

**Country/entity** Somalia

**Region** Africa (excl MENA)

**Agreement name** Provisional Constitution of The Federal Republic of Somalia

**Date** 1 Aug 2012

**Agreement status** Multiparty signed/agreed

**Interim arrangement** Yes

**Agreement/conflict level** Intrastate/intrastate conflict

### **Somali Civil War (1991 - )**

Originally spurred by centre-peripheral tensions, fighting broke out in 1981 between the regime of President Said Barre and the Somali National Movement, a militia primarily consisting of members from the northern Ishaq clan. Fighting intensified in the late 1980s as more clan-based militias arose. President Barre's regime collapsed in late 1991 and as a result the UN intervened. However persistent attacks on the UN's forces forced a withdrawal in 1994. From the mid- to late 1990s, the character of the conflict shifted as warlords fought for access to rents. Also during this period, two different peace agreements arose; the Soderre Declaration, which was mediated by Ethiopia and supported by IGAD, and the Cairo Accord, which was brokered by Egypt. Fighting, already noticeably lessened compared to the early 1990s, decreased and the more amicable environment paved the way for the Transitional Government to be formed in 2000 (replaced in 2004 by the Transitional Federal Government).

Nonetheless, opposition to the TFG arose in the form of the Islamic Courts Union (ICU), which by early 2006 had taken control of most of southern Somalia until they were ousted by an armed intervention by Ethiopia in December 2006. As a result, the ICU splintered. Hard-line ICU members formed the Takfiri organization, Harakat al-Shabaab al-Mujahideen, and launched a guerrilla campaign against the TFG. Another faction of the ICU fled to Djibouti and formed the Alliance for the Re-liberation of Somalia, which was absorbed into the ruling TFG after successful negotiations in 2007.

To deal with the new round of fighting, the UN-mandated AMISOM force was deployed in 2007. Since then, insecurity has fluctuated between the urban and rural areas as the al-Shabaab's territorial gains waver. Local militia leaders maintain de facto governance over communities. From 2009 to 2012, insecurity spilled over into the Gulf of Aden and the Indian Ocean when Somali pirates seized, looted and ransomed ships. In 2014, 'Operation Indian Ocean' was launched and in parallel with infighting among al-Shabaab, the organisation's position in Somalia has diminished slightly. However, as evidenced by large-scale attacks by al-Shabaab in northern Kenya throughout 2013-2015, the lack of security continues to destabilize the region. Al-Shabaab continues to launch surprise attacks with the aim of forcing out foreign military presence in Somalia. Targets include both military forces and civilians. The devastating attack in October 2017 in Mogadishu saw 587 fatalities and resulted in a renewed military offensive by the Somali government and African Union allies. Since 2017, the U.S. has increased its air strikes targeting al-Shabaab militants, and in December 2018 they announced to re-establish a permanent diplomatic mission in the country. Al-Shabaab has been characterized as a spoiler in the Somali peace process and have therefore been placed outside of any negotiations.

Close

Somali Civil War (1991 - )

**Stage** Framework/substantive - comprehensive

**Conflict nature** Government/territory

<b>Peace process</b>	Somalia Peace Process
<b>Parties</b>	Members of the Transitional Government of Somalia
<b>Third parties</b>	-
<b>Description</b>	The Provisional Constitution of Somalia provides the legal foundation for the Federal Republic of Somalia outlining the Fundamental Rights and Duties of the Citizen; Land Property and Environment; Representation of the People; Devolution of the Power of State in the Federal Republic of Somalia; The Federal Parliament; the Presidency; the Executive; the Judiciary; the Independent Commissions; the Civil Service; the Federal Members States; Public Finance and Peace and Security.

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**Agreement document**      [SO\\_120801\\_Provisional Constitution of Somalia.pdf \(opens in new tab\)](#) | [Download PDF](#)

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**Groups**

## Children/youth

Groups→Children/youth→Substantive

Page 14-15, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations, Article 28. Family Care

... (2) Mother and child care is a legal duty of the State.

(3) Every child has the right to care from their parents, including education and instruction. In instances where this care is not available from the family, it must be provided by others. This right applies to street children and children of unknown parents, the rights of whom the state has a particular duty to fulfill and protect.

Page 15, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 28. Family Care

... (4) Adults have a duty to support their parents if the parents are unable to care for themselves.

Page 15, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations, Article 29. Children

(1) Every child has the right to a good and righteous name and a nationality from birth.

(2) Every child has the right to be protected from mistreatment, neglect, abuse, or degradation.

(3) No child may perform work or provide services that are not suitable for the child's age or create a risk to the child's health or development in any way.

(4) Every child may be detained only as a last resort, for a limited time, in appropriate conditions, and must be detained separately from adults with the exception of the child's immediate family. The child's immediate family must be informed of the child's detention as soon as practicable.

(5) Every child shall have the right to legal aid paid for by the State if the child might otherwise suffer injustice.

(6) Every child has the right to be protected from armed conflict, and not to be used in armed conflict.

(7) In every matter concerning a child, the child's best interests are of paramount importance.

(8) In this Article, the word "child" means a person under 18 years of age.

Page 23, CHAPTER 5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 52. Cooperative Relationships Between the Various Federal Member State Governments

(1) The Federal Government and Federal Member State governments shall ensure that meetings between the Presidents of the Federal Member States and high ranking officials be held regularly to discuss issues that affect their territories, including:

... (j) Youth.

Page 41, CHAPTER 9: THE JUDICIAL AUTHORITY, Article 107. Judicial Procedure

(1) Judicial proceedings shall be open to the public, but the courts may decide, in the interests of ethics, national security, the protection of witnesses, in cases involving juveniles, or concerning rape, that the proceedings be held in private.

- Disabled persons**      Groups→Disabled persons→Anti-discrimination  
Page 11, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One: General Principles Of Human Rights, Article 11. Equality  
(1) All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law.  
Groups→Disabled persons→Substantive  
Page 14, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations, Article 27. Economic and Social Rights  
...  
(5) It shall be ensured that women, the aged, the disabled and minorities who have long suffered discrimination get the necessary support to realize their socio-economic rights.
- Elderly/age**              Groups→Elderly/age→Anti-discrimination  
Page 11, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One: General Principles Of Human Rights, Article 11. Equality  
...  
(3) The State must not discriminate against any person on the basis of age, race, colour, tribe, ethnicity, culture, dialect, gender, birth, disability, religion, political opinion, occupation, or wealth.  
Groups→Elderly/age→Substantive  
Page 14, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations, Article 27. Economic and Social Rights  
...  
(5) It shall be ensured that women, the aged, the disabled and minorities who have long suffered discrimination get the necessary support to realize their socio-economic rights.
- Page 15, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations,, Article 28. Family Care  
...  
(4) Adults have a duty to support their parents if the parents are unable to care for themselves.  
(5) A marriage shall not be legal without the free consent of both the man and the woman, or if either party has not reached the age of maturity.
- Migrant workers**      No specific mention.

**Racial/ethnic/  
national group**

Groups→Racial/ethnic/national group→Anti-discrimination

Page 3, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One:  
General Principles Of Human Rights

Article 11. Equality

(1) All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law.

Page 3, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One:  
General Principles Of Human Rights

Article 11. Equality

... (3) The State must not discriminate against any person on the basis of age, race, colour, tribe, ethnicity, culture, dialect, gender, birth, disability, religion, political opinion, occupation, or wealth.

Groups→Racial/ethnic/national group→Substantive

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations

Article 27. Economic and Social Rights

... (5) It shall be ensured that women, the aged, the disabled and minorities who have long suffered discrimination get the necessary support to realize their socio-economic rights.

**Religious groups**

Groups→Religious groups→Anti-discrimination

Page 3, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One:  
General Principles Of Human Rights

Article 11. Equality

(1) All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law.

Groups→Religious groups→Substantive

Page 4-5, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations

Article 17. Freedom of Religion and Belief

(1) Every person is free to practice his or her religion

(2) No religion other than Islam can be propagated in the Federal Republic of Somalia.

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations

Article 30. Education

... (8) The teaching of Islam shall be compulsory for pupils in both public and private schools. Schools owned by non-Muslims shall be exempted from these measures.

Page 28, CHAPTER 7: THE PRESIDENT OF THE FEDERAL REPUBLIC

Article 88. Eligibility Criteria for the position of President of the Federal Republic of Somalia

Any citizen is eligible for the position of President of the Federal Republic of Somalia, as long as he or she meets the eligibility requirements of:

(a) Being a Somali citizen and a Muslim;

**Indigenous people** No specific mention.

**Other groups** Groups→Other groups→Anti-discrimination  
Page 3, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One:  
General Principles Of Human Rights  
Article 11. Equality  
(1) All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law.

Page 3, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One:  
General Principles Of Human Rights  
Article 11. Equality  
... (3) The State must not discriminate against any person on the basis of age, race, colour, tribe, ethnicity, culture, dialect, gender, birth, disability, religion, political opinion, occupation, or wealth.

**Refugees/displaced persons** Groups→Refugees/displaced persons→Substantive  
Page 9, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations  
Article 37. Refugees and Asylum  
(1) Every person who has sought refuge in the Federal Republic of Somalia has the right not to be returned or taken to any country in which that person has a well-founded fear of persecution.  
(2) The Federal Parliament shall enact legislation in compliance with international law, regulating refugees and asylum seekers.

Page 54, SCHEDULE ONE (D) – PRIORITY LAWS TO BE ENACTED IN THE FIRST TERM OF THE FEDERAL PARLIAMENT  
The Drafting Commission shall prioritize drafting projects concerning new laws, in conformity with agreements negotiated between the Federal Government and the existing Federal Member States and new Federated States, including but not limited to the following:  
... (6) A law in terms of Article 37, concerning refugees and asylum;

**Social class** Groups→Social class→Anti-discrimination  
Page 3, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One:  
General Principles Of Human Rights  
Article 11. Equality  
(1) All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law.

Page 3, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One:  
General Principles Of Human Rights  
Article 11. Equality  
... (3) The State must not discriminate against any person on the basis of age, race, colour, tribe, ethnicity, culture, dialect, gender, birth, disability, religion, political opinion, occupation, or wealth.



**Gender**

**Women, girls and gender**

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 3: Founding Principles,

(5) Women must be included, in an effective way, in all national institutions, in particular all elected and appointed positions across the three branches of government and in national independent commissions.

Page 3, Title One: General Principles Of Human Rights

Article 11. Equality

(1) All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law.

... (3) The State must not discriminate against any person on the basis of age, race, colour, tribe, ethnicity, culture, dialect, gender, birth, disability, religion, political opinion, occupation, or wealth.

Page 4, Title Two: Rights, Basic Personal Liberties and Limitations

Article 15. Liberty and Security of the Person

... (2) Every person has the right to personal security, and this includes: the prohibition of illegal detention, all forms of violence, including any form of violence against women, torture, or inhumane treatment.

... (4) Female circumcision is a cruel and degrading customary practice, and is tantamount to torture. The circumcision of girls is prohibited.

(5) Abortion is contrary to Shari'ah and is prohibited except in cases of necessity, especially to save the life of the mother.

Page 6, Title Two: Rights, Basic Personal Liberties and Limitations

Article 24. Labour Relations

... (5) All workers, particularly women, have a special right of protection from sexual abuse, segregation and discrimination in the work place. Every labour law and practice shall comply with gender equality in the work place.

Page 6, Title Two: Rights, Basic Personal Liberties and Limitations

Article 27. Economic and Social Rights

... (5) It shall be ensured that women, the aged, the disabled and minorities who have long suffered discrimination get the necessary support to realize their socio-economic rights.

Page 6, Title Two: Rights, Basic Personal Liberties and Limitations

Article 28. Family Care

(1) Marriage is the basis of the family, which is the foundation of society. Its protection is a legal duty of the State.

(2) Mother and child care is a legal duty of the State.

