal ah. Intaa waxaa dheer, guud ahaan, sharciyada dawlad walba wuu ka sareeya sharciyada heerarka kale ee xiriir la leh qaybah ay awood gaar ah u leeyihiin. Sida oo kale, hadii awoodda ay la xiriirto khayraadka dabiiciga ah ay leedahay gobollada, xeer kasta ay sameeyo xukuumadda dhexe waa mid markaa ka baxsan awoodaas. Dhinaca kale, hadii uu heerarka kala duwan ay ku fulinaayaan arrin awoodda wadaagga ah, dastuurka wuxuu raacayaa guud ahaan shuruucda xukuumadda mudnaanta leh haddi ay timaado khilaafka.

Wadamo badan oo federaal ah, sharciyada federaalka ayaa ka sarreeya sharciga gobolka marka ay iska horimaadaan, oo ay ku jiraan dastuur goboleedka, oo ku jiraan arrimaha hoos imaanaya awoodda wadaagga ah. Si gaar ah, dalka Ciraaq, sharciga gobolka yaa ka sareeya sharciga federaalka marka laga hadlaayo arrimaha hoos imaanaya awoodda wadaagga. Sidoo kale, dalka Jarmalka, arrimaha qaarkood ee ku taxan Dastuurka, gobolada waxaa loo ogol yahay in ay ansixiyaan sharciyo oo weecin karaa oona ka sarreyn kara sharciga federaalka. Dalka Kanada, marka loo eego sharciyada ku saabsan hawlgabka, sharciga gobolka ayaa ka sareeya sharciga federaalka.

Waddamada qaarkood way ka tageen arrinta lagu nidaamiyo kala-sarreynta sharciyada. Xaaladaan oo kale, go'aanka ku saabsan kala sarreeynta sharciyada waxay hayadda masuulka ka ah xalinta khilaafaada xukuumadaha dhexdooda u eegaaysaa xaaladba-xaalad. Dalka Itoobiya, Dastuurka ma go'aamiyo shuruucada



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heerka xukuumadeed ee sarreeynta leh marka ay timaado khilaafaad. Sidaa awgeed, Golaha Federaalka isagoo eegaya xaaladba-xaalad ayuu xalinayaa khilaafaadka.

### **I. Habraaca wax-ka-bedelka Dastuurka ee dawladdaha Federaalka**

Sida kor ku xusan, kala qaybinta awoodaha Dastuuriga ee u dhexeeya xukuumadda federaalka iyo gobollada wuxuu muhiim u yahay dawladda federaalka. Iyadoo la

**Halka habraaca wax-ka-bedelka dastuurka dawladdaha federaalka ay kala duwan yihiin, dhamaan dawladdaha federaalka habraaca geed- socodka waxaa lug ku leh inay taageeraan dawladda ama shacabka dawladdahaas. Sida ku lug lahaanshahani waa lagama-maarmaan si ay u ilaaliyaan awoodaha kala qaybsan ee federaalka. Wadamo qaarkood, nidaamka Federaalka waxba lagama bedeli karo.**

raacayo. Wax-ka-bedelka dastuurka federaalka ma dalbayo oo keliya inay ansixiyaan sharci dejinta iyo fulinta ee dawladda dhexe, balse sidoo kale waa in ay taageeraan gobollada iyo /

ama shacbigooda. Gobollada waxay saameyn ku leeyihiin habraaca wax-ka-bedelka iyagoo u soo dhex maraya Aqalka labaad, caadi ahaanna waxaa loogu talagalay inay hubiyaan danaha matalaada gobollda. (fadlan eeg Qaybta G kor ku xusan). Intaa waxaa dheer, dalalka qaar, sharci-dejinta gobollada ama inta badan ee cod-bixiyeyaasha waa in ay ansixiyaan wax-ka-bedelka Dastuurka.

Dalal yar, sida Australia iyo Switzerland, oo inta badan cod-bixiyeyaasha dalka oo dhan iyo aql-abiyyadda cod-bixi-yayaasha ee inta badan ka mid ah gobollada dalka waa inay ku ansi-xiyaan Dastuurka afti dadweyne. Dal-alka qaar, sida Ger-many iyo Brazil, nidaamka Federaalka waxba lagama bedeli karo. Hoos waxaa ku qoran warbixin kooban ee habraaca wax ka bedelka dastuurka waxaana xulaya dawladda federaalka.

#### ***Ansixinta khasabka ah ee sharci-dejinta gobolka looga baahan yahay***

##### ***Nigeria:***

- Wax-ka-bedelka sharciga xuquuqaha, qodobada wax ka bedelka iyo qodobada la xirra dhisidda gobollo cusub ama soohdimeynta xuduudaha waxay u baahanyihiin ansixintooda aqlabiyadda 4/5 labada aqal, iyo ansixinta ay ku ansixinayaan sharci-dejinta ee 2/3 gobollada;
- Dhammaan wax-ka-bedellada kale waxay u baahan yihiin ansixintooda aqlabiyad 2/3 ee aqal kasta, iyo ansixinta ay ku ansixinayaan sharci-dejinta ee 2/3 gobollada.



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### **Ethiopia:**

- Wax-ka-bedelka sharciga xuquuqaha, iyo qodobada wax-ka-bedelka waxay u baahanyihiin ansixintooda aqlabiyadda 4/5 ee aqal kasta, iyo ansixinta ay ku ansixinayaan sharci-dejinta dhamaan gobollada;
- Wax ka bedellada kale waxay u baahan yihiin ansixintooda aqlabiyad 2/3 ee fadhi wadajir ah ee labada aqal, iyo ansixinta ay ku ansixinayaan sharci-dejinta ee 2/3 gobollada.

### **Ansixinta sharci-dejinta gobolka looga baahan yahay si gaar ah oo keliya**

Koonfur Afrika Dastuurka wuxuu dhisayaa seddex habraac ee wax-ka-bedelka Dastuurka oo kala duwan:

- Wax ka bedelka qiyamka asaasiga ah ee Dastuurka iyo wax-ka-bedelka qodobada dastuutka qudhiisa waxay u baahan yihiin oggolaanshaha 3/4 aqlabiyadda Barlamaanka Qaranka iyo 2/3 ee gobollada ku jira Golaha Gobollada.
- Wax-ka-bedelka sharciga xuquuqaha, iyo qodobada saameynta ku leh awoodaha, hay'adaha iyo xuduudaha gobollada waxay u baahan tahay oggolaanshaha 2/3 aqlabiyada Baarlamaanka Qaranka iyo ansixinta 2/3 ee gobollada ee Golaha Gobollada .
  - Haddii wax-ka-beddelka uu saameynayo oo keliya hal gobol ama gobollo gaar ah, Golaha Qaranka ee Gobollada ma ansixinayaan sharciga ilaa iyo inta ay ka ansixinayso qaybta ay khuseyso sharci-dejinta ama sharci-dejiyayaasha gobolka ama gobollo ay khasayso.
- Dhammaan wax ka bedellada kale waxay u baahan yihiin ansixintooda aqlabiyad 2/3 ee Baarlamaanka Qaranka.
- Waxa xusid mudan, Dastuurka wuxuu awood siinayaa Maxkamadda Dastuuriga ah in ay go'aan ka gaarto dastuurinimada wax ka bedelka Dastuurka.

### **Golaha Dastuuriga gaarka ah ee wax-ka-bedelka Dastuurka**

- Dalka Argentina, go'aanka ah in ay wax-ka-bedel ku sameeyaan dastuurka waxaa codeynaya 2/3 ee aqlabiyadda labada aqal ee baarlamaanka. Go'aan noocaas ah, golaha dastuuriga gaarka ah waxaa loo dhisay inay fiiriyaan ansixinta wax-ka-bedelka la soo jeediyay.

