

Imposing Written Exams for Somalia's Human Rights Commission: What justifies this Method?

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Key Messages

► Somalia remains one of the few countries in the world that has not yet established a National Human Rights Commission (NHRC), highlighting a critical institutional void compared to its regional peers, all of whom have made progress in institutionalizing human rights protection. This absence not only signals Somalia's lag in aligning with good governance standards in the region but also weakens its internal human rights enforcement mechanisms.

► Historically, Somalia has lacked a stable and effective framework for human rights protection. From colonial-era repression and post-independence authoritarianism to the state collapse between 1991 and 2012, the country has endured prolonged periods of systemic human rights violations. Even today, weak institutions, insecurity, and legal enforcement challenges persist.

► Somalia has demonstrated its commitment to international human rights by ratifying six core treaties and one Optional Protocol, which allows individuals to file complaints with the UN. This creates legal obligations for Somalia to protect civil, political, economic, social, and cultural rights.

► In addition to these core treaties, Somalia has also ratified one of the Optional Protocols to the International Covenant on Civil and Political Rights, which allows individuals within Somalia to complain to the United Nations Human Rights Committee if they believe their rights have been violated.

► As of 2025, Somalia has had an Independent Expert appointed by the United Nations to monitor and report on its human rights situation for over 32 consecutive years since the establishment of the mandate in 1993 by the former UN Commission on Human Rights. This makes it one of the longest-standing UN country-specific human rights mandates worldwide.

► This policy brief analyzes the legal and procedural concerns surrounding the use of a written examination in selecting candidates for Somalia's Independent National Human Rights Commission a method that significantly differs from the selection processes used for other national bodies like the electoral and anti-corruption commissions.

► The brief draws on Somalia's Provisional Constitution, the 2016 Human Rights Commission Law, the 1993 Paris Principles, GANHRI guidelines, and comparative constitutional practices from East African Community states.

► It concludes that the introduction of procedures not grounded in law such as written tests could undermine the commission's credibility, potentially exclude competent applicants, and weaken the inclusive, merit-based standards essential for national human rights institutions. The brief recommends stronger legal clarity and closer alignment with national and international standards in the appointment process.

Introduction

The Ministry of Human Rights in Somalia is one of the country’s most recently established governmental institutions, which was created in 2013, just over a decade ago. (*UN News, 2013*) Its formation marked a significant step in the post-conflict rebuilding efforts, reflecting a growing national commitment to the protection and promotion of human rights. As a relatively young institution, it has faced challenges and opportunities to establish its authority, develop policies, and coordinate with both domestic and international stakeholders to strengthen Somalia’s human rights framework.

The Ministry overseeing human rights affairs in Somalia has been renamed and restructured several times, highlighting changes in the country’s political direction and policy focus. As shown in the table below.

Year	Name/Structure
August 2013	Ministry of Human Rights
January 2014	Ministry of Women and Human Rights
Dec 2014	Ministry of Women and Human Rights Development
July 2024	Ministry of Family and Human Rights Development

On May 31, 2025, the Ministry of Family and Human Rights Development initiated a written examination in Mogadishu of individuals aspiring to be appointed to the Independent National Human Rights Commission. A total of 58 citizens, who fulfilled the eligibility requirements previously outlined by the Independent Selection Committees participated in the examination. The written examination represents the second phase of the selection process for candidates from the National Independent Human Rights Commission. This process is overseen by an independent committee tasked with the commission’s selection. The first phase involved shortlisting 302 registered applicants, and the final phase consisted of oral interviews (*Hiiraan Online, 2025*).



On 3 July 2025, the Council of Ministers of the Federal Government of Somalia has, by majority vote, approved a list of 9 candidates for the Independent National Human Rights Commission (INHRC), as proposed by the Minister of Family and Human Rights Development. This commission will be the first of its kind to be established in Somalia since the country gained independence in 1960.