... (5) A marriage shall not be legal without the free consent of both the man and the woman, or if either party has not reached the age of maturity.

Page 33, CHAPTER9: THE JUDICIAL AUTHORITY

Article 107. Judicial Procedure

(1) Judicial proceedings shall be open to the public, but the courts may decide, in the interests of ethics, national security, the protection of witnesses, in cases involving juveniles, or concerning rape, that the proceedings be held in private.

Page 38, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111D. Parliamentary Service Commission

... (c) Four (4) members elected by the House of the People from among its members, of whom at least two (2) shall be women;

**Men and boys**

No specific mention.

**LGBTI**

No specific mention.

**Family**

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 28. Family Care

(1) Marriage is the basis of the family, which is the foundation of society. Its protection is a legal duty of the State.

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 28. Family Care

... (4) Adults have a duty to support their parents if the parents are unable to care for themselves.

(5) A marriage shall not be legal without the free consent of both the man and the woman, or if either party has not reached the age of maturity.

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 29. Children

... (4) Every child may be detained only as a last resort, for a limited time, in appropriate conditions, and must be detained separately from adults with the exception of the child's immediate family. The child's immediate family must be informed of the child's detention as soon as practicable.

Page 9, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 35. The Rights of the Accused

... (3) Every person arrested or detained shall have the right for his or her family and relatives to be informed of his or her situation.

... (11) The accused cannot be kept in an illegal detention centre, and must be granted visits by his or her family, doctor or lawyer.

Page 11, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title 3: Duties of Citizens

Article 42. Duties of the Citizens

... (2) The exercise of equality, freedoms, and other rights is inseparable from duties.

Accordingly, it is the duty of each citizen:

... (c) To promote responsible parenthood;

**State definition**

**Nature of state  
(general)**

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 1. The Federal Republic of Somalia

- (1) Somalia is a federal, sovereign, and democratic republic founded on inclusive representation of the people, a multiparty system and social justice.
- (2) After Allah the Almighty, all power is vested in the people and can only be exercised in accordance with the Constitution and the law and through the relevant institutions. It is prohibited for a person or a section of the public to claim the sovereignty of the Federal Republic of Somalia, or to use it for their personal interest.
- (3) The sovereignty and unity of the Federal Republic of Somalia is inviolable.

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 2. State and Religion

- (1) Islam is the religion of the State.

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 3. Founding Principles

- (1) The Constitution of the Federal Republic of Somalia is based on the foundations of the Holy Quran and the Sunna of our prophet Mohamed (PBUH) and protects the higher objectives of Shari'ah and social justice.
- (2) The Federal Republic of Somalia is a Muslim country which is a member of the African and Arab Nations.
- (3) The Federal Republic of Somalia is founded upon the fundamental principles of power sharing in a federal system.
- (4) The Constitution of the Federal Republic of Somalia promotes human rights, the rule of law, general standards of international law, justice, participatory consultative and inclusive government, and the separation of powers between the legislature, executive and an independent judiciary, in order to ensure accountability, efficiency and responsiveness to the interests of the people.
- (5) Women must be included, in an effective way, in all national institutions, in particular all elected and appointed positions across the three branches of government and in national independent commissions.

Page 2, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 7. The Territory of the Federal Republic of Somalia

- (1) The sovereignty of the Federal Republic of Somalia extends over all the territory of the Federal Republic of Somalia, which includes the land, territorial sea, the islands, the subsoil, the air space, and the continental shelf, and any land and waters that join the Federal Republic of Somalia in accordance with a law that shall be passed by the Federal Parliament.
- (2) The territory of the Federal Republic of Somalia is inviolable and indivisible.

Page 45, CHAPTER14: PEACE AND SECURITY

Article 126. Ensuring Security of the Federal Republic of Somalia

- ... (3) The armed forces of the Federal Republic of Somalia have the mandate to guarantee the sovereignty and independence of the country and to defend its territorial integrity.

**State configuration** Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA  
Article 1. The Federal Republic of Somalia  
(1) Somalia is a federal, sovereign, and democratic republic founded on inclusive representation of the people, a multiparty system and social justice.

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA  
Article 3. Founding Principles  
(3) The Federal Republic of Somalia is founded upon the fundamental principles of power sharing in a federal system.

Page 12, CHAPTER 4: REPRESENTATION OF THE PEOPLE, Title One: General Principles of Representation of the People  
Article 46. The Power of the People  
(1) The power of self-governance begins and ends with the people, who have the power, where necessary, to hold public institutions and public servants accountable.

Page 43, CHAPTER 12: FEDERAL MEMBER STATES  
Article 120. Institutions of the Federal Member States  
The establishment of the legislative and executive bodies of government of the Federal Member States is a matter for the Constitutions of the Federal Member States.

Article 121. Principles for Constitutions  
Principally, the Constitution of the Federal Republic of Somalia and those of the Federal Member States shall be harmonized.

Page 44, CHAPTER 12: FEDERAL MEMBER STATES, CHAPTER 13: PUBLIC FINANCE  
Article 122. Principles of Public Finance  
The Principles of public finance will be discussed between the Federal Government and Federal Member State in accordance with the Constitution.

Page 53, CHAPTER 15: FINAL AND TRANSITIONAL PROVISIONS, Title Two: Miscellaneous Provisions  
Article 142. Existing Federal Member States in Somalia  
(1) Until such time that all the Federal Member States of Somalia are established and the adopted Federal Member State Constitutions are harmonized with the Somali Federal Constitution, the Federal Member States existing prior to the provisional adoption of this Provisional Constitution by a National Constituent Assembly shall retain and exercise powers endowed by their own State Constitution.  
(2) Existing Federal Member States must be consulted in the decision-making process regarding the federal system, and security arrangements.

**Self determination** No specific mention.

**Referendum** Page 53, CHAPTER 15: FINAL AND TRANSITIONAL PROVISIONS, Title Two: Miscellaneous Provisions  
Article 141. Referendums  
(1) Whether required by this Constitution, by law, or for another reason, in conducting a referendum, including the referendum to validate this Provisional Constitution, in conducting a referendum the authority conducting that referendum shall ensure that all eligible voters have opportunity to express their views in a free, direct and secret manner and in accordance with a law that the Federal Parliament shall enact establishing the procedures for referendums.  
(2) The authority conducting a referendum shall ensure that:  
(a) The referendum asks a question clearly, in a manner designed to elicit the genuine view of the voter and does not obscure the nature of the choice that the voter faces; and  
(b) That neither a question, the design of the ballot paper nor the procedure suggests a particular answer to the question.

**State symbols** Page 2, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA  
Article 5. Official Languages  
The official language of the Federal Republic of Somalia is Somali (Maay and Maxaa-tiri), and Arabic is the second language.

Page 2, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA  
Article 6. The Flag and National Symbols  
(1) The flag of the Federal Republic of Somalia, as shown in section A of Schedule One, is a light blue rectangle in the centre of which is a white star with five equal points.  
(2) The emblem of the Federal Republic of Somalia, as shown in section B of Schedule One, is a blue shield with a gold frame, in the centre of which is a silver-coated, five-pointed star. The shield is surmounted by a decorated emblem with five golden heads, with two lateral ones halved. The shield is borne from the sides by two leopards facing each other under the lower point of the shield, along with two palm leaves, which are interlaced with a white ribbon.  
(3) Somalia has a national anthem which is “Qolobaa Calankeed”  
(4) The Federal Member States of the Federal Republic of Somalia shall have their own flags and national symbols in accordance with the federal system.

Page 24, CHAPTER 7: THE PRESIDENT OF THE FEDERAL REPUBLIC  
Article 87. The President of the Federal Republic of Somalia  
(1) The President of the Federal Republic of Somalia is:  
(a) The Head of the State of the Federal Republic of Somalia;  
(b) The symbol of the national unity;

**Independence/  
secession** No specific mention.

**Accession/  
unification** No specific mention.

**Border delimitation** Page 2, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 7. The Territory of the Federal Republic of Somalia

... (3) Any international boundary dispute over the territory of the Federal Republic of Somalia shall be resolved in a peaceful and cooperative manner that is in accordance with the laws of the land and international law.

(4) The boundaries of the Federal Republic of Somalia shall be those described in the 1960 Constitution of Somalia.

(5) The boundaries of the Federal Republic of Somalia are:

- (a) To the north: The Gulf of Aden;
- (b) To the north west: Djibouti;
- (c) To the west: Ethiopia;
- (d) To the south west: Kenya;
- (e) To the east: the Indian Ocean.

**Cross-border provision** No specific mention.

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**Governance**

**Political institutions (new or reformed)**

Governance→Political institutions (new or reformed)→General references  
[Summary] Page 13-23, CHAPTER 5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA

Article 49 provides provisions for the number and boundaries of districts, on which a report will be submitted by a national commission to the House of the People of the Federal Parliament. The membership, tenure, responsibilities and powers of the commission will be determined by law.

Article 51 provides provisions for the Structure and Principles of Collaboration of the Levels of Government.

[Summary] Page 16-18, Title One: General Provisions

Article 55 provides provisions for the Houses of the Federal Parliament.

Article 56 provides provisions for performance of the Federal Parliament

The Houses of the Federal Parliament

Article 57 provides provisions for joint Sittings of the two Houses of the Federal Parliament.

Article 59 provides provisions for the disqualification of Membership of the Federal Parliament.

Article 60 provides provisions for the Term of Office.

Article 61 provides provisions for the responsibilities of Members of the Federal Parliament.

Article 62 provides provisions for Joint Committees of the Federal Parliament

[Summary] Page 18-21, Title Two: The House Of The People Of The Federal Parliament

Article 63 provides provisions for the Legislative Powers of the House of the People.

Article 64 provides provisions for the Number of the Members of the House of the People.

Article 65 provides provisions for the Speaker and Deputy Speakers of the House of the People of the Federal Parliament.

Article 66 provides provisions for the Sessions of the House of the People of the Federal Parliament.

Article 67 provides provisions for the dissolution of the House of the People of the Federal Parliament

Article 68. Rules of Procedure of the House of the People of the Federal Parliament.

Article 69 provides provisions for the Powers of the House of the People of the Federal Parliament.

Article 70 provides provisions for the Immunity of the Members of the House of the People of the Federal Parliament.

[Summary] Page 21-23, Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 71 provides provisions for the Upper House of the Federal Parliament.

Article 72 provides provisions for the Number of Members of the Upper House of the Federal Parliament.

Article 73 provides provisions for the Speaker and Deputy Speaker of the Upper House of the Federal Parliament.

Article 74 provides provisions for the Sessions of the Upper House of the Federal Parliament.

Article 75 provides provisions for the Rules of Procedure of the Upper House of the Federal Parliament.

Article 76 provides provisions for decision-making in the Upper House of the Federal Parliament.

Article 77 provides provisions for the presence of Ministers in the Sessions of the Upper House of the Federal Parliament.

Article 78 provides provisions for the Immunity of the Members of the Upper House of

## Elections

Page 11, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title 3: Duties of Citizens

Article 42. Duties of the Citizens

... (2) The exercise of equality, freedoms, and other rights is inseparable from duties.