### **Wax ka bedelka Dastuurka ee afti dadweyne**

#### **Switzerland:**

- Iyadoo laga eegayo si toos ah aqlabiyadda mabda'a dimuqraadiyadda, dhamaan wax-ka-bedelka dastuurka Switzerland waxay u baahan yihiin ansixinta aqlabiyadda kuwa u codaynaya guud ahaan Switzerland, iyo



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aqlabiyadda kuwa u codaynaya inta badan gobollada. Ogow in qaar ka mid ah gobollada ay leeyihiin oo keliya kala bar codeynta dawlad goboleedka.

### **Australia:**

- Dalka Australia, aqlabiyad buuxda ee labada aqal ee Baarlamaanka Federaalka waa in marka hore ku ansixiyaan wax-ka-beddelka Dastuurka.
- Wax-ka-beddelka waa in sidoo kale lagu ansixiyaa afti aqlabiyadda cod-bixiyayaasha guud ahaan Australia oo dhan iyo aqlabiyadda codbixiyayaasha oo inta badan ka mid ah gobollada.
- Haddii ay dhacdo in labada aqal ay isku raaci waayaan wax-ka-bedelka la soo-jeediyay, Wakiilka Guud ee Boqorada ayaa u gudbinaya wax ka bedelka la soo-jeediyay afti dadweyne mar haddii ay isku raaci waayeen labada aqal ee baarlamaanaka.
- Xaaladaha oo dhan, haddii ay wax-ka-beddelka la soo-jeediyay uu hoos u dhigayo wakiilada gobol ee labada aqal ee baarlamaanka ama uu wax-ka-beddelayo xuduudaha ama haddii kale qodobada saameynta ku leh wada-xaajoodka xuduudaha gobolka, badanaa cod-bixiyayaasha saameynta ku leh gobol ama gobollada waa inay iyagana sidoo kale ansixiyaan wax ka bedelka Dastuurka.

Dastuurka ku meelgaarka ah ee Soomaaliya wuxuu xaqiijiyaa ka qaybgalka Dawladaha xubinta ka ah Federaalka waxaa habraac wax-ka-beddelka lagu samayn karaa laba siyaabood: mida hore Aqalka Sare, uuna la socdo Golaha Shacabka, waa inay ku ansixiyaan dhamaan wax-ka-beddelka dastuurka laba saddex-meelood meel- aqlabiyad (Qodobka 132). In la hawl geliyo xubnaha ka tirsan federaalka, si loo xaqiijyo saameynta soo-jeedimaha dib-u-eegista wax-ka-bedelka Dastuurka iyo si kor loogu qaado doodda dadweynaha iyo wada tashiga, Dastuurka wuxuu u baahan yahay in la aasaaso guddi wadajir ah oo ka kooban labada xubno ka tirsan labada aqal ee Baarlamaanka Federaalka. Intaa waxaa dheer, haddii wax ka beddelka saamayn ku leeyahay Dawladaha xubnaha ka ah Federaalka, Guddigu waa inay ka wada shaqeyaan is-waafajinta soo gudbinta ee sharci dejinta ee heer Dawladaha Xubinta ka ah federaalka ee wax-ka-bedelka la soojeediyey.

## **J. Ka qay-qaadashada gobollada ee la xiriira heshiisyada caalamiga ah**

Guud ahaan, awood ugu sareysa arimaha dibadda, oo ay ku jiraan saxiixa heshiisyada caalamiga ah, waxaa la siiyey in ay gasho xukuumadda federaalka. Si kastaba ha ahaatee, awoodda dawladda federaalka ee heshiisyada caalamiga ah ma ahan mid



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gaar u ah mar walba. Tiro ka mid ah dalalka federaala ayaa ogolaanaya in gobollada ay saxiixaan heshiisyada caalamiga ah xaaladaha qaarkood.

Sida uu qabo Dastuurka KMG ah ee Soomaaliya, awoodda Dowladda Federaalka ee ugu sarreysa ayaa leh arrimaha dibadda oo ay ku jiraan awoodda ay uga wada-xaajoodaan ansixinta heshiisyada caalamiga ah ( Qodobka 54 ). Si kastaba ha ahaatee, si waafaqsan mabaadi'da iskaashiga, Dowladda Federaalka waxaa looga baahan yahay in ay la tashato dawladdaha xubnaha ka federaalka wada-xaajoodyada la xiriira kaalmada dibedda, ganacsiga, heshiisyada, iyo arrimaha kale ee la xiriira heshiisyada caalamiga ah (qodobka 53 (1)). Intaa waxaa dheer, markii wadahalada caalamiga ah gaar ahaan u saamaynayaan danaha Dawladaha xubinta ka ah Federaalka, koox wada-xaajoodka ee Dowladda Federaalka waa inay ku jiraan wakiillo ka socda Dawladaha xubinta ka ah Federaalka (qodobka 53 (2)). Ma cadda sida wakiilada Dawladaha xubinta ka ah federaalka lagu soo xulayo. Dalka Jarmalka, wakiillada ayaa waxaa soo xula Golaha Federaalka (aqalka labaad). Dastuurka KMG sidoo kale ma caddaynayo in culayska ay tahay in la siiyo aragtida Dawladaha Xubnaha ah. Dalalka qaarkood, sida Austria iyo Spain, aragtida ay ka midaysan yihiin gobollada oo la xiriirta arrin uu tixgaliyay Midowga Yurub oo ayaga saamaynaysa ay qabanaysa dawladda federaalka ah.

Dastuurka KMG ee Somaliya ma cadeeynayo haddii gobollada ka midka ah federaalka ay ka qeyb qaadan karaan heshiisyada caalamiga ah. Si kastaba ha ahaatee, Xukuumadda federaalka waa iney la tashataa gobolada ay khuseyso wada-xaajoodka la xiriira kaalmada dibedda, ganacsiga, heshiisyada, iyo arrimaha kale ee la xiriira heshiisyada caalamiga ah. Haddii wada-hadallada caalamiga ah gaar ahaan ay saamaynayaan danaha Dawladaha xubinta ka ah Federaalka, koox wada-xaajood ah Dowladda Federaalka waa inay ku jiraan wakiillo ka socda Dawladaha xubinta ka ah Federaalka.

Waajibka in lala latashato ku lug lahaanshaha Dawladaha xubnaha ka ah federaalka waa mid muhiim ah waana in loo arkaa macnaha guud ee xaqiiqda ah in Aqalka Sare ee Soomaaliya inuusan ku lug lahayn ansixinta heshiisyada caalamiga ah. sida ku cad Qod. 90 (q), heshiisyada caalamiga ah waxaa soo-jeedinaya Golaha Wasiirada, saxiixana Madaxweynaha ka-dib waxaa ansixinaya Golaha Shacabka. Wadamo badan oo federaal ah, sida Maraykanka iyo Germany, aqalka labaad ayaa ku lug leh ansixinta heshiisyada caalamiga ah.

Xaqiiqdii, dalka Mareykanka, Golaha Senatka oo kaliya ayaa ku lug leh, tusaale ahaan, aqalka hoose ma laha doorka rasmi ah ee ansixinta heshiisyada. Ka qayb qaadashada gobollada ansixinta heshiisyada caalamiga ah waa muhiim, sida fulinta heshiisyada qaar ka mid ah waxay u baahan doonaan in ay ka qay-bqaataan, gaar ahaan marka uu hoos u dhaco aqoontooda ka-maqaanshaha la tashiga, gobollada waxay hubinayaan fulinta heshiisyada iyo in la jebiyey sharciga caalamiga ah.