However, the commission is one of the eleven (11) independent national bodies outlined in Chapter 10 of Somalia’s 2012 Provisional Constitution. Its core responsibilities include promoting respect for and a culture of human rights; promoting the protection, development, and attainment of human rights; monitoring and evaluating human rights practices within the Federal Republic of Somalia; and taking necessary actions to ensure appropriate remedies in cases of human rights violations (The Constitution of Somalia, 2012)

In March 1993, amidst the collapse of state structures and widespread human rights abuses following the collapse of Somalia’s central government, the UN Commission on Human Rights adopted Resolution 1993/86, titled “Assistance to Somalia in the field of human rights” Among other measures, this resolution formally requested the UN Secretary-General to appoint, for a one-year term, an Independent Expert on Somalia’s human rights situation. This appointment marked the first formal UN-backed monitoring mechanism, aiming to provide oversight, reporting, and advisory support in rebuilding human rights infrastructure during civil war. (United Nations Commission on Human Rights, 1993).

While the UN still deploys this external monitoring mechanism, Somalia lacks a fully operational and independent domestic human rights institution. The Ministry of Family and Human Rights Development serves a dual role as both a policymaker and an enforcer, creating a conflict of interest. The presence of an Independent Expert remains vital to provide impartial oversight, report violations, and support technical capacity until Somalia’s National Human Rights Commission achieves full institutional independence and international accreditation under the Paris Principles.

Below is a list of all individuals who have served as Independent Experts on the Situation of Human Rights in Somalia, along with their countries of origin.

Mandate Holder	Country	Service Period
Fanuel Jariretundu Kozonguizi	Namibia	1993–1994
Mohamed Charfi	Tunisia	1995–1996
Mona Rishmawi	Palestine	1996–2000
Ghanim Alnajjar	Jordan	2001–2008
Shamsul Bari	Bangladesh	2008–2014
Bahame Tom Nyanduga	Tanzania	2014–2020
Isha Lanla Dyfan	Sierra Leone	2020–present

Legal Basis for Appointment of Commissioners

The process of appointing human rights commissioners is typically governed by national legislation, particularly the establishment of the Independent Human Rights Commission in 2016. Each Federal Member State or interim state administration shall nominate a minimum of two (2) representatives who will engage in consultations with community-based organizations within their region, including those representing women (The Independent Human Rights Commission Law, 2016).

The Minister responsible for Human Rights shall nominate two individuals, one of whom must be disabled. The Independent Human Rights Commission comprises nine (9) members, including at least three (3) women and one (1) representative of persons with disabilities. Members of the Independent Human Rights Commission were appointed for a fixed term of four (4) years. This term may be renewed once, allowing a commissioner to serve a maximum of two consecutive terms—eight years in total. This limitation is intended to ensure both continuity and renewal within the Commission while also safeguarding its independence by preventing indefinite tenure or political entrenchment. (The Independent Human Rights Commission Law, 2016).

Provisional Selection Committees (PSC)

The Minister responsible for Human Rights shall establish a provisional selection committee (PSC) within 30 days, working together with the Federal Member States, civil society organizations, and interim regional administrations. According to Article 15(1) of the Independent Human Rights Commission Act of 2016, this committee is tasked with nominating nineteen (19) individuals to serve on the provisional committee that oversees the candidate selection process. The Provisional Selection Committee (PSC) must be composed of people who enjoy a solid reputation within their communities and demonstrate high levels of expertise.

It seems contradictory that the Provisional Selection Committee (PSC) allowed only 58 out of 302 candidates to sit for the written exam, especially given

the constitutional provision that nineteen (19) members must be nominated from Federal Member States and the central government before the final appointment of nine commissioners. This selective filtering raises questions regarding the transparency and fairness of the process.

The Constitution and the Independent Human Rights Commission Act emphasize the inclusion of representatives from both Federal Member States and the central government to ensure balanced regional representation. Therefore, drastically reducing the candidate pool without clear, publicly disclosed criteria undermines the legitimacy of the process and risks, excluding qualified candidates from underrepresented regions or communities.