Accordingly, it is the duty of each citizen:

... (g) To strive to vote in elections;

Page 13, CHAPTER 4: REPRESENTATION OF THE PEOPLE, Title One: General Principles of Representation of the People, TitleTwo: Elections

Article 47. Electoral System and Political Parties

The regulations concerning political parties, their registration, elections at the Federal Government level and the National Independent Electoral Commission shall be defined in special laws enacted by the House of the People of the Federal Parliament of Somalia

Page 21, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 71. The Upper House of the Federal Parliament

The Upper House of the Federal Parliament represents the Federal Member States, and its legislative duties include:

... (d) Participation in the election of the President of the Federal Republic in accordance with Article 89;

Page 22, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 71. The Upper House of the Federal Parliament

The Upper House of the Federal Parliament represents the Federal Member States, and its legislative duties include:

(i) Participation in the process of appointing the following members of government institutions, as provided for by the Constitution:

... (iii) Members of the National Independent Electoral Commission;

Page 28, CHAPTER 7: THE PRESIDENT OF THE FEDERAL REPUBLIC

Article 90. The Responsibilities and Powers of the President of the Federal Republic of Somalia

The powers and responsibilities of the President of the Federal Republic of Somalia are to:

... (o) Dissolve the House of the People of the Federal Parliament when its term expires, thereby prompting new elections;

Page 39-40, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111G. National Independent Electoral Commission

(1) There shall be established a National Independent Electoral Commission, established under the Constitution. The National Independent Electoral Commission shall be independent of the executive and shall manage its own budget. The National Independent Electoral Commission shall be inclusive and representative and be impartial and neutral and shall not have more than nine members.

(2) The mandate of the National Independent Electoral Commission includes:

(a) The conduct of presidential elections;

(b) The conduct of Federal Parliament elections;

(c) The continuous registration of voters and revision of the voter's roll;

(d) The registration of candidates for elections;

(e) The delimitation of constituencies and wards;

(f) The regulation of the political party system;

(g) The settlement of electoral disputes;

(h) The facilitation of the observation, monitoring and evaluation of elections;

**Electoral  
commission**

Page 13, CHAPTER 4: REPRESENTATION OF THE PEOPLE, Title One: General Principles of Representation of the People, TitleTwo: Elections

Article 47. Electoral System and Political Parties

The regulations concerning political parties, their registration, elections at the Federal Government level and the National Independent Electoral Commission shall be defined in special laws enacted by the House of the People of the Federal Parliament of Somalia

Page 22, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 71. The Upper House of the Federal Parliament

The Upper House of the Federal Parliament represents the Federal Member States, and its legislative duties include:

(i) Participation in the process of appointing the following members of government institutions, as provided for by the Constitution:

... (iii) Members of the National Independent Electoral Commission;

Page 39-40, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111G. National Independent Electoral Commission

(1) There shall be established a National Independent Electoral Commission, established under the Constitution. The National Independent Electoral Commission shall be independent of the executive and shall manage its own budget. The National Independent Electoral Commission shall be inclusive and representative and be impartial and neutral and shall not have more than nine members.

(2) The mandate of the National Independent Electoral Commission includes:

(a) The conduct of presidential elections;

(b) The conduct of Federal Parliament elections;

(c) The continuous registration of voters and revision of the voter's roll;

(d) The registration of candidates for elections;

(e) The delimitation of constituencies and wards;

(f) The regulation of the political party system;

(g) The settlement of electoral disputes;

(h) The facilitation of the observation, monitoring and evaluation of elections;

(i) The regulation of money spent by an elected candidate or party in respect of any election;

(j) The development of an electoral code of conduct for its candidates and parties;

(k) The monitoring of compliance with legislation on nomination of candidates by parties; and

(l) Voter education.

(3) The Federal Parliament shall establish the National Independent Electoral Commission and the relevant legislation required to support it as a matter of priority.

**Political parties reform**

Governance→Political parties reform→Other political parties reform  
Page 13, CHAPTER 4: REPRESENTATION OF THE PEOPLE, Title One: General Principles of Representation of the People, TitleTwo: Elections  
Article 47. Electoral System and Political Parties  
The regulations concerning political parties, their registration, elections at the Federal Government level and the National Independent Electoral Commission shall be defined in special laws enacted by the House of the People of the Federal Parliament of Somalia

Page 54, SCHEDULE ONE (C) – TRANSITION: PROPOSED AMENDMENTS TO THE CONSTITUTION IN THE FIRST TERM OF THE FEDERAL PARLIAMENT  
In terms of Article 133 and 134, the Somali Federal Parliament shall propose and enact amendments to this Provisional Constitution, in conformity with agreements negotiated between the Federal Government and the Existing Federal Member States and new Federal Member States, including but not limited to the following:  
... (6) To Article 47, concerning political parties and the electoral system;

**Civil society**

Page 13, CHAPTER 4: REPRESENTATION OF THE PEOPLE, Title One: General Principles of Representation of the People, TitleTwo: Elections  
Article 47. Electoral System and Political Parties  
The regulations concerning political parties, their registration, elections at the Federal Government level and the National Independent Electoral Commission shall be defined in special laws enacted by the House of the People of the Federal Parliament of Somalia

Page 34-35, CHAPTER9: THE JUDICIAL AUTHORITY  
Article 109A. The Judicial Service Commission  
(1) This Constitution establishes a Judicial Service Commission.  
(2) The Judicial Service Commission shall be comprised of nine (9) members, which shall be as follows:  
... (d) Two (2) people who are members of the Somali Bar, appointed by the Somali Law Society for a four (4) year term;  
... (f) Three (3) people of high reputation within Somali society, proposed by the Council of Ministers, and then appointed by the President for a term of four (4) years, and renewable only once.

Page 39, CHAPTER 10: THE INDEPENDENT COMMISSIONS  
Article 111H. National Security Commission  
(4) The National Security Commission shall establish a Civilian Oversight Sub-Committee comprising security experts, members of the Federal Parliament, academics and civil society representatives from all sectors of Somali society. The mandate of the Civilian Oversight Sub-Committee shall be to:

Page 40-41, CHAPTER 10: THE INDEPENDENT COMMISSIONS  
Article 111I. Truth and Reconciliation Commission  
... (2) The Truth and Reconciliation Commission shall be independent, impartial and representative and shall include: traditional elders and leaders, members of the Federal Parliament, respected members of civil society, judges and security personnel.

**Traditional/  
religious leaders**

Page 15, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 52. Cooperative Relationships Between the Various Federal Member State Governments

(1) The Federal Government and Federal Member State governments shall ensure that meetings between the Presidents of the Federal Member States and high ranking officials be held regularly to discuss issues that affect their territories, including:

... (h) Relations and dialogue amongst traditional leaders, and the protection and development of traditional law;

(i) Relations amongst religious scholars; and

Page 40-41, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111I. Truth and Reconciliation Commission

... (2) The Truth and Reconciliation Commission shall be independent, impartial and representative and shall include: traditional elders and leaders, members of the Federal Parliament, respected members of civil society, judges and security personnel.

**Public  
administration**

Page 8, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 33. Just Administrative Decisions

Every person has the right to administrative decisions that are lawful, reasonable and conducted in a procedurally fair manner.

Page 42, CHAPTER11: CIVIL SERVICE

Article 115. Civil Service Values

The civil service at all levels of government is a pledge to serve the people and shall be based on the values of the Constitution, compassion, transparency, community service, respect for administrative hierarchy, obedience, confidentiality, work ethics, efficiency, effectiveness, professionalism protect principles of fairness, equality and best practices.

Page 42, CHAPTER11: CIVIL SERVICE

Article 116. Protection of the rights of civil servants

Civil servants may not be:

- (a) Victimized for doing work related to their responsibility;
- (b) Dismissed from their job, transferred from office or be demoted, unless there is legal and reasonable ground.

Page 42, CHAPTER11: CIVIL SERVICE

Article 117. Appointment of High Ranking Officials

High ranking public employees and officials of the government as defined by the law, shall be appointed by the President of the Federal Republic of Somalia, after considering the proposal by the Council of Ministers.

Page 43, CHAPTER11: CIVIL SERVICE

Article 118. Civil Servants and Public Employees

- (1) Civil servants and public employees shall exercise their functions in accordance with the law and solely in the public interest.
- (2) Civil servants and public employees shall not be leaders of any political party.
- (3) The law shall determine the categories of state employees who may not be members of political parties, and the activities that are incompatible with their duties.
- (4) The legal status of the state employees shall be regulated by law.
- (5) Permanent jobs with the government may be earned only by an open competition, except in the circumstances described by law.

Page 43, CHAPTER11: CIVIL SERVICE

Article 119. Civil Service

- (1) The Federal Government and the Federal Member States may recruit their employees.
- (2) There shall be a civil service both at the Federal level and at the level of the Federal Member States;
- (3) The Federal Government and the Federal Member States may cooperate in the deployment of staff, in order to ensure that expertise and experience are available where needed and in order to promote national unity.
- (4) The Civil Service of the Federal Government and Federal Member States shall be formed on the basis of proportional representation of the resident population.

Page 39, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111F. Inter-state Commission

- (1) There shall be established by federal law an Inter-state Commission.
- (2) The Inter-State Commission shall have such powers as the Federal Parliament deems necessary to:

- (a) Facilitate intergovernmental coordination and cooperation among the Federal Government and the governments of the Federal Member States; and

## Constitution

Governance→Constitution→Constitutional reform/making

Summary: Agreement is an interim constitution.

Page 11, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title 3: Duties of Citizens

Article 42. Duties of the Citizens

... (2) The exercise of equality, freedoms, and other rights is inseparable from duties.

Accordingly, it is the duty of each citizen:

... (f) To become acquainted with the provisions of the Constitution and to uphold and defend the Constitution and the law of the country;

Page 17, CHAPTER 6: THE FEDERAL PARLIAMENT, Title One: General Provisions

Article 57. Joint Sittings

Responsibilities of the joint sittings of the two Houses of the Federal Parliament include:

... (c) Without interfering with the powers of the Federal Parliament to organise its activities, the President of the Federal Republic may, if deemed necessary, request the Speaker of the House of the People of the Federal Parliament and the Speaker of the Upper House of the Federal Parliament to hold a joint session of the Federal Parliament:  
... (iii) To amend and review the Constitution in accordance with Chapter 15.

Page 18, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Two: The House Of The People Of The Federal Parliament

Article 63. The Legislative Powers of the House of the People

The House of the People of the Federal Parliament represents all the people of Somalia, and the legislative duties tasked solely to the House of the People of the Federal Parliament are as follows:

(a) To participate in amending the Constitution in accordance with Chapter 15;  
(b) To pass, amend or reject legislation tabled before it in accordance with this Chapter and Chapter 15 of the Constitution;  
... (d) To delegate to the Upper House of the Federal Parliament legislative duties, with the exception of its duty to participate in the procedures for amending the Constitution.

Page 21, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Two: The House Of The People Of The Federal Parliament

Article 69. The Powers of the House of the People of the Federal Parliament

(f) To elect and dismiss the President of the Federal Republic as provided for by the Constitution;  
(g) To carry out other duties as provided for by the Constitution to ensure the proper implementation and review of the Constitution.

Page 21, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 71. The Upper House of the Federal Parliament

The Upper House of the Federal Parliament represents the Federal Member States, and its legislative duties include:

(a) Participation in the process of the amending the Constitution, in accordance with Chapter 15;  
... (f) Participation in the process of declaring war in accordance with the Constitution;

Page 22, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 71. The Upper House of the Federal Parliament

The Upper House of the Federal Parliament represents the Federal Member States, and its legislative duties include:

a) Carrying out other duties required by the Constitution to ensure proper





**Power sharing**

**Political power sharing**

Power sharing→Political power sharing→General State level

Summary: Central political power sharing is provided for alongside a primarily territorial power sharing arrangement, see below.

Power sharing→Political power sharing→Proportionality in legislature State level

Page 19, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Two: The House Of The People Of The Federal Parliament

Article 64. The Number of the Members of the House of the People

(1) The citizens of the Federal Republic of Somalia shall elect members of the House of the People of the Federal Parliament in a direct, secret and free ballot.

(2) The House of the People of the Federal Parliament shall have two hundred and seventy-five (275) ordinary members.

(3) The members of the House of the People of the Federal Parliament must represent all communities of the Federal Republic of Somalia in a balanced manner.