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Intaas waxaa sii dheer, dastuurka ku meelgaarka ah ee Soomaaliya si gaar ah uma ogolaanayo, ama ma mamnuucayo, in dawladaha xubnaha ka ah federaalka inay sixiixi karaan heshiisyada caalamiga ah ee la xiriirta arrimaha iyaga khuseeya ee awoodooda sharci-dejinta u gaarka ah. Si kastaba ha ahaatee, dawladaha xubinta ka ah federaalka looma ogola inay galaan heshiisyada iskaashi ee qabanaya oo u dhexeeya iyaga dhexdooda ama Dawladda Federaalka (qodobka 52 (2)), Waxaa laga yaabaa in laga dooday lana soo-jediyay in aanay sixiixi karin heshiisyada caalamaiga ah. Wadamada qaarkood, gobollada waxay ku lug leeyihiin sameynta heshiis inta badan iyada oo loo soo marinayo wakiilada aqalka labaad. Kuwo kale, gobollada waxay hubinyaan xaaladaha ku xiran shuruudaha ay ku ogolaanayaan xukuumadda federaalka sixiixitaanka heshiisyada caalamiga ah.

Dastuurada Koonfur Afrika, Itoobiya iyo Nigeria uma oggolaanayo dawladaha xubinta ka federaalka inay galaan heshiisyo caalami ah. Si kastaba ha ahaatee, Dastuurka dalka Nigeria ayaa dalbaya sidaas, intaa waxaa dheer Baarlamaanka Qaranka, oo ay ku jiraan aqalka Sare, badanaa golaha sharci-dejinta gobollada ayaa ansixinaya shuruucda fulinta heshiisyada, haddii arrimaha ay ugu yeeranayaan heshiisyada aysan ku jirim awoodaha u gaarka ah ee xukuumadda federaalka. Dalka South Africa, gobollada waxay ku lug leeyihiin sameynta heshiis inta badan iyada oo loo soo marinayo wakiilada aqalka sare. Intaa waxaa dheer, mabda'a iskaashiga federaalka waxay kenesaa inay ogolaato inay xaq u yeeshaan in lagala tashto wada-xaajoodka heshiisyada caalamiga ah. Dalka Itoobiya, aqalka labaad kuma lug lahan ogolaanshaha heshiisyada caalamiga ah. Ugu dambeyntii, saameynta gobollada ee heshiisyada caalamiga ah waa ay xaddidan yihiin.

Dalka Belgium, gobollada ayaa saxiixaya hashiisyada caalamiga ee la xiriira awoodahooda gaarka ah ee iyaga khuseeya, xukuumadda federaalka ayaa kaga soo hor-jeedsan karta oo keliya heshiisyadaas iyadoo shuruudo gaar ah ku xireysa. Si la mid ah, dalka Midowga Imaaraadka Carabta, dawladaha xubinta ka ah federaalka (Imaaraadka) waxay geli kartaa heshiis caalami ah haddii uusan ka hor-imaanaynin danaha midowga imaaraadka. Dawladda Dhexe waa inay caddeysaa inay ka soo hor-jeedaan heshiisyada noocan ah, taasoo Maxkamadda Sare ay go'aaminayso. Dalka Argentina, Dastuurka wuxuu u ogolaanayaa gobollada inay ugu danbeyntii galaan heshiisyada caalamiga ah taasoo ujeedadeedu tahay maamul ku dhisan cadaalad, danaha dhaqaale, iyo u-wadshaqaynta danta guud, iyadoo la wargelinaayo Baarlamaanka Federaalka. Ka qaybgalka tooska ah ee gobollada wada-xaajoodyada iyo heshiisyada caalamiga ah caalamiga ah ayaa lagu dari karaa ka-qaybgal aan toos ahayn ee aqalka labaad (tusaale Germany).



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**Jadwalka: Kaqaybgalka Gobollada ee la xiriira heshiisyada caalamiga ah**

<b>Dal Federal ah</b>	<b>Xaqa la tshiga gobollada</b>	<b>Xaqa gobollada inay saxiixaan heshiisyada caalamiga ah</b>
<b>Germany</b>	Si la xiriirta heshiisyada caalamiga ee iyaga saameynta ku leh.	Si la xiriirta arrimaha iyaga khuseeya ee awoodooda sharci-dejinta iyo arrimaha ay ogoolaadaan federaalka
<b>Belgium</b>	Si la xiriirta heshiisyada caalamiga ee iyaga saameynta ku leh.	Si la xiriira awoodahooda gaarka ah ee iyaga khuseeya, xukuumadda federaalka ayaa kaga soo horjeedsan karta oo keliya heshiisyadaas shuruudo gaar ah.
<b>Russia</b>	Si la xiriirta heshiisyada caalamiga ee iyaga saameynta ku leh.	Waxay geli karaan xiriirka caalamiga ah, hase ahaatee ma saxiixi karaan heshiisyada.
<b>Austria</b>	Si la xiriirta heshiisyada caalamiga ah oo ay tahay inay fuliyanaan iyaga. Aragti ay u wada dhanyihiin gobollada ayaa waajib kaga dhigaya xukuumadda federaalka.	Gobollada way kaga qayb geli karaan heshiis heshiiska iyada oo ay kormeerayaan federaalka heshiiskaasoo arrimihiisa hoos imaanaya awooda sharci dejintooda dawladda shisheeye ee deriska ah iyo hay'adaha.
<b>Spain</b>	Si la xiriirta heshiisyada caalamiga ee iyaga saameynta ku leh. Aragti ay u wada dhanyihiin gobollada isku xukun gaar ah leh ayaa waajib kaga dhigaya xukuumadda federaalka.	Gobollada isku xukun gaar ah leh malaha xaqa ah inay saxiixaan heshiisyada caalamiga ah.
<b>Switzerland</b>	Si la xiriirta go'aanada siyaasadda arrimaha dibadda ee ku saabsan awoodooda ama dano muhiim ah. Xaaladaha qaarkood , danaha gobolka way ka qayb ka qaadan karaan sida ku haboon. wadahadalada caalamiga ah.	Gobolada ayaa waxay awood u leeyihiin inay saxiixaan heshiisyada caalamiga ah ee la xiriira arrimaha khuseeya dhaqaalaha guud, xiriirka deriska iyo booliska, la qeexo heshiisyada aan sharciga waafaqsanayn ama danaha qaranka, ama sharciyada gobolada kale iyo Xukuumadda Federaalka lagu wargeliyo. Marka gobollada ka cabanayaan sida dagaalada, Baarlamaanka Qaranka ayaa go'aaminaya.



## **K. Arrimaha kale ee muhiimka ah ee federaalka**

### **I. Ma habboon tahay in gobollada ay yeelan karaan dastuur iyaga u gaar ah ?**

Dastuurada Federaalka way ku kala duwan yihiin ilaa xad sida ay u nidaaminayaan qaabka gobollada iyo dawladda hoose. Dalal qaar ah, sida Nigeria iyo Belgium, dastuurka federaalka waxaa ku jira qodob faahfaahsan oo qeexaya qaab-dhismeedka, taasi ma ahan oo kaliya xukuumadda federaalka, balse sidoo kale xukuumadaha gobollada. Sidoo kale gobollada uma baahna mana lahan dastuurro iyaga gaar u ah. Dastuurka dalka Koonfur Afrika ayaa sidoo kale qeexayaa qaab-dhismeedka xukuumadaha gobollada qaabkaas. Sidaa darteed gobollada looma baahna in ay ansixiyaan dastuurka gobolka. Si kastaba ha ahaatee, gobolladaasi waxay xor u yihiin inay ansixiyaan dastuur, oo ku xiran ka hor cadaymaha Maxkamadda Dastuuriga ah inuu waafaqsan yahay Dastuurka Qaranka. Dalka India, gobol keliya sida Kashmir, waxaa loo oggol yahay inay yeelato dastuur u gaar ah; halka gobollada kale aysan lahayn.