Such an approach could be viewed as inconsistent with the legal framework designed to promote inclusivity and regional balance, and it calls for greater clarity on the selection methodology employed by the PSC to justify how shortlisted candidates were chosen.

Should Human Rights Commissioners Sit for Exams?

The appointment of members to national human rights institutions requires strict adherence to legal and constitutional frameworks, particularly given the sensitive and independent nature of their mandate. Nevertheless, the decision of the Provisional Selection Committee to require written examinations for candidates to the Human Rights Commission has raised significant legal and procedural concerns.

This is particularly problematic when viewed through the lens of international standards, such as the Paris Principles (1993), specifically Article 2, which states that a national human rights institution shall be granted as broad a mandate as possible, clearly defined in a constitutional or legislative text. The introduction of written exams absent from Somalia's constitutional and legislative frameworks appears to overstep legally prescribed procedures and may undermine the legitimacy and independence expected of such institutions.

Unlike other national independent commissions, whose members were never subjected to written examinations, this is the first time that such a method has been applied to candidates for the Human Rights Commission. Previously, no examinations were administered in similar appointments, and it remains unclear what prompted the introduction of this new procedure. A clear example is the Independent National Electoral Commission of Somalia, which was officially established on November 26, 2024, less than a year ago, without its members being subjected to any written examination. (Hussein, 2024).

Notably, along with the relevant national legislation, the Provisional Constitution of Somalia does not prescribe any requirement for Human Rights Commissioners to undergo a formal examination as part of the selection process. The absence of such a provision in primary legal instruments raises critical questions regarding the legality, transparency, and potential implications of this practice. Moreover, subjecting candidates to exams without a clear statutory basis may contravene the principles of fairness, inclusivity, and independence of the Commission as envisioned under the Paris Principles governing national human rights institutions. (The Paris Principles, 1993).

Practices of the East African Community (EAC) in Relation to Human Rights Commissions

The East African Community (EAC), comprising Kenya, Uganda, Tanzania, Rwanda, Burundi, Somalia, South Sudan, and the Democratic Republic of Congo, has promoted harmonized practices concerning the establishment and functioning of the National Human Rights Commission (NHRCs) across the region. Most EAC member states have established NHRCs via constitutional or statutory provisions that guarantee their autonomy, pluralism, and legal authority. For example, Kenya's National Commission on Human Rights (KNCHR) was established under Article 59 of the 2010 Constitution, and the Kenya National Commission on Human Rights Act (2011) (Kenya Law Reports, 2010; Kenya National Commission on Human Rights Act, 2011).

Uganda's Human Rights Commission provides for Article 51 of the 1995 Constitution (Constitution of Uganda, 1995). Tanzania, Rwanda, and Burundi have commissions grounded in their national legal frameworks (East African Community Secretariat, 2020).

By contrast, Somalia's approach to appointing commissioners to its NHRC includes a written examination as part of the selection process, a procedure uncommon among most EAC member states. Unlike Kenya, Uganda, and other member states, appointments are largely based on nomination and parliamentary approval, without formal competitive testing (East African Community Secretariat, 2020).

Uganda was the first country within the East African Community (EAC) to establish a constitutionally mandated National Human Rights Commission. The Uganda Human Rights Commission (UHRC) was established under the 1995 Constitution of Uganda (Articles 51–59) and operationalized by the Uganda Human Rights Commission Act (1997). Uganda was the first EAC member to create a permanent, independent body with a constitutional mandate to protect and promote human rights (UHRC Annual Report, 1997).