Page 22, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 72. The Number of Members of the Upper House of the Federal Parliament

The members of the Upper House of the Federal Parliament shall be elected through a direct, secret and free ballot by the people of the Federal Member States, and their number shall be no more than fifty-four (54) members based on the eighteen (18) regions that existed in Somalia before 1991, and on the following:

(a) The number of Federal Member States of the Federal Republic of Somalia;

(b) That all Federal Member States shall have an equal number of representatives in the Upper House of the Federal Parliament; and

(c) That the members of the Upper House of the Federal Parliament shall be representative of all communities of the Federal Republic of Somalia.

Power sharing→Political power sharing→Other proportionality

State level

Page 43, CHAPTER 11: CIVIL SERVICE

Article 119. Civil Service

(4) The Civil Service of the Federal Government and Federal Member States shall be formed on the basis of proportional representation of the resident population.

Power sharing→Political power sharing→Form of 'veto' or communal majority

State level

Page 24, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 81. Political Resolutions

... (3) If there are differences with regard to draft legislation between the two Houses of the Federal Parliament, either House may call for a joint committee of both Houses to attempt to resolve the differences and to suggest a harmonised draft legislation to both Houses in the spirit of intergovernmental cooperation as stipulated in Article 51 and 52 of this Constitution.

Power sharing→Political power sharing→Other

State level

Page 12, CHAPTER 4: REPRESENTATION OF THE PEOPLE, Title One: General Principles of Representation of the People

Article 46. The Power of the People

... (2) The public representation system shall be open and shall give everyone the opportunity to participate. Its procedures and rules shall be simple and understandable.

Page 16, CHAPTER 5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

**Territorial power sharing**

Power sharing→Territorial power sharing→Federal or similar sub-divided government  
Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA  
Article 3. Founding Principles  
(3) The Federal Republic of Somalia is founded upon the fundamental principles of power sharing in a federal system.

Page 13, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 48. The Structure of the State

(1) In the Federal Republic of Somalia, the state is composed of two levels of government:

(a) The Federal Government Level

Page 13, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 49. The Number and Boundaries of the Federal Member States and Districts

(1) The number and boundaries of the Federal Member States shall be determined by the House of the People of the Federal Parliament.

Page 14, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 50. Principles of Federalism in the Federal Republic of Somalia

The various levels of government, in all interactions between themselves and in the exercise of their legislative functions and other powers, shall observe the principles of federalism, which are:

(a) Every level of government shall enjoy the confidence and support of the people;

(b) Power is given to the level of government where it is likely to be most effectively exercised;

(c) The existence and sustainability of a relationship of mutual cooperation and support between the governments of the Federal Member States, and between the governments of the Federal Member States and the Federal Government, in the spirit of national unity;

(d) Every part of the Federal Republic of Somalia shall enjoy similar levels of services and a similar level of support from the Federal Government;

(e) Fair distribution of resources;

(f) The responsibility for the raising of revenue shall be given to the level of government where it is likely to be most effectively exercised; and

(g) The resolution of disputes through dialogue and reconciliation.

Page 15, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 51. Collaborative Relationships Between the Various Levels of Government in the Federal Republic of Somalia

... (5) A law passed by the Federal Parliament shall regulate:

(a) The establishment of institutions and guidelines that shall facilitate interaction between the various levels of government; and

(b) The establishment of guidelines that will facilitate the resolution of disputes between the various levels of government without resorting to court.

Page 15, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

**Economic power sharing**

Power sharing→Economic power sharing→Sharing of resources

Page 14, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 50. Principles of Federalism in the Federal Republic of Somalia

The various levels of government, in all interactions between themselves and in the exercise of their legislative functions and other powers, shall observe the principles of federalism, which are:

... (e) Fair distribution of resources;

Page 16, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 54. Allocation of powers

The allocation of powers and resources shall be negotiated and agreed upon by the Federal Government and the Federal Member States (pending the formation of Federal Member States), except in matters concerning: ... (D) Monetary Policy, which shall be within the powers and responsibilities of the federal government.

Page 44, CHAPTER 12: FEDERAL MEMBER STATES, CHAPTER 13: PUBLIC FINANCE

Article 122. Principles of Public Finance

The Principles of public finance will be discussed between the Federal Government and Federal Member State in accordance with the Constitution.

Page 44, CHAPTER 12: FEDERAL MEMBER STATES, CHAPTER 13: PUBLIC FINANCE

Article 123. The Federal Central Bank

(1) A law passed by the Federal Parliament shall establish the Federal Central Bank of the Federal Republic of Somalia.

(2) The Federal Central Bank of the Federal Republic of Somalia shall be responsible for formulating and implementing financial policies and monetary policies and all the banks shall abide by the regulations set by the Federal Central Bank.

(3) The main functions of the Federal Central Bank of the Federal Republic of Somalia are to:

(a) Produce currency;

(b) Control inflation;

(c) Stabilize exchange rates; and

(d) Establish a sound banking system.

(4) The financial policy shall be based on the market forces and lending shall not be based on administrative decisions.

(5) The Federal Central Bank of the Federal Republic of Somalia has full authority to execute the monetary policy.

(6) The Federal Central Bank is the National Reserve Bank

Page 44, CHAPTER 12: FEDERAL MEMBER STATES, CHAPTER 13: PUBLIC FINANCE

Article 124. Federal Legislation on Financial Matters

A law enacted by the Federal Parliament shall provide the framework for financial management with the following characteristics among others:

(a) The preparation, timetable and procedure for presenting the budgets of Federal Member States and districts in a transparent, accountable and efficient manner;

(b) Guarantees by the Federal Government for loans raised by Federal Member States;

(c) Procedures that the Government will follow for public procurements;

(d) Auditing of accounts of non-governmental bodies that receive government funding; and

(e) General measures necessary for the implementation of this Chapter

**Military power sharing**

No specific mention.

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**Human rights and equality**

**Human rights/RoL  
general**

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 3. Founding Principles

(4) The Constitution of the Federal Republic of Somalia promotes human rights, the rule of law, general standards of international law, justice, participatory consultative and inclusive government, and the separation of powers between the legislature, executive and an independent judiciary, in order to ensure accountability, efficiency and responsiveness to the interests of the people.

Page 3, CHAPTER2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One: General Principles Of Human Rights

Article 10. Human Dignity

(1) Human dignity is given by God to every human being, and this is the basis for all human rights.

(2) Human dignity is inviolable and must be protected by all.

(3) State power must not be exercised in a manner that violates human dignity.

Page 4, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One: General Principles Of Human Rights

Article 12. Application of the Fundamental Rights

(1) The fundamental rights and freedoms recognized in this Chapter shall always be respected in the making and application of the law. Likewise, they must be respected by all individuals and private organisations, as well as by every state institution and state official as they carry out their official functions.

(2) It is the responsibility of the state not only to ensure it does not violate rights through its actions, but also to take reasonable steps to protect the rights of the people from abuse by others.

(3) The rights recognized in this Chapter may be limited only by a law as provided for in Article 38

Page 9-10, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 38. Limitation of Rights

(1) The rights set out in this Chapter may be limited by law, provided that the law is not targeted at any particular individuals or groups.

(2) A right may be limited by law, or by specific exceptions in this Chapter, only if that limitation is demonstrably reasonable and justified according to the values underlying this Constitution.

(3) In deciding whether a limitation is reasonable and justifiable, all relevant factors must be taken into account.

(4) The relevant factors in terms of Clause 3 include the nature and importance of the right limited, the importance of the purpose to be achieved by the limitation, whether the limitation is suitable for achieving the purpose, and whether the same purpose could be achieved while being less restrictive of the rights limited.

(5) Possible restriction of fundamental rights during a state of emergency is dealt with in Chapter 14, Article 131 of this Constitution.

Page 10, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 40. Interpretation of the Fundamental Rights

(1) When interpreting the rights set out in this Chapter, a court shall take an approach that seeks to achieve the purposes of the rights and the values that underlie them.

(2) In interpreting these rights, the court may consider the Shari'ah, international law, and decisions of courts in other countries, though it is not bound to follow these decisions.

(3) When interpreting and applying the law generally, a court or any tribunal shall



**Treaty incorporation** No specific mention.

**Civil and political rights**

Human rights and equality→Civil and political rights→Life

Page 4, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 13. Right to Life

Everyone has the right to life.

Human rights and equality→Civil and political rights→Torture

Page 4, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 15. Liberty and Security of the Person

... (2) Every person has the right to personal security, and this includes: the prohibition of illegal detention, all forms of violence, including any form of violence against women, torture, or inhumane treatment.

Human rights and equality→Civil and political rights→Equality

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA Article 1. The Federal Republic of Somalia,

1. Somalia is a federal, sovereign, and democratic republic founded on inclusive representation of the people, a multiparty system and social justice.

Page 1, Article 3. Founding Principles

4. The Constitution of the Federal Republic of Somalia is based on the foundations of the Holy Quran and the Sunna of our prophet Mohamed (PBUH) and protects the higher objectives of Shari'ah and social justice.

Page 3, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One: General Principles Of Human Rights

Article 11. Equality

... (2) Discrimination is deemed to occur if the effect of an action impairs or restricts a person's rights, even if the actor did not intend this effect.

... (4) All State programs, such as laws, or political and administrative actions that are designed to achieve full equality for individuals or groups who are disadvantaged, or who have suffered from discrimination in the past, shall be deemed to be not discriminatory.

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 24. Labour Relations

... (5) All workers, particularly women, have a special right of protection from sexual abuse, segregation and discrimination in the work place. Every labour law and practice shall comply with gender equality in the work place.

Page 19, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Two: The House Of The People Of The Federal Parliament

Article 64. The Number of the Members of the House of the People

... (3) The members of the House of the People of the Federal Parliament must represent all communities of the Federal Republic of Somalia in a balanced manner.

Page 48, CHAPTER 15: FINAL AND TRANSITIONAL PROVISIONS

Article 133. Provisions Applicable to an Amendment to the Provisional Constitution Schedule One (C), or a Law Mentioned in Schedule One (D) of this Constitution, Proposed Before the Expiry of the First Term of the Federal Parliament: The Oversight Committee

... (6) In assigning a drafting project mentioned in Clause 5, the Oversight Committee shall prioritize the project as follows:

(a) Analyze the project in terms of the social problem that the proposed Constitutional amendment or bill will address;

(b) Accord high priority to a project that aims at changing the behaviors that constitute a social problem concerning:

**Socio-economic rights**

Human rights and equality→Socio-economic rights→Education

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 30. Education

- (1) Education is a basic right for all Somali citizens.
- (2) Every citizen shall have the right to free education up to secondary school.

Human rights and equality→Socio-economic rights→Shelter/housing

Page 5, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 19. Inviolability of Home

- (1) The home and other dwellings of the person shall be inviolable, and their entry, search or surveillance shall not be allowed without a reasoned order from a judge.
- (2) Any such order must be read properly to the occupier of the dwelling before entry, and the inspecting authority is prohibited to violate the law.

Human rights and equality→Socio-economic rights→Social security

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 27. Economic and Social Rights

- ... (3) Every person has the right to full social security.

Human rights and equality→Socio-economic rights→Cultural life

Page 8, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 31. Language and Culture

- ... (3) The state shall promote the cultural practices and local dialects of minorities.
- (4) The rights mentioned in this Article shall be implemented in accordance with the fundamental rights recognized in this Constitution.

Human rights and equality→Socio-economic rights→Other

Page 5, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 23. Freedom of Trade, Occupation, and Profession

Every citizen has the right to choose their trade, occupation or profession freely.

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 24. Labour Relations

- (1) Every person has the right to fair labour relations.
- (2) Every worker has the right to form and join a trade union and to participate in the activities of a trade union.
- (3) Every worker has the right to strike.
- (4) Every trade union or employers' organization or employer has the right to engage in collective bargaining regarding labour-related issues.
- (5) All workers, particularly women, have a special right of protection from sexual abuse, segregation and discrimination in the work place. Every labour law and practice shall comply with gender equality in the work place.