Wadama qaar halk qaab-dhismeedka xukuumadaha gobollada lagu qeexay dastuurka federaalka, qaab-dhismeedka xukuumadaha gobollada ay la mid tahay guud ahaan nidaamka federaalka. Faa'iidada ugu weyn ee jiritaanka hal dastuur waxaa lagu qeexaya qaab-dhismeed mid ah oo dhamaan heerarka kala duwan ee xukuumadda oo ah mid midaysan iyo saadaalinta uu dastuurku abuurayo. Intaa waxaa dheer, in meesha laga saaro suurtagalnimada khilaafaadyada la xiriira waafaqidda dastuurka gobolka in uu wafaqo dastuurka federaalka, tassoo imaaneyso marka mabaadi'da asaasiga lagu tilmaamo dastuurka federaalka ah, taas oo laga yaabo inay hoos u dhigto rabitaanka iskaashi iyo isku-xirka hawlaha xukuumadaha dhexdooda.

Si ka duwan, qaar ka mid ah dastuurada federaalka in uu nidaamiyo qaab-dhismeedka dawlad goboleedyada ama uu dejiyo mabaadi'da aasaasiga ah ee lagu nidaaminaayo dawladda gobolka, waxaa intaa dheer shardiga ah in la is-waafajiyo dastuurada gobolada iyo dastuurka federaalka ah (sida Itoobiya ). Tusaale ahaan, Dastuurka Mareykanka si fudud ayuu u dalbayaa in gobollada lagu dhiso 'qaab xukuumada Jamhuuri ah hase ahaatee faahfaahinta uu u daayay gobollada laf ahaantooda.

Dastuurka dalka Swiss wuxuu ka dalbayaa dastuurada gobollada inay ahaadaan kuwo dimuqraadi ah ayna ansixiyaan shacabka gobol. Dastuurka dalka Germany wuxuu ogolaanaya gobollada in ay ansixiyaan dastuuradooda u gaarka ah, kaas noqonaya mid waafaqsan mabaadiida jamhuuriyadda dimuqraadiga iyo nidaamka bulasho ee lagu maamulayo talinta sharciga. Dastuurka waa in sidoo kale uu dhisaa dowlado hoose oo madaxbannaan. Si la mid ah dalka Argentina, gobollada waxaa looga baahan yahay inay soo saaran dastuuradooda oo ku xiran shardiga ah nidaamka xukuumadda oo ah mid Jamhuuri ah, oo mataalad wakiil ku dhisan taasoo looga baahanyahay inay leedahay dawlad hoose oo madaxbannaan.





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**Dawlado qaar ee federaal ah, qaab-dhismeedka Dawlad goboleedyada waxaa lagu qeexaa dastuurka qaranka, taas oo ka dhigaysa dastuur goboleed aan loo baahnayn. Tani waxay keenaysaa in qaab-dhismeedka gudaha oo isku mid ah ee dhamaan gobollada.**

**Dalalka kale oo federaal ah, dastuurka qaranka wuxuu u deynayaa qaab dhismeedka gobollada dastuuradooda. Kuwa qoraya dastuurada gobollada waxay tijaabinayaan qaab dhismeedka hay'adhooda, waxa keliya ee looga baahan yahay waafaqsanaanta mabaadii'da lagu dhisay dastuurka qarank-adastuurka qaranka.**

Halkee ayay ka jiraan, dastuurka gobolka ee tilmaamaya arrimaha bulsho, dhaqaale iyo siyaasadeed iyo qaab-dhismeedka dawladaha gobolka. Sidaas darteed, qaab dhismeedka dawladda iyo midda gobollada way kala duwanaa karaan min Gobol ilaa Gobol. Tusaale ahaan, Malaysia, qaar ka mid ah gobollada waxay samaysteen qaab xukumud Jamhuuri ah, halka qaar kaena ay samaysteen boqortooyo. Maraykanka gudihisa, Nebraska ayaa leh baarlamaan ka kooban Hal Aqal, halka inta badan ay leeyihiin laba aqal oo sharci dejin ah. Louisiana waxay leedahay nidaam sharciga madaniga ah, halka dhammaan gobolada kale ee dalka Mareykanka ayaa qaatay nidaamka sharciga ah ee Common Law. Sidoo kale, qaabka fulinta ee Maraykanka ayaa sidoo kale ka duwan gobolba gobol. Faa'iidada ugu weyn ee jiritaanka dastuur goboleedyo kala duwan waa in ay u ogolaanaysaa gobollada tijaabada noocyada kala duwan ee xukuumadeed iyo maamulka u adeegayo sidii shaybaar dimuqraadiyadeed iyo maamul-wanaagga. Waxa kale uu ogolaanaya in gobol kasta, iyo sidoo kale dowladda dhexe, ay waayo-argnimo ka qaataan arrimhii lagu guulaystay iyo sidoo kale kuwii lagu fashilmay ee gobollada kale. Tusaale ahaan, xaq doorashada ee haweenka iyo dadka madowga ah ee dalka Maraykanka ah markii ugu horaysay waxaa ogolaaday gobolada ay siyaasadooda ay furfuran tahay. Ka dib waxaa soo raacay xukuumadda federaalka iyo gobolo kale.

Dastuurka sida kmg loo ansixiyay ee Soomaaliya wuxuu si gaar ah ugu ogolaanaya Dawladaha xubnaha ka ah federaalka in ay samaystaan dastuur ay ku dhisanayaan laanta fulinta iyo sharci-dejinta (Qodobka 120). Sidaa darteed waxaa loo door-biday in loo oggolaado Dawladaha xubnaha ka ah federaalka in ay tijaabo sameeyaan ayna abaabulaan hayadhooda sharci-dejinta iyo fulinta. Sida ku xusan Qodobka 121, dastuurka dawladaha xubinta ah Dawladda Federaalka iyo Dastuurka Federaalka waa in la 'iswafaajiya'.

Si ka duwan wadamada federaalka kale, qodobkan si cad uma qeexayo awoodda Dastuurka Federaalka in uu ka sareeyo dastuurka dawladaha xubinta ka federaalka. Sidoo kale waa in la ogaadaa in qodobka 120 ee dastuurka uu tilmaamayo oo keliya laanta sharci-dejinta iyo fulinta. Sidaa darteed ma cadda in dawladaha xubnaha federaalka loo oggol-yahay in ay go'aan ka gaaraan qaab-dhismeedka maxkamadahooda.



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### **II. Maqaamka casimaadaha ee dalalka federaalka ah**

Magaalo madaxda waxayleedahay muhiimad aad u weyn, waa meesha ay ku taallo xaruunta hay'adaha ugu waaweyn ee heer qaran iyo heer caalami ah, waxay astaanta u tahay horumarka iyo guul darrada xukuumadda qaran. Ugu dambeynti, go'aaminta magaalo madaxda gobollada federaalka waa arrin abuurayso muran fara-badan. Gaar ahaan, doorka dowladda federaalka ah ee maamulka iyo maareynta magaalada madaxda iyo xiriirka caasimadaha ay la leedahay gobolka ay ku dhex taallo.

Habka ka jira dalalka Federaalka ee caalamiga ah ayaa shaaca u kala qaaday saddex nooc marka la eego xaaladda sharciga ah ee magaalada caasimadda ah. Magaalada Madaxda waxaa si gaar ah u go'aamiya Dastuurka, sida dalka Itoobiya, ama waxaa lagu go'amiyay sharciga caadiga uu tilmaamay dastuurka, sida dalka Maraykanka iyo Australia. Dalka koofur Afrika, Dastuurka wuxuu muujinayaa in Cape Town ay noqon doonto xaruunta baarlamaanka.