This table below outlines the National Human Rights Commissions across EAC member Countries;-

Country	Name of NHRC	Year Established	Legal Basis
Uganda	Uganda Human Rights Commission (UHRC)	1995	Constitution of Uganda (1995), Art. 51
Tanzania	Commission for Human Rights and Good Governance (CHRAGG)	2001	Act No. 7 of 2001; Constitution of 1977
Kenya	Kenya National Commission on Human Rights (KNCHR)	2003	Kenya National Commission on Human Rights Act (2002); Constitution of 2010 (Art. 59)
Rwanda	National Commission for Human Rights (NCHR)	1999	Law No. 04/99; Revised in 2013
Burundi	National Independent Human Rights Commission (CNIDH)	2011	Law No. 1/04 of January 5, 2011
South Sudan	South Sudan Human Rights Commission (SSHRC)	2009	Constitution of Southern Sudan (2005); Transitional Constitution (2011)
Democratic Republic of Congo (DRC)	National Human Rights Commission of DRC	2013	Organic Law No. 13/011 of 21 March 2013
Somalia	Somalia National Human Rights Commission (SNHRC)	2016 (law passed); operationalization ongoing	Law No. 18 of 2016; Provisional Constitution (2012)

Article 126 of the Treaty for the Establishment of the East African Community outlines the Scope of Cooperation among partner states in judicial and legal affairs. It emphasizes the importance of harmonizing legal training, judicial systems, and legal frameworks, with the broader aim of strengthening the rule of law, good governance, and protection of human rights across the region. This study encourages member states to align their national laws and institutions with shared values and practices to promote justice and accountability.

In this context, the harmonization imperative extends to the National Human Rights Commission (NHRCs) of EAC member states. These commissions play a critical role in safeguarding fundamental rights and freedoms and their effectiveness depends on legal clarity, institutional independence, and adherence to international standards. Therefore, under Article 126, Somalia, now the newest EAC member, is expected to align its legal and institutional frameworks governing its National Human Rights Commission with regional norms. This includes adopting transparent, inclusive, and legally grounded procedures for the appointment of commissioners in line with the practices of other EAC states and the Paris Principles governing national human rights institutions.

Findings on the Use of Written Exams in Selecting Commissioners for Somalia's Human Rights Commission

Departure from International Standards (Paris Principles)

The use of written examinations in the selection of candidates for Somalia's Independent National Human Rights Commission represents a clear deviation from the internationally recognized Paris Principles, which guide the structure, composition, and operation of National Human Rights Institutions (NHRIs). These principles were adopted by the United Nations General Assembly in Resolution 48/134 of 1993, and have since become the global standard for evaluating the legitimacy and effectiveness of human rights commissions.

The Global Alliance of National Human Rights Institutions (GANHRI), which oversees the NHRI accreditation under the Paris Principles, has warned against overly bureaucratic or opaque selection processes that undermine the independence and credibility of commissions. (GANHRI, 2018).

Moreover, best practices from countries with successful NHRIs show a strong reliance on civil society nominations, open interviews, parliamentary vetting, and public consultations rather than written tests. By contrast, Somalia's unprecedented use of exams in this context—without a legal foundation—risks contravening both international expectations and the foundational values of inclusive governance in transitional democracies.

Risk of Politicization and Technocratization

Subjecting candidates to exams risks technocratizing what should be a rights-based and public interest role. Human rights commissioners are not technocrats or bureaucrats; they are public defenders of human dignity, and selection should prioritize ethical integrity, field experience, and public trust, and not just test performance. Furthermore, in post-conflict or transitional settings like Somalia, where political and clan-based dynamics play a major role, such exams can be politically instrumentalized to favor certain groups under the guise of 'merit'.

Disconnection from Community Legitimacy

The process emphasizes institutional formality over community legitimacy. In societies that rebuild trust in public institutions, the legitimacy of commissioners often derives from broad societal respect, not from formal tests. If the process excludes voices from civil society, women, youth, or marginalized clans, it could delegitimize the entire commission.

Lack of Legal Basis for Written Exams

There is no provision in the Provisional Constitution of Somalia (2012) or the Human Rights Commission Establishment Law (2016) that mandates or authorizes written examinations for commissioner candidates. Therefore, the Provisional Selection Committee's introduction of such exams is extra-legal and lacks formal statutory justification.