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 27. Economic and Social Rights

- (1) Every person has the right to clean potable water.
- (2) Every person has the right to healthcare, and no one may be denied emergency healthcare for any reason, including lack of economic capability.
- ... (4) Every person has the right to protect, pursue, and achieve the fulfillment of the rights recognised in this Article, in accordance with the law, and without interference from the state or any other party.



**Rights related issues**

## Citizenship

Rights related issues→Citizenship→Citizens, specific rights

Page 3, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title One:  
General Principles Of Human Rights

Article 11. Equality

(1) All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law.

Page 5, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations

Article 21. Freedom of Movement and Residence

... (2) Every citizen has the right to enter and to remain in the country, and has the right to a passport.

Page 5, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations

Article 22. Right of Political Participation

(1) Every citizen has the right to take part in public affairs. This right includes:

(a) The right to form political parties and to participate in the activities of political parties; and

(b) The right to be elected for any position within a political party.

(2) Every citizen who fulfills the criteria stated in the law has the right to elect and to be elected.

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations

Article 29. Children

(1) Every child has the right to a good and righteous name and a nationality from birth.

Page 11, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title 3:  
Duties of Citizens

Article 42. Duties of the Citizens

... (2) The exercise of equality, freedoms, and other rights is inseparable from duties.

Accordingly, it is the duty of each citizen:

(a) To be patriotic and loyal to the country and to promote its development and well-being;

(b) To engage in useful work for the good of the citizen, the family, and the common good, and to contribute to national development and to the well-being of the community where the citizen lives;

(c) To promote responsible parenthood;

(d) To foster national unity in harmony with others;

(e) To promote accountability and the rule of law;

(f) To become acquainted with the provisions of the Constitution and to uphold and defend the Constitution and the law of the country;

(g) To strive to vote in elections;

(h) To become a good tax-payer in order to contribute to the public expenditure according to the law and the citizen's capacity to pay; and

(i) To defend the territory of the Federal Republic of Somalia.

Rights related issues→Citizenship→Citizen delimitation

Page 3, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 8. The People and the Citizenship

(1) The people of the Federal Republic of Somalia are one, indivisible and comprise all the citizens.

(2) There shall be only one Somali citizenship, and the House of the People of the Federal

**Democracy**

Page 13, CHAPTER 4: REPRESENTATION OF THE PEOPLE, Title One: General Principles of Representation of the People

Article 46. The Power of the People

(3) The people's representation system shall be able to satisfactorily and reasonably prevent any crises that may arise as a result of political contests and election results.

Page 36, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 110. General Principles

... (2) In its mandate and operations, an Independent Commission shall embody and reflect the spirit of human rights, democracy and transparency.

**Detention procedures**

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 29. Children

... (4) Every child may be detained only as a last resort, for a limited time, in appropriate conditions, and must be detained separately from adults with the exception of the child's immediate family. The child's immediate family must be informed of the child's detention as soon as practicable.

Page 9, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 35. The Rights of the Accused

... (3) Every person arrested or detained shall have the right for his or her family and relatives to be informed of his or her situation.

Page 9, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 35. The Rights of the Accused

... (5) Every person who is arrested has the right to be brought before a competent court within 48 hours of the arrest.

(6) Every person who is arrested or detained has the right to choose, and to consult with, a legal practitioner and if he or she cannot afford one, the State must appoint a legal practitioner for him or her.

**Media and communication**

Rights related issues→Media and communication→Media roles

Page 5, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 18. Freedom of Expression and Opinions

(2) Freedom of expression includes freedom of speech, and freedom of the media, including all forms of electronic and web-based media.

Rights related issues→Media and communication→Other

Page 24, Article 81. Political Resolutions

... (4) Only the House of the People of the Federal Parliament may send draft legislation to the President of the Federal Republic for his signature and its publication in the Official Gazette.

Page 25, Article 82. Draft Laws Initiated in the House of the People of the Federal Parliament

(3) When the House of the People of the Federal Parliament receives a draft law passed by the Upper House of the Federal Parliament, it shall send it to the President of the Federal Republic of Somalia, for his signature, and its publication in the Official Gazette.

(4) When the House of the People of the Federal Parliament receives a draft law that has been amended by the Upper House of the Federal Parliament it can do either of the following:

(a) To accept the amendment on the draft law, and then submit it to the President of the Federal Republic of Somalia for his signature, and its publication in the Official Gazette; or

(b) To reject the amendment and over-rule the decision of Upper House of the Federal Parliament through a two-thirds (2/3) majority vote of the total membership of the House of the People of the Federal Parliament, and then submit it to the President of the Federal Republic of Somalia, for his signature, and its publication in the Official Gazette.

(5) When the House of the People of the Federal Parliament receives a draft law that has been rejected by the Upper House of the Federal Parliament, it can do either of the following:

(a) To accept it the way it was submitted by the Upper House of the Federal Parliament and then submit it to the President of the Federal Republic of Somalia, for his signature, and its publication in the Official Gazette;

Page 26, Article 83. Draft Laws Initiated in the Upper House of the Federal Parliament

(3) When the Upper House of the Federal Parliament receives a draft law that has been amended by the House of the People of the Federal Parliament, it may act in any of the following ways:

(a) To accept the amendment to the draft law without voting and then refer it back to the House of the People to submit it to the President of the Republic so as to sign it and then publish it in the Official Gazette; or

... (5) When the House of the People of the Federal Parliament receives a draft law that it has amended, and the amendment has been accepted by the Upper House of the Federal Parliament, it shall submit the draft law to the President of the Federal Republic of Somalia for his signature, and its subsequent publication in the Official Gazette

(6) When the House of the People of the Federal Parliament receives a draft law that it has amended or rejected, and its decision has been over-ruled by the Upper House of the Federal Parliament, it may do either of the following:

(b) To accept the decision of the Upper House of the Federal Parliament, and submit the draft law to the President of the Federal Republic for his signature and its publication in the Official Gazette.

Page 26, Article 84. Publishing and Keeping Records of Laws

The secretaries of the Houses of the Federal Parliament and the Attorney General of the Federal Republic of Somalia shall be responsible for keeping records of laws passed by



**Mobility/access** No specific mention.

**Protection  
measures**

Rights related issues→Protection measures→Protection of civilians

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 24. Labour Relations

... (5) All workers, particularly women, have a special right of protection from sexual abuse, segregation and discrimination in the work place. Every labour law and practice shall comply with gender equality in the work place.

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 29. Children

... (6) Every child has the right to be protected from armed conflict, and not to be used in armed conflict.

Page 15, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations, Article 29. Children

(1) Every child has the right to a good and righteous name and a nationality from birth.

(2) Every child has the right to be protected from mistreatment, neglect, abuse, or degradation.

Page 41, CHAPTER 9: THE JUDICIAL AUTHORITY, Article 107. Judicial Procedure

(1) Judicial proceedings shall be open to the public, but the courts may decide, in the interests of ethics, national security, the protection of witnesses, in cases involving juveniles, or concerning rape, that the proceedings be held in private.

Page 42, CHAPTER11: CIVIL SERVICE

Article 116. Protection of the rights of civil servants

Civil servants may not be:

(a) Victimized for doing work related to their responsibility;

(b) Dismissed from their job, transferred from office or be demoted, unless there is legal and reasonable ground.

Page 45, CHAPTER14: PEACE AND SECURITY

Article 126. Ensuring Security of the Federal Republic of Somalia

... (4) The federal police force has the mandate to protect the lives and property, the peace and security of the citizens and other residents of the Federal Republic of Somalia.

Rights related issues→Protection measures→Other

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 3. Founding Principles

(1) The Constitution of the Federal Republic of Somalia is based on the foundations of the Holy Quran and the Sunna of our prophet Mohamed (PBUH) and protects the higher objectives of Shari'ah and social justice.

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 25. Environment

(1) Every person has the right to an environment that is not harmful to their health and well-being, and to be protected from pollution and harmful materials.

(2) Every person has the right to have a share of the natural resources of the country, whilst being protected from excessive and damaging exploitation of these natural resources.

Page 6, Title Two: Rights, Basic Personal Liberties and Limitations

Article 28. Family Care

(1) Marriage is the basis of the family, which is the foundation of society. Its protection is

**Other**

No specific mention.

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**Rights institutions**

**NHRI**

Rights institutions→NHRI→New or fundamentally revised NHRI

Page 36-37, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111B. The Human Rights Commission

- (1) There shall be a Human Rights Commission that shall be mandated to:
- (b) Promote the protection, development, and attainment of human rights;

Page 10, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 41. Human Rights Commission

- (1) The Federal Parliament shall establish a Human Rights Commission that is independent of State control, and has adequate resources to carry out its functions effectively.
- (2) The functions of the Human Rights Commission shall include the promotion of knowledge of human rights, and specifically Shari'ah, setting implementation standards and parameters for the fulfillment of human rights obligations, monitoring human rights within the country, and investigating allegations of human rights violations.

Page 34-35, CHAPTER9: THE JUDICIAL AUTHORITY

Article 109A. The Judicial Service Commission

- (1) This Constitution establishes a Judicial Service Commission.
- (2) The Judicial Service Commission shall be comprised of nine (9) members, which shall be as follows:  
... (e) The Chair of the Human Rights Commission;

Page 36-37, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111B. The Human Rights Commission

- (1) There shall be a Human Rights Commission that shall be mandated to:
  - (a) Promote respect of human rights, and the culture of human rights;
  - (b) Promote the protection, development, and attainment of human rights; and
  - (c) Monitor and assess the observance of the conduct of human rights in the Federal Republic of Somalia.
- (2) In accordance with the Constitution, the Human Rights Commission shall have powers to perform the following functions:
  - (a) To investigate and report on the observance of human rights;
  - (b) To take steps to secure appropriate redress where human rights have been violated;
  - (c) To carry out research; and
  - (d) To educate the public and state officials on international standards relating to human rights.
- (3) The powers and the activities of the Human Rights Commission shall be stipulated in the Human Rights Commission Act.
- (4) The Human Rights Commission shall be independent, impartial, and inclusive and shall have not more than nine members.

Page 41-42, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111J. The Office of the Ombudsman

- (1) There shall be established the Office of the Ombudsman.
- (2) The Ombudsman must act in accordance with the Constitution and the Laws.
  - (a) A member of the Council of Ministers, the Federal Parliament or any other person shall not interfere with the work of the office of the Ombudsman.
  - (b) Each department of the Government shall co-operate with the office of the Ombudsman regarding the need to maintain its independence, integrity and effective service delivery.
- (3) While acting in accordance with the recommendations of the Judicial Service Commission, the President of the Federal Republic of Somalia shall nominate an Ombudsman

**Regional or international human rights institutions**

No specific mention.

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## Justice sector reform

**Criminal justice and emergency law** Justice sector reform→Criminal justice and emergency law→Reform to specific laws

Page 8, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 35. The Rights of the Accused

(1) The accused is presumed innocent until proven guilty in a final manner by a court of law.

Page 9, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 36. Extradition of the Accused and Criminals

(1) Any person who has been accused or convicted may be extradited only in a manner prescribed by law and on the basis of an international treaty or convention which the Federal Republic of Somalia is party to, and which obliges the Federal State of Somalia to extradite the accused or convicted.

(2) Any accused or convicted person shall be extradited only in accordance with international law and practice, and on the basis of legislation governing extradition, which has been passed by the Federal Parliament.

Page 10, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 38. Limitation of Rights

... (5) Possible restriction of fundamental rights during a state of emergency is dealt with in Chapter 14, Article 131 of this Constitution.



**State of emergency provisions** Page 10, Article 38. Limitation of Rights, ... (5) Possible restriction of fundamental rights during a state of emergency is dealt with in Chapter 14, Article 131 of this Constitution.