**Caasimadaha dawladdaha federaalka ah waxaa loo qaabayn karaa seddax hab oo kala duwan:**

- **Degmo federaal ah oo si toos ah u maamulaan una maalgeliyaan xukuumadda federaalka;**
- **Gobol caasimad ah, oo leh awood la mid ah midda gobolada kale;**
- **Magaalo, oo la mid ah magaalo ku taalo gobol oo caasimad ah kuna dhex taal gobol.**

Si kastaba ha ahaatee, xaruun cusub waxaa lagu soo xulay hab sharci ee federaalka ah, iyadoo ay oggolaadaan Golaha Gobollada. Dastuurka ma go'aamiyo xaruunta madaxa Dawladda. Qaar ka mid Dawladdo federaal ah, sida Ethiopia (Addis Ababa), Maraykanka (Washington DC) iyo Nigeria (Abuja), xukuumadda federaalka ayaa si toos ah u maamusha magaalada caasimadda ah. Sidaas darteed, caasimada waa degmada federaal ah oo ka baxsan awoodda sharci ee gobollada oo dhan. Maamulka federaalka ah ee magaalada caasimadda waxay leedahay muhiimad in ay noqoto meel matasho dhammaan qaranka oo ma ahan oo keliya mid matasho gobolka ay ku taallo ama dadkeeda. Caasimada waa in ay noqotaa meel dhexdhexaad u ah gobollada oo idil. Dowladda federaalka waxay si toos ah u maamulaysa magaalada, ama sida inta badan u wakiilanaysa awoodaha dawladda hoose oo ay soo doorteen dadka degaanka magaalada caasimadda. Sidaas daraadeed baaxadda ay dawladda gobolka ka kontorooleyso magaalada way ku kala duwan yihiin gobolada federaalka. Tusaale ahaan, Dastuurka Itoobiya wuxuu aqoonsan yahay in dadka degaanka xaq u leeyihiin is-maamulka shacabka degan magaalada caasimadda ah.

Dastuurka wuxuu aqoonsan-yahay danaha gaarka ah ee gobolka magaalo madaxda ay ku dhex-taallo, taasoo abuurta muran farabadan. Dalalka qaar ka mid federaalka, sida Maraykanka, dadka magaalada caasimadda kuma haystaan matalaad toos ah aqalka labaad ee baarlamaanka. Si kastaba ha ahaatee, Nigeria, magaalada madaxda



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waxaasi toos ah looga matalaa aqalka sare inkastoo ay ku leeyihiin hal wakiil oo keliya marka la bar-bar-dhigo gobollada kale oo leh saddex xubnood midkiiba. Magaalo madaxda sidoo kale waxaa laga dhigi karaa gobol. Qaabkaani, magaalada caasimadda ah guud ahaan waxay leedahay waajibaad la mid ah midka gobollada kale. Sidaas darteed, xukuumadda federaalka kuma lahan awood toos ah maamulidda caasimadda. Qaabkan waxaa qaatay, tusaale ahaan, dalka Germany (Berlin) iyo Belgium (Brussels). Si loo daboolo kharashka martigelinta xukuumadda federaalka, magaalada caasimadda ah waxay ka helayaa taakuuleyn maaliyadda dawladda federaalka, sida dalalka Belgium iyo Germany. Sababta oo ah madaxbannaani heerka sare ee dawladda federaalka, magaalo-madaxyada inta badan waxaa ka abuurma dareen khilaaf dano oo u dhaxaysa dawladda qaranka sida wakiilka xukuumadda federaalka) iyo danaha deegaanka. Gaar ahaan, dawladda federaalka ah waxaa ku tiirsan tahay adeegyada amniga ee magaalada caasimadda ah, taas keenaysa dhibaatooyin. Dhibaatooyinka ayaa ahayn mid dhibato ku haysa gobollada federaalka maadaama adeegyada booliska iyo nabadsugidda ay hoos imaanayaan awoodda xukuumadda federaalka, sida tusaale ahaan dalka KoofurAfrika.

Caasimadda federaalka ayaa sidoo kale waxaa ay la mid tahay magaalada kale ay ku taalo gobolka dhexdiisa (sida Koonfur Afrika, Switzerland, Canada). Dawladda Federaalka ma ku laha door rasmi ah maamulka magaalada. Sidaas darteed waa in ay la xaajootaa gobolka ay khusayso si ay u ilaaliyaan danahooda u gaarka ah. Gaar ahaan, waa in ay u isticmaashaa awoodaha maalgelineed si ay u helaan taanasulid. Si loogu magdhabo martigelinta dawladda federaalka ah iyo adeegyada ay u baahan tahay, sida ammaanka, gobolka wuxuu ka helayaa magdhow dawladda federaalka. Tusaale ahaan, dalka Switzerland, xukuumadda federaalka waxay siinaysaa deeq lacageed si ay u daboolo kharashka la xiriira gaadiidka, meelaha baabuurta la dhigo, ammaanka iyo adeegyada kale. Dalka Koofur Afrika, dawladda federaalka ah ma siiyaan deeq lacageed ama magdhow hase ahaatee waxay u ogoshahay in ay bixinayso canshuurta hantida dowladaha gobolka ay khusayso. Dalka Kanada, dawladda federaalka ah ma bixinayso canshuurta hantida laakiin si toos ah waxay u daboolaysaa kharashkeeda. Si kastaba ha ahaatee, gobolada guud ahaan ma bixiyaan cashuurto guryaha iyo dhulka ee xukuumadda federaalka. Waa in la ogaadaa in xaqiiqda ay tahay in magaala gaar ah ee loo doortay inay noqoto magaalada caasimadda ah aysan macnaheedu ahayn in dhammaan hay'adaha federaalka ay ku yaallaan magaaladaas. Waxaa kale oo xaqiiq ah xitaa dowladaha nidaamka dhexe, hay'adaha dawladda dhexe waxay ku baahsan yihiin dalka oo dhan.

Sidoo kale, dowladaha federaalka waxay dooran karaan in ka badan hal magaalada caasimada oo magac u yaal ah, ama xaruunta dawladda. Tusaale ahaan, Koonfur Afrika, xaruunta Madaxweynaha waa Pretoria; xaruunta Baarlamaanka waa Cape Town, Xarunta Maxkamadda Dastuuriga waa Johannesburg; iyo Xarunta Maxkamadda Sare ee Racfaanka waa Bloemfontein.



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Qodobka 9aad ee dastuurka ku meelgaarka ah ee Soomaaliya wuxuu ogolaanayaa Muqdisho in ay tahay caasimadda Jamhuuriyadda Federaalka Soomaaliya. Maqaamka magaalada caasimadda ah sharciga ayaa nidaamin doonaa oo ay ansixiyaan labada aqal ee Baarlamaanka Federaalka. Ma cadda in magaalada Muqdisho uu si toos ah u maamuli doono federaalka, ama ay noqon doonto gobolka iskiisa u taagan. Waxaa intaa dheer, Dastuurka ku meel gaarka ah ma aqoonsana xaq ay leeyihiin in ay is-maamulaan dadka degganka magaalada, ama faa'iidooyinka gaarka ah ay yeelan doonto dawlad goboleedka ay caasimadda federaalka ku dhex taal. Waxaa dhici karta muran ku saabsan caasimadda, tusaale ahaan, haddii Dawlad goboleedka deris la ah caasimada ay rabto Muqdisho in ay ka dhigato caasimaddeeda. Waxaa lagu talinayaa in Dastuurka uu bixiyo faahfaahin dheeraad ah oo ku saabsan maqaamka, maamulka iyo maaliyadda magaalada caasimadda ah. Maq-naanshaha tusmo faahfaahsan, hadii ay dhacdo khilaf waa in lagu xalliyaa wada-xaajood iyo wada hadal u dhexeeya Dowladda Federaalka iyo Dawladaha xubinta ah Dawladda Federaalka ay khuseysa, hadii loo baahdana lagu xaliyo Maxkamadda Dastuurka.