Conclusion and Recommendations

To date, no known country, whether within the East African Community (EAC) or globally, legally requires candidates for national human rights commissions to pass written examinations as a condition for appointment. Standard practices across established democracies and transitional states alike favor processes that are transparent, participatory, and grounded in legal and ethical principles. These included open calls for applications, public interviews before independent vetting panels, background checks, and consultations with civil society and relevant stakeholders. Such methods are designed to ensure merit-based selection while preserving the pluralistic, independent, and representative character of national human rights institutions (NHRIs), as emphasized by Paris Principles (1993).

By contrast, Somalia's decision in 2025 to introduce a written exam as part of the selection process for its Independent National Human Rights Commission marks a significant departure from these accepted norms. This procedural innovation was not preceded by legislative amendments, public consultation, or comparative benchmarking with regional counterparts. As a result, serious questions have been raised about its legality, fairness, and potential for exclusion or politicization.

Given that other EAC countries, such as Kenya, Uganda, Rwanda, and Tanzania, have successfully appointed commissioners through consultative and open processes without written testing, Somalia's approach appears not only isolated but also potentially incompatible with the broader regional commitment to good governance, transparency, and human rights protection. This deviation calls for critical scrutiny and reconsideration to ensure that Somalia's NHRI aligns with international credibility and legitimacy standards.

The policy briefing proposes the following key recommendations:

► **Align Selection Procedures with National Legal Frameworks:** The Ministry of Family and Human Rights Development or Provisional Selection Committees shall ensure that all procedures for selecting commissioners, including the use of examinations, are clearly grounded in the Provisional Constitution of Somalia (2012) and the Human Rights Commission Establishment Law (2016). Legitimacy and public trust depend on adherence to constitutional and statutory requirements, not on ad hoc processes.

► **Promote Inclusive and Consultative Appointments:** The appointing authority should integrate meaningful participation from civil society, minority groups, women, and persons with disabilities in the nomination and vetting process. This ensures representation, as mandated by law (e.g., Article 111 B of the Provisional Constitution) and international norms.

► **Harmonize Practices with Regional and International Standards:** The Ministry shall adopt selection models consistent with those in the East African Community (EAC) and comply with the Paris Principles (1993) and GANHRI recommendations. Such harmonization enhances Somalia's credibility and eligibility for international recognition and support for its NHRI.

► **Establishment of a National Human Rights Commission (NHRC):** The government of Somalia should consider establishing a National Human Rights Commission (NHRC) to take over the role that has been performed by external mechanisms for more than three decades in monitoring and reporting on the human rights situation in the country. This national body would be better positioned to promote and protect human rights domestically and to support Somalia's compliance with the six core international human rights instruments. Such a commission must be established in accordance with the country's legal framework to ensure legitimacy, transparency, and alignment with international principles, particularly the Paris Principles governing national human rights institutions.

Notes

- i. Somalia made efforts to establish the National Human Rights Commission in 2018. These efforts were recently revived in May 2025, signaling a renewed commitment to setting up the institution.
- ii. Some Federal Member States, notably Puntland, Jubaland, and Somaliland, have established their own Human Rights Commission. However, it is the Federal Government that holds the sole responsibility for addressing the country's human rights situation before international bodies and mechanisms.
- iii. According to the Network of African National Human Rights Institutions, Somalia is one of the only seven African countries without a national human rights commission. Among others, including Eritrea, some have Commissions but lack international accreditation.
- iv. Article 111 J of the Constitution provides for the establishment of the Office of the Ombudsman, tasked with investigating complaints related to violations of fundamental rights and freedoms, the abuse of power, and unfair conduct. However, this office has yet to be established. The same article also states that the mbudsman should be appointed based on recommendations from the Judicial Service Commission, which itself has not been formed.

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