Page 22, Article 71. The Upper House of the Federal Parliament, The Upper House of the Federal Parliament represents the Federal Member States, and its legislative duties include: ... (h) Participation in the process of declaring a state of emergency in accordance with the Constitution; and

Page 28, Article 90. The Responsibilities and Powers of the President of the Federal Republic of Somalia, The powers and responsibilities of the President of the Federal Republic of Somalia are to:

(a) Declare a state of emergency and war in accordance with the law;

Page 46-47, Article 131. State of emergency

(1) A State of emergency may be declared only if it is necessary to deal with a serious situation arising from war, invasion, insurrection, disorder, a natural disaster or some other grave public emergency.

(2) A State of emergency may be declared affecting the whole or part of the country, but shall not be more extensive than necessary to deal with the situation.

(3) The President acting on the request of the Council of Ministers may declare a necessary State of emergency, which shall then be debated, and may be approved, by both Houses of the Federal Parliament within 21 days after that declaration. The debates in the Federal Parliament shall take place in public unless it is not feasible to do so in the circumstances.

(4) The Federal Parliament may approve or extend a state of emergency for no more than three

months at a time. If the Federal Parliament does not approve or extend a State of emergency, the State of emergency ceases to be in effect.

(5) The declaration of a State of emergency may give the executive special powers that are necessary

to deal with the situation only.

(6) The powers granted under a State of emergency shall not include powers to violate the rights under this Constitution, unless that violation is absolutely necessary for the purposes of dealing with the emergency situation.

(7) The validity of a declaration of a State of emergency, and the procedures involved in making the

declaration, may be challenged in court.

Page 55, SCHEDULE ONE (C) – TRANSITION: PROPOSED AMENDMENTS TO THE CONSTITUTION IN THE FIRST TERM OF THE FEDERAL PARLIAMENT

In terms of Article 133 and 134, the Somali Federal Parliament shall propose and enact amendments to this Provisional Constitution, in conformity with agreements negotiated between the Federal Government and the Existing Federal Member States and new Federal Member States, including but not limited to the following: ... (11) To Articles 131, concerning states of emergency.

## Judiciary and courts

Page 2, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 4. Supremacy of the Constitution

... (2) Any law, or administrative action that is contrary to the Constitution may be invalidated by the Constitutional Court, which has the authority to do so in accordance with this Constitution.

Page 8, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:

Rights, Basic Personal Liberties and Limitations

Article 34. Access to Courts and Legal Defence

(1) Every person is entitled to file a legal case before a competent court.

...

Page 9, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:

Rights, Basic Personal Liberties and Limitations

Article 35. The Rights of the Accused

... (5) Every person who is arrested has the right to be brought before a competent court within 48 hours of the arrest.

Page 10, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title

Two: Rights, Basic Personal Liberties and Limitations

Article 40. Interpretation of the Fundamental Rights

(1) When interpreting the rights set out in this Chapter, a court shall take an approach that seeks to achieve the purposes of the rights and the values that underlie them.

(2) In interpreting these rights, the court may consider the Shari'ah, international law, and decisions of courts in other countries, though it is not bound to follow these decisions.

(3) When interpreting and applying the law generally, a court or any tribunal shall consider the relevance of the provisions of this Chapter, and make its decisions compatible with these provisions, as far as is possible.

Page 22, CHAPTER 6: THE FEDERAL PARLIAMENT, Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 71. The Upper House of the Federal Parliament

The Upper House of the Federal Parliament represents the Federal Member States, and its legislative duties include:

(i) Participation in the process of appointing the following members of government institutions, as provided for by the Constitution:

(i) Members of the Judicial Service Commission;

(ii) Chairman and Judges of the Constitutional Court;

Page 28, CHAPTER 7: THE PRESIDENT OF THE FEDERAL REPUBLIC

Article 90. The Responsibilities and Powers of the President of the Federal Republic of Somalia

The powers and responsibilities of the President of the Federal Republic of Somalia are to:

... (j) Appoint the chairman of the Constitutional Court, the High Court, and other judges at the Federal Government Level in accordance with the recommendation of the Judicial Service Commission;

Page 33, CHAPTER 9: THE JUDICIAL AUTHORITY

Article 105. The Judicial Authority of the Federal Republic of Somalia

(1) Judicial authority is vested in the courts.

(2) The judicial structure shall be regulated in a law enacted by the Federal Parliament.

Page 33, CHAPTER 9: THE JUDICIAL AUTHORITY

**Prisons and  
detention**

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations

Article 29. Children

... (4) Every child may be detained only as a last resort, for a limited time, in appropriate conditions, and must be detained separately from adults with the exception of the child's immediate family. The child's immediate family must be informed of the child's detention as soon as practicable.

Page 9, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations

Article 35. The Rights of the Accused

... (11) The accused cannot be kept in an illegal detention centre, and must be granted visits by his or her family, doctor or lawyer.

**Traditional Laws**

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 1. The Federal Republic of Somalia

(2) After Allah the Almighty, all power is vested in the people and can only be exercised in accordance with the Constitution and the law and through the relevant institutions. It is prohibited for a person or a section of the public to claim the sovereignty of the Federal Republic of Somalia, or to use it for their personal interest.

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 2. State and Religion

(3) No law can be enacted that is not compliant with the general principles and objectives of Shari'ah.

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 3. Founding Principles

(1) The Constitution of the Federal Republic of Somalia is based on the foundations of the Holy Quran and the Sunna of our prophet Mohamed (PBUH) and protects the higher objectives of Shari'ah and social justice.

Page 1, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 4. Supremacy of the Constitution

(1) After the Shari'ah, the Constitution of the Federal Republic of Somalia is the supreme law of the country. It binds the government and guides policy initiatives and decisions in all sections of government.

Page 8, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 31. Language and Culture

(1) The state shall promote the positive traditions and cultural practices of the Somali people, whilst striving to eliminate from the community customs and emerging practices which negatively impact the unity, civilization and wellbeing of society.

Page 10, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 40. Interpretation of the Fundamental Rights

... (2) In interpreting these rights, the court may consider the Shari'ah, international law, and decisions of courts in other countries, though it is not bound to follow these decisions.

... (4) The recognition of the fundamental rights set out in this Chapter does not deny the existence of any other rights that are recognized or conferred by Shari'ah, or by customary law or legislation to the extent that they are consistent with the Shari'ah and the Constitution.

**Socio-economic reconstruction**

**Development or socio-economic reconstruction**

Socio-economic reconstruction→Development or socio-economic reconstruction→Socio-economic development

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 30. Education

... (3) The State shall give priority to the development, expansion and extension of public education.

(4) Private schools, institutes and universities shall be established according to law and in line with the educational program and academic curricula of the country.

... (6) The State shall adopt a standardized curriculum across all schools of the country, and shall ensure its implementation.

(7) The State shall promote higher education, technical institutes, and technology and research institutions.

Page 15, CHAPTER 5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 51. Collaborative Relationships Between the Various Levels of Government in the Federal Republic of Somalia

(2) Every government shall respect and protect the limits of its powers and the powers of other governments, and shall:

... (c) Have policies that facilitate the planning and implementation of joint development projects.

Page 15, CHAPTER 5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 52. Cooperative Relationships Between the Various Federal Member State Governments

(1) The Federal Government and Federal Member State governments shall ensure that meetings between the Presidents of the Federal Member States and high ranking officials be held regularly to discuss issues that affect their territories, including:

... (f) Health;

(g) Education;

Page 54, SCHEDULE ONE (D) – PRIORITY LAWS TO BE ENACTED IN THE FIRST TERM OF THE FEDERAL PARLIAMENT

The Drafting Commission shall prioritize drafting projects concerning new laws, in conformity with agreements negotiated between the Federal Government and the existing Federal Member States and new Federated States, including but not limited to the following:

... (3) A law in terms of Article 30, concerning the establishment of private schools, institutes and universities;

**National economic plan** Page 15, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 51. Collaborative Relationships Between the Various Levels of Government in the Federal Republic of Somalia

(3) In order to ensure the existence and development of cooperative federal relations, an annual conference of Executive heads of the Federal Government and the Federal Member State governments shall regularly be convened, so as to discuss and agree on:  
... (c) National socio-economic development, and common market policies of the country;

**Natural resources** Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 25. Environment

... (2) Every person has the right to have a share of the natural resources of the country, whilst being protected from excessive and damaging exploitation of these natural resources.

Page 12, CHAPTER 3: LAND, PROPERTY AND ENVIRONMENT

Article 44. Natural Resources

The allocation of the natural resources of the Federal Republic of Somalia shall be negotiated by, and agreed upon, by the Federal Government and the Federal Member States in accordance with this Constitution.

Page 12, CHAPTER 3: LAND, PROPERTY AND ENVIRONMENT

Article 45. Environment

... (2) All people in the Federal Republic of Somalia have a duty to safeguard and enhance the environment and participate in the development, execution, management, conservation and protection of the natural resources and environment.

**International funds** No specific mention.

**Business** Page 15, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 52. Cooperative Relationships Between the Various Federal Member State Governments

(1) The Federal Government and Federal Member State governments shall ensure that meetings between the Presidents of the Federal Member States and high ranking officials be held regularly to discuss issues that affect their territories, including:

... (b) Agriculture;

(c) Animal husbandry;

(d) Pasture and forestry;

## **Taxation**

Socio-economic reconstruction→Taxation→Other

Page 11, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title 3:  
Duties of Citizens

Article 42. Duties of the Citizens

... (2) The exercise of equality, freedoms, and other rights is inseparable from duties.

Accordingly, it is the duty of each citizen:

... (h) To become a good tax-payer in order to contribute to the public expenditure according to the law and the citizen's capacity to pay; and

## **Banks**

Socio-economic reconstruction→Banks→Central bank

Page 44, CHAPTER 12: FEDERAL MEMBER STATES, CHAPTER 13: PUBLIC FINANCE

Article 123. The Federal Central Bank

(1) A law passed by the Federal Parliament shall establish the Federal Central Bank of the Federal Republic of Somalia.

(2) The Federal Central Bank of the Federal Republic of Somalia shall be responsible for formulating and implementing financial policies and monetary policies and all the banks shall abide by the regulations set by the Federal Central Bank.

(3) The main functions of the Federal Central Bank of the Federal Republic of Somalia are to:

(a) Produce currency;

(b) Control inflation;

(c) Stabilize exchange rates; and

(d) Establish a sound banking system.

(4) The financial policy shall be based on the market forces and lending shall not be based on administrative decisions.

(5) The Federal Central Bank of the Federal Republic of Somalia has full authority to execute the monetary policy.

(6) The Federal Central Bank is the National Reserve Bank

Page 45, CHAPTER 12: FEDERAL MEMBER STATES, CHAPTER 13: PUBLIC FINANCE

Article 125. The National Reserve

(1) A law enacted by the Federal Parliament shall establish a National Reserve. That law shall also determine legitimate revenue collection and expenditure disbursement relating to institutions at all levels within the Federal Republic of Somalia. That law shall be based on an accountability system that has been tested worldwide and is known to have standards related to financial reserve and expenditure that can equally be implemented in every part of the Federal Republic of Somalia.

(2) The National Reserve shall ensure the implementation of the principle stated in Clause 1 and it shall stop disbursement of funds to any government department that commits major violations or constantly violates the law of National Reserve.

Page 55, SCHEDULE ONE (D) – PRIORITY LAWS TO BE ENACTED IN THE FIRST TERM OF THE FEDERAL PARLIAMENT

The Drafting Commission shall prioritize drafting projects concerning new laws, in conformity with agreements negotiated between the Federal Government and the existing Federal Member States and new Federated States, including but not limited to the following:

... (14) A law in terms of Article 123, establishing the Central Bank of the Federal Republic of Somalia;





**Land, property and environment**

**Land reform/rights** Land, property and environment→Land reform/rights→Land reform and management  
Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two:  
Rights, Basic Personal Liberties and Limitations

Article 26. Property

... (2) The state may compulsorily acquire property only if doing so is in the public interest. Any person whose property has been acquired in the name of the public interest has the right to just compensation from the State as agreed by the parties or decided by a court.