### **III. Faragelinta Qaranka ee arrimaha gobolka**

Nidaamka Federaalka wuxuu ku salaysan yahay mabaadii'da is-xkun iyo xukun-wadaag ah. Mar kasta oo ay jiraan khilaafka dhexeeya dawladdaha dhexe iyo gobolka, hab caadi ah xalinta khilaafaadka ayaa la marayaa. Si kastaba ha ahaatee, mararka qaarkood waxa dhacda in gobollada ay ku xadgudbaan awoodaha ay leeyihiin oona khatar geliyaan xiriirka federaalka ama dastuurka. Mararka qaar gobollada, waxa laga yaabaa inaaney awoodin ama diyaar u ahayn in ay maareeyaan rabshadaha ballaaran oo halis gelin karta nidaamka dastuurka. Sidaa darteed dastuurka federaal ayaa caadi ahaan qeexayaa duruufaha xukuumadda dhexe ay sharci ahaan ku faragelin karta arrimaha gobollada. Ku guul-daraysiga nidaam xadidan kaas oo dowladda dhexe faragelin ku samayn kartaa arrimaha gobolada ayaa keeni kara in ay faragelin joogto ah oo aan cududaar lahayn, ama keeni karta wax iska caabinin tallaabooyinka sharciga ah ee faragelinta.

Dalka Koofur Afrika, faragelinta qaranka ee maamulka gobolka waxaa loo oggol yahay marka gobolku aanu fulin karin waajibaadka saaran, oo ay ku jiraan ilaalinta ammaanka iyo midnimada dhaqaale, marka la eego Dastuurka ama sharci. Fulinta qaranka waa inay wargelisaa Golaha Qaranka ee Gobollada oo ku saabsan faragelintaas isla markaasna ay siisaa sababaha faragelinta keentay. Faragelinta waa in ay joogsataa haddii Golaha waxaa diidaan in ay ansixiyaan. Golaha waa in ay dib u eegis ku sameeyaan faragelin si joogto ah ayna ka bixiyan talooyin ku habboon.

Dalka Itoobiya, Golaha Federaalka ayaa oggolaanaya faragelinta federaalka haddii gobol uusan awoodin in uu ka hortago amniga oo sii xumaanaya, ku xadgudubyada xuquuqda aadanaha, ama marka Dawlad goboleedka uu khatar geliyo nidaamka dastuuriga ah.



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Dowladda Swiss waxay faragelin kartaa oo keliya marka xasiloonaada guud ee gobolka la carqaladeeyo ama halis la geliyo iyo gobolka ay khuseyso uusan awoodo u lahayn in nidaamka uu kaligiis ilaaliyo ama ay ku filnaan weyso gargaarka gobollada kale.

Dowladda Brazil waxay faragelin karta gobollada si ay u ilaaliso midnimada qaranka; joojinta halista xasiloona-darrada dadweynaha; si ay u sii-xoojiyaan ku dhaqanka sharciga federaalka, go'aanada garsoorka ama go'aankada kale; si loo hubiyo waafajisanaanta mabaadiida Jamhuuriga, matalaadda dimoqraadiga ah, xuquuqda aadanaha, madaxbannaanida degmada, iyo xaaladaha qaarkood, si loo abaabulo dhaqaalaha gobolka iyo degmada. Amarka faragelinta waa in loo gudbiyaa barlamaanka qaranka si ay ugu baaraan-degaan ama Golaha sharci-dejinta Gobolka. Dowladda federaalka ah ee Argentina waxay faragelin karta gobollada si ay u xaqiijiso nidaamka Jamhuuriga ee dawladda, ama ay uga saarto shisheeye soo weeraray dalka. Waxa kale oo ay faragelin ku samayn kartaa marka codsi uu kaga yimaado gobollada si ay u taageeraan in dib loogu sugo sharciga iyo xasiloonaada.

Dastuurka ku meel gaarka ah ee Soomaaliya kuma jiraan qodobbo ku saabsan faragelin suurto galka ah ee Dowladda Federaalka ee arrimaha gobolka. Maqnaanshaha qodobadaasi, maxkamadda Dastuuriga ah ayaa go'aaminaysa infaragelinta kasta ay waafaqsan tahay Dastuurka iyadoo loo eegayo xaaladxaalad. Si looga fogaado khilaafaadka ka iman kara, waxaa lagu talinayaa in Dastuurka uu wax ka qabto arrinta faragelinta dawladda dhexe ee arrimaha gobolka

#### **IV. Ilaalinta dadka laga tiro badan yahay ee ku nool gobolka**

Wadamada federaalka meelaha xudduudaha gobolka lagu go'amiyay intooda badan waxay ku salaysan hayb, sida isir, af, qabiil ama diin, dastuurada guud ahaan si cad ayey u tilmaamayaan in la badbaadiyo dadka laga tirada badan yahay ee gobolada. Si kast oo lagu dadaalo, waxaa aad u adag dadka degan gobollada in ay si gaar ah ugu nool yihiin hal qabiil keliya, qowmiyad, luqadda ama diimeed. Sidaa darteed waa muhiim in la dammaanad qaado ka-hortagidda midib-takoorida shakhsiyaad ka tirsan gobolka ee laga tirada badan yahay. Gaar ahaan, gobollada caadi ahaan waxaa looga baahan yahay in ay si siman u gaarsiiyaan adeegyada dhamaan muwaadiniinta iyadoo aan loo eegayn asalkooda.

Waxaa intaa dheer, kooxaha laga tirada badan yahay guud ahaan waa in loo ogolaadaa horumarinta dhaqankooda, afkooda, diintooda iyo arrimo kale oo ka mid ah dhaqankooda bulsho si la mid ah ama la siman dadka kale.

Qaar ka mid ah dastuurada, sida Ethiopia, wuxuu damaanad qaadayaa xaq ay u leeyihiin is-xukun dadka laga tirada badan yahay oo ku nool gudaha gobollada oo dhan. Tani waxay u ogolaaneysaa kooxaha laga tiro badan yahay in ay samaystaan dawladda hoose. Dalka Nigeria, Dastuurk awuxuu sameeynayaa dawladda hoose



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wuxuuna siinaya awoodaha qayb ahaan iyada oo ay ujeedadu tahay in la tixgeliyo danta dadka laga tirada badan yahay ee gobollada.

Waxaa intaa dheer, dawladu badan oo federaal ah ayaa ogolaanayaa faragelinta marka gobolka uusan awoodin ama diyaar u ahayn in ay ilaaliyaan xuquuqda qofka iyo sidoo kale kooxaha laga tirada badan yahay. Dowladda federaalka ah ee Maraykanka ayaa tusaale ahaan soo dhex-gashay dhowr jeer si loo dhaqangaliyo go'aan maxkamadeed si loo adkeeyo xuquuqda Maraykanka Madow sababtaas oo keentay fashilk ka yimid gobollada koonfurta oo sameeyn waayay in ay ilaaliyaan xuquuqahaasi.

In kasta oo haybtu ayan ka ciyaari door muhim ah xadaynta xuduudaha Dawladaha xubinta ka ah ee Soomaaliya, waxa suurtagal ah in hal ama in ka badan Dawladaha xubinta ka ah ay hooy u yihiin laba qabiil ama ka badan. Si loo xoojiyo fursadaha, Dastuurka wuxuu si gaar ah u mamnuucaayaa nooc kasta oo takoor ah ee u dhexeeya qabaa'ilka ugu tiro badan iyo qabaa'ilka kale, isla markaasna wuxuu dammaanad qaadayaa xaq ay u leeyihiin is-xukun dadka laga tirada badan, taasoo ku iman karta qaab maamul degmado, sida dalka Itoobiya. Iyadoo la raacayo, Golaha Shacabka ee Baarlamaanka Federaalka ah wuxuu dalbi karaa in kooxaha laga tirada badan yahay loo ogolaado in ay dhistaan maamul degmo ka hor intaan la ansixin sharciga dawladaha xubinta ka federaalka ee lagu go'aaminayo tirada iyo xuduudaha degmooyinka. Haddaba (sida ku cad Qodobka 49 (4) ee Dastuurka sida ku meel gaarka ah loo ansixiyay). Dastuurka wuxuu ka dalbayaa Dawladaha xubnaha ka ah Federaalka in ay u oggolaadaan qabiilada laga tirada badanyahay in ay dhistaan hay'ado waxbarasho, dhaqan iyo ururro kale kuwaasoo ay lahaanayaan qabiiladaas laga tirada badan yahay. Sidoo kale dastuurka ayaa wuxuu u oggolaayaa in dawladda federaalka ay faragelin ku sameyn karto gobollada si loo ilaaliyo xuquuqda dadka laga tirada badan yahay.