Page 11, CHAPTER 3: LAND, PROPERTY AND ENVIRONMENT

Article 43. Land

... (2) Land shall be held, used and managed in an equitable, efficient, productive and sustainable manner.

(3) The Federal Government shall develop a national land policy, which shall be subject to constant review. That policy shall ensure:

- (a) Equity in land allocation and the use of its resources;
- (b) The guarantee of land ownership and registration;
- (c) That land is utilised without causing harm to the land;
- (d) That any land and property dispute is resolved promptly and satisfactorily for all;
- (e) That the amount of land that a person or a company can own is specified;
- (f) That the land and property market is regulated in a manner that prevents violations of the rights of small land owners; and
- (g) That the Federal Member States may formulate land policies at their level.

(4) No permit may be granted regarding the permanent use of any portion of the land, sea or air of the territory of the Federal Republic of Somalia. The Federal Parliament shall enact a law regulating the size, timeline and conditions of permits of land use.

Page 11, (5) The Federal Government, in consultation with the Federal Member States and other stakeholders, shall regulate land policy, and land control and use measures.

Page 54, SCHEDULE ONE (C) – TRANSITION: PROPOSED AMENDMENTS TO THE CONSTITUTION IN THE FIRST TERM OF THE FEDERAL PARLIAMENT

In terms of Article 133 and 134, the Somali Federal Parliament shall propose and enact amendments to this Provisional Constitution, in conformity with agreements negotiated between the Federal Government and the Existing Federal Member States and new Federal Member States, including but not limited to the following:

... (5) To Article 43, concerning dispositions of federal land;

Page 46-47, CHAPTER14: PEACE AND SECURITY

Article 131. State of Emergency

(1) A State of Emergency may be declared only if it is necessary to deal with a serious situation arising from war, invasion, insurrection, disorder, a natural disaster or some other grave public emergency.

(2) A State of Emergency may be declared affecting the whole or part of the country, but shall not be more extensive than necessary to deal with the situation.

(3) The President acting on the request of the Council of Ministers may declare a necessary State of Emergency, which shall then be debated, and may be approved, by both Houses of the Federal Parliament within 21 days after that declaration. The debates in the Federal Parliament shall take place in public unless it is no feasible to do so in the circumstances.

(4) The Federal Parliament may approve or extend a state of emergency for no more than three months at a time. If the Federal Parliament does not approve or extend a State of Emergency, the State of Emergency ceases to be in effect.

(5) The declaration of a State of Emergency may give the executive special powers that are necessary to deal with the situation only

**Pastoralist/  
nomadism rights**

No specific mention.

**Cultural heritage**

Land, property and environment→Cultural heritage→Tangible

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 30. Education

... (5) The State shall encourage the promotion of research, creativity, and arts, and the advancement of cultural and traditional dances and sports and shall promote the positive customs and traditions of the Somali people.

Page 8, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 31. Language and Culture

... (2) The state shall collect, protect and preserve the country's historic objects and sites, whilst developing the know-how and technology that shall enable the fulfillment of such an obligation.

... (4) The rights mentioned in this Article shall be implemented in accordance with the fundamental rights recognized in this Constitution.

Land, property and environment→Cultural heritage→Intangible

Page 2, CHAPTER 1: DECLARATION OF THE FEDERAL REPUBLIC OF SOMALIA

Article 5. Official Languages

The official language of the Federal Republic of Somalia is Somali (Maay and Maxaa-tiri), and Arabic is the second language.

Page 8, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 31. Language and Culture

... (3) The state shall promote the cultural practices and local dialects of minorities.

(4) The rights mentioned in this Article shall be implemented in accordance with the fundamental rights recognized in this Constitution.

## Environment

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 25. Environment

(1) Every person has the right to an environment that is not harmful to their health and well-being, and to be protected from pollution and harmful materials.

Page 11, CHAPTER 3: LAND, PROPERTY AND ENVIRONMENT

Article 43. Land

... (3) The Federal Government shall develop a national land policy, which shall be subject to constant review. That policy shall ensure:

... (c) That land is utilised without causing harm to the land;

Page 12, CHAPTER 3: LAND, PROPERTY AND ENVIRONMENT

Article 45. Environment

(1) The Federal Government shall give priority to the protection, conservation, and preservation of the environment against anything that may cause harm to natural biodiversity and the ecosystem.

(2) All people in the Federal Republic of Somalia have a duty to safeguard and enhance the environment and participate in the development, execution, management, conservation and protection of the natural resources and environment.

(3) The Federal Government and the governments of the Federal Member States affected by environmental damage shall:

(a) Take urgent measures to clean up hazardous waste dumped on the land or in the waters of the Federal Republic of Somalia;

(b) Enact legislation and adopt urgent necessary measures to prevent the future dumping of waste in breach of international law and the sovereignty of the Federal Republic of Somalia;

(c) Take necessary measures to obtain compensation from those responsible for any dumping of waste, whether they are in the Federal Republic of Somalia or elsewhere;

(d) Take necessary measures to reverse desertification, deforestation and environmental degradation, and to conserve the environment and prevent activities that damage the natural resources and the environment of the nation.

(4) In consultation with the Federal Member States, the Federal Government shall adopt general environmental policies for the Federal Republic of Somalia.

Page 15, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 52. Cooperative Relationships Between the Various Federal Member State Governments

(1) The Federal Government and Federal Member State governments shall ensure that meetings between the Presidents of the Federal Member States and high ranking officials be held regularly to discuss issues that affect their territories, including:

... (e) The prevention of erosion and the protection of the environment;

Page 46, CHAPTER14: PEACE AND SECURITY

Article 131. State of Emergency

(1) A State of Emergency may be declared only if it is necessary to deal with a serious situation arising from war, invasion, insurrection, disorder, a natural disaster or some other grave public emergency.

Page 48, CHAPTER 15: FINAL AND TRANSITIONAL PROVISIONS

Article 133. Provisions Applicable to an Amendment to the Provisional Constitution

Schedule One (C), or a Law Mentioned in Schedule One (D) of this Constitution, Proposed Before the Expiry of the First Term of the Federal Parliament: The Oversight Committee

**Water or riparian rights or access**

Page 6, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations  
Article 27. Economic and Social Rights  
(1) Every person has the right to clean potable water.

Page 15, CHAPTER 5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 52. Cooperative Relationships Between the Various Federal Member State Governments

(1) The Federal Government and Federal Member State governments shall ensure that meetings between the Presidents of the Federal Member States and high ranking officials be held regularly to discuss issues that affect their territories, including:

(a) Water sources;

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**Security sector**

**Security  
Guarantees**

Page 7, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 29. Children

... (6) Every child has the right to be protected from armed conflict, and not to be used in armed conflict.

Page 11, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title 3: Duties of Citizens

Article 42. Duties of the Citizens

... (2) The exercise of equality, freedoms, and other rights is inseparable from duties.

Accordingly, it is the duty of each citizen:

... (i) To defend the territory of the Federal Republic of Somalia.

Page 15, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 51. Collaborative Relationships Between the Various Levels of Government in the Federal Republic of Somalia

(3) In order to ensure the existence and development of cooperative federal relations, an annual conference of Executive heads of the Federal Government and the Federal Member State governments shall regularly be convened, so as to discuss and agree on:

... (b) Security and peace of the country;

Page 16, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 54. Allocation of powers

The allocation of powers and resources shall be negotiated and agreed upon by the Federal Government and the Federal Member States (pending the formation of Federal Member States), except in matters concerning: ... (B) National Defense;

Page 39, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111H. National Security Commission

(1) A National Security Commission shall be established by federal law. The National Security Commission shall be independent and shall comprise security experts from all sectors.

(2) The mandate of the National Security Commission shall be to:

(a) Study and develop an integrated security framework to address the present and future needs of Somalia for review and adoption by the Federal Parliament;

(b) Present proposals to ensure that human security is prioritized and incorporated into the national security framework;

(c) Develop a framework through which the public may provide oversight and monitor security related expenditure; and

(d) Seek redress from abuses by security personnel.

(3) The priority issues to be addressed by the National Security Commission shall include:

(a) Piracy;

(b) Demobilization of militias and reintegration into society which includes skills training and the provision of material support and psychological counseling;

(c) Policing; and

(d) Ensuring civilian control of the armed forces.

(4) The National Security Commission shall establish a Civilian Oversight Sub-Committee comprising security experts, members of the Federal Parliament, academics and civil society representatives from all sectors of Somali society. The mandate of the Civilian Oversight Sub-Committee shall be to:

... (a) Monitor the activities of the National Security Commission and its members; and



**Ceasefire**

No specific mention.

**Police**

Page 39, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111H. National Security Commission

... (2) The mandate of the National Security Commission shall be to:

... (d) Seek redress from abuses by security personnel.

... (3) The priority issues to be addressed by the National Security Commission shall include:

(c) Policing; and

(4) The National Security Commission shall establish a Civilian Oversight Sub-Committee comprising security experts, members of the Federal Parliament, academics and civil society representatives from all sectors of Somali society. The mandate of the Civilian Oversight Sub-Committee shall be to:

(d) Seek redress from abuses by security personnel.

Page 45, CHAPTER14: PEACE AND SECURITY

Article 126. Ensuring Security of the Federal Republic of Somalia

(1) The Federal Government shall guarantee the peace, sovereignty and national security of the Federal Republic of Somalia and the safety of its people through its security services, including:

... (c) The police force; and

(d) The prison forces.

Page 45, CHAPTER14: PEACE AND SECURITY

Article 126. Ensuring Security of the Federal Republic of Somalia

... (4) The federal police force has the mandate to protect the lives and property, the peace and security of the citizens and other residents of the Federal Republic of Somalia.

(5) The police forces established by the laws of the Federal Member States have the mandate to protect lives and property and preserve peace and security locally, alone or in cooperation with the federal police force.

Page 55, SCHEDULE ONE (D) – PRIORITY LAWS TO BE ENACTED IN THE FIRST TERM OF THE FEDERAL PARLIAMENT

The Drafting Commission shall prioritize drafting projects concerning new laws, in conformity with agreements negotiated between the Federal Government and the existing Federal Member States and new Federated States, including but not limited to the following:

... (17) A law in terms of Article 130, regulating the structure and functions of the federal police;

(18) A law in terms of Article 130, regulating the relationships between the federal police service and the police services of the Federal Member States;

... (21) A law in terms of Article 130, concerning the involvement of civilians in the oversight of the federal police service;

## Armed forces

Page 28, CHAPTER 7: THE PRESIDENT OF THE FEDERAL REPUBLIC

Article 90. The Responsibilities and Powers of the President of the Federal Republic of Somalia

The powers and responsibilities of the President of the Federal Republic of Somalia are to:

- (a) Declare a state of emergency and war in accordance with the law;
- (b) Serve as Commander in Chief of the Armed Forces;
- (c) Appoint and dismiss the Commanders of the Forces at the Federal Government Level on the recommendation by the Council of Ministers;

Page 39, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111H. National Security Commission

... (3) The priority issues to be addressed by the National Security Commission shall include:

... (d) Ensuring civilian control of the armed forces.

Page 45, CHAPTER14: PEACE AND SECURITY

Article 126. Ensuring Security of the Federal Republic of Somalia

(1) The Federal Government shall guarantee the peace, sovereignty and national security of the Federal Republic of Somalia and the safety of its people through its security services, including:

(a) The armed forces;

... (2) The deployment of the security forces shall be determined by law.

(3) The armed forces of the Federal Republic of Somalia have the mandate to guarantee the sovereignty and independence of the country and to defend its territorial integrity.

Page 45, CHAPTER14: PEACE AND SECURITY

Article 126. Ensuring Security of the Federal Republic of Somalia

... (6) The armed national security agencies shall be controlled by civilian agencies.