### **V. Xallinta khilaafaadka xuduudaha, dib-u-habaynta xuduudaha/ hagaajinta iyo sameynta dawlad goboleed cusub**

Xuduud goboleedyada federaalka ma lagu calaamadeeyo dhagax. Way adag tahay in la calaamadeeyo xuduudaha kama dambayska ah ee u dhexeeya gobollada kala duwan. Sidaas daraaddeed dastuurrada wuxuu dejinayaa nidaam cad ee lagu xallin karo khilaafka u dhexeeya gobolada kala duwan ee dhinaca dhulka. Sidoo kale, waa in uu jiraa habraac looga jawaabi karo codsi ka yimaada dadweynaha oo ay ku codsanayaan in dib loo eego xuduudaha gobolka. Waxaa intaa dheer, xallinta khilaafaadka xudduudaha iyo dib-u- habayntooda in dastuurka federaalka guud ahaan uu nidaaminaya qaabka loo aasaasayo gobol cusub.



**Dastuurka federaalka ayaa badanaa tilmaamaya habraaca lagu nidaamina-  
yo xalinta khilaafaada xuduudaha, habraaca lagu toosinayo xuduudaha go-  
bolka iyo habraaca lagu dhisayo gobol cusub.**

## **1. Khilaafaadka Xuduudaha**

Waddamada federaalka wey ku kala duwan yihii habka lagu xallinayo khilaafaadka u dhexeeya xudduudaha gobollada, sidaa darteed maxkamadda ugu sarreysa ayaa awood u lahaaneysa xallinta khilaafaadka xudduudaha.

Koonfur Afrika, awood ugu horreysaa iyo midda ugu danbeysa oo lagu xallinayo khilaafaadka u dhexeeya gobollada, oo ay ku jiraan khilaafaadka xudduudaha, waxaa leh Maxkamadda Dastuuriga ah. Si kastaba ha ahaatee, Maxkamadda Dastuuriga iyada oo keliya ayaa soo faragelin karta gobollada marka ay wada-xaajood ku xallin waayaan khilaafaadkooda. Dalka Nigeria, Guddiga xudduudaha Qaran oo joogta ah ayaa gacan ka geysanaya xalinta khilaafyada u dhexeeya gobollada. Haddaba haddii la waayo heshiis, Maxkamadda Sare ayaa yeelaneyso awooda ugu dambaysa ee lagu xallinayao khilaafaadyadaas. Sida uu dhigayo Dastuurka Itoobiya, gobollada uu khuseeyo khilaafka xudduudaha waxay ku xalinayaan wada-xaajood khilaafyadooda. Haddaba marka la waayo heshiis, Aqalka federaalka oo ku salaysan nidaamyada dejinta iyo rabitaanka dadka ay khasayso ayaa xallinaya khilaafaadka.

## **2. Isbedellada Xuduudaha**

### ***Isbedel wuxuu iman karaa marka Dastuurka wax laga bedlo***

Dastuurka Koonfur Afrika wuxuu qeexaya in si wax-ka-beddel loogu sameeyo xuduudaha gobolada ay u baahan tahay in wax-ka-bedel lagu sameeyo Dastuurka, kaas oo u baahan oggolaanshaha saddex meelood labo meel ee labada aqal ee baarlamaanka iyo oggolaanshaha gobollada ay saameyneyso. Waxa intaa dheer in habraaca wax-ka-bedelka dastuurka ee isla Dastuurka uu dejinay waxuu dalbayaa in xudduudaha gobollada wax-ka-beddel lagu sameyn karo kaddib marka lala-tashado dadka ay arrintu saameyneyso inkastoo aragtidooda aysan noqoneynin mid wax go'aamisa.

### ***Wax ka badel waxuu ku iman karaa afti iyo ansixinta barlamaanka***

Sidoo kale, Dalka Austria barlamaanka ayaa kordhin kara, yareyn kara ama wax ka beddeli kara xudduudaha gobollada kaddib markii ay cod-bixiyaasha gobollada ay ansixiyaan. Sidoo kale dastuurka Jarmalka wuxuu qabaa in qeybinta gobollada ee dhulka Jarmalka lagu sameyn karo dib-u-habeyn si loo xaqiijiyo baaxadda uu si wax-ku-ool ah gobolka uu hawlihiisa ugu fushan karo, sidaa darteed wax-ka-beddelkaas wuxuu u baahanyahay sharci uu soo saaro barlamaanka federaalka iyo afti ay sameeyaan dadka gobolka ay arrintu saameyneyso.



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Sida ku xusan Dastuurka Nigeria ee 1999kii habeynta xudduudihii hore u jiray wuxuu u baahanyahay sharci uu soo saaro barlamaanka federaalka iyo dadka ay arrintu saameyneyso in ay ku ansixiyaan afti.

- Haddii codsiga xuduudaha lagu qaabeyo ayna taageeraan aqlabiyad saddex meelood laba meelood oo ah xubnaha (wakiillada goobta laga dalbanayo iyo meesha ay saameeyneyso waxaa lagu salaynayaa xuduudaha ) sida:
  - ✓ Aqalka Sare;
  - ✓ Aqalka Wakiillada;
  - ✓ Baarlamaanka Gobollada ay khuseyso; iyo
  - ✓ Golaha degmoyinka ay khuseyso; iyo
- Hadii soo-jeedimaha lagu habaynayo xuduudaha ay ansixinayaan:
  - ✓ Aqlabiyad sahlan ee xubnaha Baarlamaanka Qaranka;iyo
  - ✓ Aqlabiyad sahlan ee xubnaha Baarlamaanka Gobollada ay khuseyso.

### ***Isbedelada loo marayo Guddiyada Madaxabanaan iyo ansixinta aqlabiyad sare***

Dastuurka 2010 ee dalka Kenya wuxuu abuurayaa habraac adag ee wax ka bedelka xuduudaha gobollada. Wax-ka-bedel kasta wuxuu u baahan yahay talooyin guddiga madaxabannaan oo loogu talagalay ujeedooyin gaar ah ee Baarlamaanka, iyo ansixinta aqlabiyad saddex meelood labo meel ee xubnaha ka tirsan Baarlamaanka Qaranka iyo saddex meelood labo meel xubnaha aqalka Sare. Dastuurka ayaa soo bandhigay liiska aan dhamaystirnayn ee qaybaha kaasoo sababaynaya isbedellada xuduudaha gobollada.

**Badanaa dalalka federaalka, dib-u-habeynta xudduudaha waxay u baahantahay wada- tashi iyo/ama oggolaansho laga helo gobollada ama dadka ay arrinta saameyneyso.**

Kuwaas waxaa ka mid ah: mugga dadweynaha iyo dhul baaxeedka deegaanka la taaban karo, dhismooyinka shacabka, taariikh iyo dhaqan, kharashka maamulka, aragtida bulshada ay saameeyneyso, waxyaalaha baahinta ee dowladda, iyo muuqaalada juquraafi.

### **3. Dhismaha gobollo cusub**

#### ***Ansixinta baarlamaanka qaranka***

Sida uu dhigayo dastuurka Indiya, Baarlamaanka Federaalka sharci ahaan wuxuu sameyn karaa gobol cusub oo laga soo goy'nayo gobol kale, ama wuxuu mideyn karaa labo gobol iyo ka badan ama qeybo ka tirsan gobollo ayaa laga sameyn karaa gobol cusub, ama dhul ayuu ku mideyn karaa gobol. Sharciga lagu dhisayo gobollo cusub waxaa kaliya oo soo jeedin kara Madaxweynaha, islamarkaana madaxweynuhu wuxuu sharcigaas u dirayaa golaha sharci-dejinta gobolka ay arrintu saameynayso isagoo tixgelin-siinaya aragtidda.





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### ***Ansixinta baarlamaanka gobollada***

Dalka Australia, gobol cusub waxaa la sameeyn karaa marka dhul laga goy'nayo gobol iyadoo loo baahanyahay ogolaanshaha barlamaanka gobolka ay arrintu saameeyneyso. Sidoo kale, gobol cusub waxaa la samayn karaa marka ay midoobaan labo gobol iyo wixii ka badan ama qaybo ka mid ah gobollada oo ogolaansho ka hela baarlamaanada ay khuseyso gobollada.

### ***Ansixinta baarlamaanka qaranka iyo Ansixinta baarlamaanka gobollada***

Dalka Argentina, gobol cusub waxaa laga dhex dhisi karaa gudaha dhulka gobol ama gobollo kale ama marka ay isku biiraan qeybo ka mid ah labo gobol iyo wixii ka badan oo uu ogolaado sharcidejinta gobollada ay khuseyso iyo sidoo kale Aqalka Congresska.

### ***Iyadoo lagu ansixinayo afti***

Dalka Switzerland, samaynta gobol cusub waxay u baahan tahay oggolaanshaha gobollada ay saameeyneyso iyo dadka deegaanka, iyo sidoo kale in lagu ansixiyo afti aqlabiyadda codeynta ee dhamaan dadka Switzerland iyo aqlabiyadda dadka ee aqlabiyadda inta badan gobollada.

### ***Ansixinta baarlamaanka gobollada iyo iyadoo lagu ansixinayo afti***

Dalka Itoobiya, gobolka cusub waxaa la abuuri karaa markii aqlabayad saddex meelood labo meel xubnaha golaha sharci-dejinta ee qowmiyadda ay ansixiyaan codsiga iyo sidoo kale aqlabiyadda codbixiyaasha ee ka tirsan xubnaha qowmiyadda.

### ***Iyadoo lagu ansixinayo baarlamaanka qaranka, gobol, degmo iyo afti***

Dalka Nigeria, gobol cusub waxaa lagu abuuri karaa sharci uu soo saaro Baarlamaanka Qaranka, waxaana sharcigaas lagu ansixin karaa oo keliya haddii:

- Codsiga ay taageeraan aqlabiyad dhan seddex meelood labo meel ee xubnaha (wakiilada goobta laga dalbanayo iyo meesha ay saameey-neyso dhismaha gobol cusub) sida:
  - ✓ Aqalka Sare;
  - ✓ Aqalka Wakiilada;
  - ✓ Baarlamaanka Gobollada ay khuseyso; iyo
  - ✓ Golaha degmoyinka ay khuseyso;
- Soo-jeedinta waxaa lagu ansixinayaa afti ugu yaraan aqlabiyad dhan seddex meelood labo meel ee shacabka deegaanka uu codsiga ka imaanayo
- Natijada aftida waxaa lagu ansixinayaa cod sahlan ee dhamaan gobollada federaalka oo ku taageeraya cod sahlan ee aqlabiyadda Golaha shacabka ee gobol kasta; iyo
- Haddii soo-jeedinta lagu ansixiyo aqlabiyad dhan seddex meelood labo meel ee xubnaha Baarlamaanka Qaranka.



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Dastuurka sida ku meel gaarka ah loo ansixiyay ee Soomaaliya ma dhisayo nidaam cad oo lagu xallin karo khilaafaadka ka dhex-dhasha xudduudaha iyo xuduudaha Dawladaha xubinta ka ah Federaalka iyo qaabka wax-ka-beddel loogu sameyn karo gobollada kaddib marka ay dhismaan, sidoo kale Ma jiro habraac lagu go'aamianayo dhismaha dawlad goboled cusub kaddib markuu dhammaado wareegga koowaad ee dhismaha dawlad goboleedyada. Waxaa lagu talinayaa in arrimaha la xiriira khilaafyada xuduudaha, hagaajinta iyo abuurista maamul goboleedyo looga xaajoodo arrimaha wax-ka-beddelka dastuurka. Haddaba, maqnaanshaha xeerar degsan oo lagu xallinaayo khilaafaadka islamarkaana lagu nidaaminayo dib-u-habeynta iyo abuurista gobollo cucub waxay keeni kartaa muranno siyaasadeed oo dabadheeraada ama iska-horimaad dhexmara dawlad goboleedyada. Waxaa muhiim ah in Dastuurka dib loo eego si uu u dhiso habraacyo. In kastoo ay suurtagal tahay in habraacyadaas lagu soo saaro shuruuc uu Baarlamaanka sameeyo, kuwaasoo diiradda saaraya arrimaha lagu muransan-yahay ee Dastuurka taasoo ah caqabad, sidaa darteed waxaa loo baahnaan doonaa in lagu heshiiyo wax-ka-bedelada xuduudaha gobollada. Danaha gaarka ah ee kooban badanaa way fududahay inay wax-kaga-bedelaan qaab sharciyeed.

### **L. Gunaanad**

Nidaamka baahsan wuxuu noqday muuqaal caadi ah oo ay qaateen badaanaa dhamaan waddamada aduunka. In-kasta oo dhammaan dawladaha federaalka heerkooda ay ku kala duwanyihiin nidaamka baahsan, haddana waddamada haysta nidaamka baahsan dhamaantood ma aha kuwo federaal ah. Dawladaha Federaalka kuma kala duwana oo kaliya taariikhda asalkooda laakiin waxay ku kala duwan yihiin oo kale qaab-dhismeedkooda.

Inkastoo badanaa dastuurada federaalka ku lug leeyihiin in ay wax ka qabatan arrimo guud oo la xiriira hay'adaha nuxurkooda caadiga ah iyo caqabadaha, haddana waxay aqbaleen diyaarimo kala duwan. Ma jirto qaab fiican oo loo abaabulo, sidoo kale xulushooyinka hay'adaheeduna waxa ay ku koobanyihiin oo kaliya qiyaasta aadanaha. Dawlad kasta oo federal ahi waa inay go'aansataa habka ugu fiican oo ay ku gaari karto hadafkeeda sababay in ay u dhaqaaqdo qaab federaal ah, Gaar ahaan xulushooyinka la xiriira dhinacyada ay ku kala duwan-yihiin nidaamyada federaalka iyadoo si wadajir tixgelin ballaaran la siinayo dastuurka, hay'adaha, iyo dhinacyada qaab dhismeedka iyo sidoo kale xaqiiqada siyaasadeed, taariikheed iyo bulshada mabda'ahaan ka jirta dalka.

Buuggani waxa uu ka hadlayaa inta badan arrimo muhiim ah oo caadi ahaan ay ka soo if-baxeen dawladaha federaalka. Sidoo kale wuxuu nidaaminayaa jiritaanka hababka kala duwan ee dawladaha federaalka, sidoo kale wuxuu ka hadlayaa arrimaha ku saabsan qaababka kala duwan ee federaalada jira. Waxaa la rajeynayaa in buuggan looga faa'ideysto in jawaabo loogu helo su'aallo badan oo soo wajahaya habka fed-



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eraaleynta Soomaliya. Guud ahaan, inkastoo federaalka uu yahay mid waxtar leh, haddana uma aha daawo dhammaan dhibaatooyinka siyaasadda, bulshada, amniga iyo dhaqaalaha ay wajaheyso Soomaaliya, sidaa darteed waxaa muhiim ah in aan sare loo qaadin himilada la xiriirta arrintan.



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