Page 45-46, CHAPTER14: PEACE AND SECURITY

Article 127. Principles for the Security Forces

(1) The security forces must respect the following principles:

(a) Professionalism, discipline and patriotism;

(b) Respect for the rule of law, democratic institutions and fundamental rights;

(c) A commitment to uphold the Constitution of the Federal Republic of Somalia;

(d) Transparency and accountability;

(e) Political neutrality; and

(f) Members of the forces shall be trained on the implementation of this Constitution, the laws of the land and the international treaties to which the Federal Republic of Somalia is a party.

(2) Every Somali citizen is entitled to be considered for positions in the national armed forces at all levels, without discrimination, and the rights of women shall be protected in this respect.

Page 46, CHAPTER14: PEACE AND SECURITY

Article 128. Abuse of Powers

Human rights abuses alleged to have been committed by members of the armed forces against civilians shall be brought before a civilian court.

Page 46, CHAPTER14: PEACE AND SECURITY

Article 129. The Office of the Ombudsman

(1) This Constitution establishes the Office of the Ombudsman which is an entity where the public can lodge their complaints against abuses committed by the members of the security forces and the government administration

**DDR**

Security sector→DDR→DDR programmes

Page 39, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111H. National Security Commission

... (3) The priority issues to be addressed by the National Security Commission shall include:

... (b) Demobilization of militias and reintegration into society which includes skills training and the provision of material support and psychological counseling;

**Intelligence services**

Page 45, CHAPTER 14: PEACE AND SECURITY

Article 126. Ensuring Security of the Federal Republic of Somalia

(1) The Federal Government shall guarantee the peace, sovereignty and national security of the Federal Republic of Somalia and the safety of its people through its security services, including:

... (b) The intelligence services;

**Parastatal/rebel and opposition group forces**

Page 46, CHAPTER 14: PEACE AND SECURITY

Article 130. Security Agencies Laws

The two Houses of the Parliament shall enact a law governing the structure, functions and levels of the security agencies of the Federal Republic of Somalia.

Page 54, SCHEDULE ONE (C) – TRANSITION: PROPOSED AMENDMENTS TO THE CONSTITUTION IN THE FIRST TERM OF THE FEDERAL PARLIAMENT

In terms of Article 133 and 134, the Somali Federal Parliament shall propose and enact amendments to this Provisional Constitution, in conformity with agreements negotiated between the Federal Government and the Existing Federal Member States and new Federal Member States, including but not limited to the following:

... (9) To Article 130, prohibiting private militias;

Page 54, SCHEDULE ONE (C) – TRANSITION: PROPOSED AMENDMENTS TO THE CONSTITUTION IN THE FIRST TERM OF THE FEDERAL PARLIAMENT

In terms of Article 133 and 134, the Somali Federal Parliament shall propose and enact amendments to this Provisional Constitution, in conformity with agreements negotiated between the Federal Government and the Existing Federal Member States and new Federal Member States, including but not limited to the following:

... (10) To Article 130, regulating private security companies;

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Page 54, SCHEDULE ONE (C) – TRANSITION: PROPOSED AMENDMENTS TO THE CONSTITUTION IN THE FIRST TERM OF THE FEDERAL PARLIAMENT

In terms of Article 133 and 134, the Somali Federal Parliament shall propose and enact amendments to this Provisional Constitution, in conformity with agreements negotiated between the Federal Government and the Existing Federal Member States and new Federal Member States, including but not limited to the following:

... (9) To Article 130, prohibiting private militias;

**Withdrawal of foreign forces**

No specific mention.

## Corruption

Page 8, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 32. Right of Access to Information

- (1) Every person has the right of access to information held by the state.
- (2) Every person has the right of access to any information that is held by another person which is required for the exercise or protection of any other just right.
- (3) Federal Parliament shall enact a law to ensure the right of access to information.

Page 8, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations

Article 33. Just Administrative Decisions

Every person has the right to administrative decisions that are lawful, reasonable and conducted in a procedurally fair manner.

Page 42, CHAPTER 11: CIVIL SERVICE

Article 115. Civil Service Values

The civil service at all levels of government is a pledge to serve the people and shall be based on the values of the Constitution, compassion, transparency, community service, respect for administrative hierarchy, obedience, confidentiality, work ethics, efficiency, effectiveness, professionalism protect principles of fairness, equality and best practices.

Page 36, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 110. General Principles

... (2) In its mandate and operations, an Independent Commission shall embody and reflect the spirit of human rights, democracy and transparency.

Page 37, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111C. The Anti-Corruption Commission

- (1) There shall be an Anti-Corruption Commission and its mandate is to investigate allegations of corruption that implicate the public sector.
- (2) The Anti-Corruption Commission may conduct enquiries at its own discretion and is not required to act only upon a complaint.
- (3) The mandate of the Anti-Corruption Commission includes:
  - (a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
  - (b) The advancement, facilitation and support of international co-operation related to anticorruption policies; and
  - (c) To promote integrity, accountability, and proper management of public matters and property.
- (4) The powers of the Anti-Corruption Commission include:
  - (a) To prevent, investigate and publish corruption allegations;
  - (b) To freeze, seize, confiscate or return any gains from criminal activity; and
  - (c) To support the adoption of such laws and other measures necessary to effectively prevent and prosecute criminal offences relating to corruption.
- (5) The scope of the Anti-Corruption Commission includes issues relating to:
  - (a) Corruption of national or foreign public officials and officials of public international organizations;
  - (b) Embezzlement, misappropriation or other diversion by a public official of any public or private property;
  - (c) Trading in influence; and
  - (d) Abuse of functions and illicit enrichment.
- (6) The Anticorruption Commission shall be independent, impartial, representative and inclusive and shall have not more than nine members.

Page 45, 46, CHAPTER 14: PEACE AND SECURITY

<b>Crime/organised crime</b>	Page 39, CHAPTER 10: THE INDEPENDENT COMMISSIONS Article 111H. National Security Commission ... (3) The priority issues to be addressed by the National Security Commission shall include: (a) Piracy;
<b>Drugs</b>	No specific mention.
<b>Terrorism</b>	Page 55, SCHEDULE ONE (D) – PRIORITY LAWS TO BE ENACTED IN THE FIRST TERM OF THE FEDERAL PARLIAMENT The Drafting Commission shall prioritize drafting projects concerning new laws, in conformity with agreements negotiated between the Federal Government and the existing Federal Member States and new Federated States, including but not limited to the following: ... (16) Laws in terms of Article 130, establishing specialized bodies as necessary to deal with antiterrorism, anti-piracy, human trafficking and other organized crime;

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**Transitional justice**

<b>Transitional justice general</b>	No specific mention.
<b>Amnesty/pardon</b>	Transitional justice→Amnesty/pardon→Power to amnesty Page 28, CHAPTER 7: THE PRESIDENT OF THE FEDERAL REPUBLIC Article 90. The Responsibilities and Powers of the President of the Federal Republic of Somalia The powers and responsibilities of the President of the Federal Republic of Somalia are to: ... (p) Pardon offenders and commute sentences on the recommendation of the Judicial Service Commission; and
<b>Courts</b>	Transitional justice→Courts→National courts Page 10, CHAPTER 2: FUNDAMENTAL RIGHTS AND THE DUTIES OF THE CITIZEN, Title Two: Rights, Basic Personal Liberties and Limitations Article 39. Redress of Violations of Human Rights ... (2) Redress of violations of human rights must be available in courts that the people can readily access.
<b>Mechanism</b>	No specific mention.
<b>Prisoner release</b>	No specific mention.
<b>Vetting</b>	No specific mention.
<b>Victims</b>	No specific mention.

**Missing persons** No specific mention.

**Reparations** No specific mention.

**Reconciliation** Page 14, CHAPTER5: DEVOLUTION OF THE POWERS OF STATE IN THE FEDERAL REPUBLIC OF SOMALIA, Title One: Structure and Principles of Collaboration of the Levels of Government

Article 50. Principles of Federalism in the Federal Republic of Somalia

The various levels of government, in all interactions between themselves and in the exercise of their legislative functions and other powers, shall observe the principles of federalism, which are:

... (g) The resolution of disputes through dialogue and reconciliation.

Page 40-41, CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 111I. Truth and Reconciliation Commission

(1) There shall be established a Truth and Reconciliation Commission to foster national healing, reconciliation and unity and to ensure that matters relating to impunity, revenge and other triggers of violence are addressed through a legal and state directed process.

(2) The Truth and Reconciliation Commission shall be independent, impartial and representative and shall include: traditional elders and leaders, members of the Federal Parliament, respected members of civil society, judges and security personnel.

(3) The mandate of the Truth and Reconciliation Commission shall include:

(a) Bearing witness to, record, and in some cases, grant amnesty to the perpetrators of crimes

relating to human rights violations, and rehabilitation of the criminals; and

(b) Promoting forgiveness, reconciliation and national unity.

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## **Implementation**

**UN signatory** No specific mention.

**Other international signatory** No specific mention.

**Referendum for agreement**

Page 51-52, CHAPTER 15: FINAL AND TRANSITIONAL PROVISIONS

Article 136. Adoption of a Constitutional Amendment During the First Term of the House of the People; Adoption of the Final Constitution.

(1) During the first term of the Somali Federal Parliament, it shall adopt a proposed amendment to the Provisional Constitution only after approving it in a final vote in the House of the People by at least two-thirds (2/3) of the existing Members, and in a final vote in the Upper House of the Federal Parliament by at least two-thirds (2/3) of the existing members.

(2) In a referendum held concerning the Provisional Constitution as amended, held before the end of the first term of the House of the People, the electorate of the Federal Republic of Somalia may adopt the new Constitution by a majority vote in favor of the final version of this Constitution.

Page 51-52, CHAPTER 15: FINAL AND TRANSITIONAL PROVISIONS

Article 137. Review of the Constitution of the Federal Republic of Somalia After Ratification by Referendum

... (4) If the Federal Parliament approves one or more proposed amendments in terms of Article 132, the Federal Parliament shall follow the procedures set forth in Article 132 on the proposed revised Constitution of the Federal Republic of Somalia as amended.

(5) If a majority of those voting in the referendum mentioned in Clause 4 vote to approve the final Constitution as amended, that Constitution becomes the Constitution of the Federal Republic of Somalia.

Page 55, SCHEDULE ONE (D) – PRIORITY LAWS TO BE ENACTED IN THE FIRST TERM OF THE FEDERAL PARLIAMENT

The Drafting Commission shall prioritize drafting projects concerning new laws, in conformity with agreements negotiated between the Federal Government and the existing Federal Member States and new Federated States, including but not limited to the following:

... (22) A law in terms of Article 141, concerning the conduct of a referendum.

**International mission/force/similar**

No specific mention.

**Enforcement mechanism**

Page 51-52, CHAPTER 15: FINAL AND TRANSITIONAL PROVISIONS  
Article 137. Review of the Constitution of the Federal Republic of Somalia After Ratification by Referendum

(1) At the expiry of the first term of the Federal Parliament of Somalia, the Federal Parliament shall establish a Commission to review the implementation and operation of the Constitution of the Federal Republic of Somalia, as ratified in terms of Article 136 on adoption of the final Constitution, and to consult the Federal Member States and members of the public on possible changes.

(2) Within six months after its appointment, the Commission shall submit a report to the Federal Parliament, the Federal Member States and the public.

(3) After collection and consideration of the views of the Federal Member States, the public, and monitoring and evaluating the implementation and application of the final Constitution and not less than six (6) months before the expiry of the second term of the Somali Federal Parliament, the Commission, in consultation with the Chief Justice of the Constitutional Court to ensure that the letter and spirit of the Constitution is respected, shall revise its report and submit to the Federal Parliament its proposals, if any, for amending the Constitution in terms of Article 132.

**Related cases**

No specific mention.

**Source**

UNPOS: <http://unpos.unmissions.org/LinkClick.aspx?fileticket=RkJTOSpoMME=>

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