



The Federal Republic of Somalia

جمهورية الصومال

Draft Constitution Technical Review Committee

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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 and a multiparty system and social justice.
- (2) After Allah the Almighty, all power is vested in the public and can only be exercised in accordance with the Constitution and the law directly 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.

Article 2. State and Religion

- (1) Islam is the religion of the State.
- (2) No religion other than Islam can be propagated in the country.
- (3) No law which is not compliant with the general principles of Shari'ah can be enacted.

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, 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 all national institutions, in an effective way, in particular all elected and appointed positions across the three branches of Government and in national independent commissions.

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 departments of government.
- (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.

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.

Article 6. The Flag and National Symbols

- (1) The flag of the Federal Republic of Somalia, as shown in section A of Schedule 1, 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 1, 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 member states of the Federal Republic of Somalia shall have their own flags and national symbols in accordance with the federal system.

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.
- (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 the Republic 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.

Article 8. The Public and the Citizenship

- (1) The people of the Federal Republic of Somalia consist of all the citizens, and are indivisible.
- (2) There shall be only one Somali nationality, and the House of the People of the Federal Parliament of Somalia shall enact a special law that shall define how to obtain, suspend, or lose it.
- (3) A person who is a Somali citizen cannot be deprived of Somali citizenship, even if they become a citizen of another country.
- (4) Denial, suspension, or deprivation of Somali citizenship may not be based on political grounds.

Article 9. The Capital City of the Federal Republic of Somalia

The status of the capital city of Somalia shall be determined in the constitutional review process, and the two houses of the Somali Federal Parliament shall enact a special law with regards to this issue.

CHAPTER 2: 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.

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.
- (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.
- (3) Government 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.
- (4) All government 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 not be deemed to be discriminatory.

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 official as they carry out any of 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 39.

Title 2: Rights, basic personal liberties and its limitations

Article 13. Right to Life

Everyone has the right to life.

Article 14. Slavery, Servitude and Forced Labour

A person may not be subjected to slavery, servitude, trafficking, or forced labour for any purpose.

Article 15. Liberty and Security of the Person

- (1) Every person has the right to personal liberty and security.
- (2) Every person has the right to personal security, which shall be safeguarded through the prohibition of illegal detention, all forms of violence, including any form of violence against women, torture, or inhumane treatment.
- (3) The physical integrity of every person is inviolable. No one may be subjected to medical or scientific experiments without their consent or, if a person lacks the legal capacity to consent, the consent of a near relative and the support of expert medical opinion.
- (4) Circumcision of girls 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.

Article 16. Freedom of Association

Every person has the right to associate with other individuals and groups. This includes the right to form and belong to organizations, including trade unions and political parties. It also includes the right not to associate with others, and a person cannot be forced to associate with individuals or groups.

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.

Article 18. Freedom of Expression and Opinions

- (1) Every person has the right to have and express their opinions and to receive and impart their opinion, information and ideas in any way.
- (2) Freedom of expression includes freedom of speech, and freedom of the media, including all forms of electronic and web-based media.
- (3) Every person has the right to freely express their artistic creativity, knowledge, and information gathered through research.

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.

Article 20. Freedom of Assembly, Demonstration, Protest and Petition

- (1) Every person has the right to organize and participate in meetings, and to demonstrate and protest peacefully, without requiring prior authorization.
- (2) Every person has the right to present petitions to governmental institutions.

Article 21. Freedom of Movement and Residence

- (1) Every person lawfully residing within the territory of the Federal Republic of Somalia has the right to freedom of movement, freedom to choose their residence, and freedom to leave the country.
- (2) Every citizen has the right to enter and to remain in the country, and has the right to a passport.

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;
 - (b) The right to be elected for any position within a political party.
- (2) Every citizen who fulfils the criteria stated in the law has the right to elect and to be elected.
- (3) The rights stated in Paragraph (1) and (2) should be exercised in accordance with this Constitution and a law enacted by the Federal Parliament.

Article 23. Freedom of Trade, Occupation and Profession

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

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, shall 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.

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.

Article 26. Property

- (1) Every person has the right to own, use, enjoy, sell, and transfer property.
- (2) The state may only compulsorily acquire property 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 government as agreed by the parties or decided by a court.
- (3) Paragraph (1) and (2) of this Article do not apply to the issues contemplated in Article 49.

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

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.
- (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.
- (4) Adults have a duty to support their parents if the parents are unable to care for themselves.
- (5) No marriage shall be legal without the free consent of both the man and the woman, or if one or both of them have not reached the age of maturity.

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, a child's best interests are of paramount importance
- (8) In this Article a "child" is defined as any person under 18 years of age.

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.
- (3) The government 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.
- (5) The government 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.
- (6) The government shall adopt a standardized curriculum across all schools of the country, and shall ensure its implementation.
- (7) The government shall promote higher education, technical institutes, and technology and research institutions.
- (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.

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.
- (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.
- (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.

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 right of access to information.

Article 33. Just Administrative Decisions

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

Article 34. Access to Courts

- (1) Every person is entitled to file a legal case before a capable court.
- (2) Every person has the right to a fair public hearing by an independent and impartial court or tribunal, to be held within a reasonable time, and to determine:
 - (a) Any question of civil rights and obligations; or
 - (b) Any criminal charge.
- (3) Every person is entitled to defend him/herself from the case he/she is party to, whatever the level or stage of the proceedings may be.
- (4) The state shall provide free legal defense to the people who do not have the means of doing so themselves.

- (5) The state shall provide free legal defense to individuals or communities if they are legally pursuing the public interest.

Article 35. The Right of the Accused

- (1) The accused is presumed innocent until proven guilty in a final manner by a court of law.
- (2) Every person arrested or detained has the right to be informed promptly of the reason for their arrest or detention in a language which the person understands.
- (3) Every person arrested or detained shall have the right for his family and relatives to be informed of his situation.
- (4) Every person may not be compelled to self-incriminate, and a verdict may not be based on evidence acquired by means of coercion.
- (5) Every person who is arrested has the right to be brought before a capable 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 government must appoint a legal practitioner for him or her.
- (7) Every person brought before a court of law for an alleged criminal offence is entitled to a fair trial.
- (8) The accused has the right to be present at their trial.
- (9) The accused has the right to challenge the evidence presented against him or her.
- (10) The accused has the right to an interpreter if the accused person does not understand the language being used in the court.
- (11) The accused cannot be kept in an illegal detention centre, and must be granted visits by his or her family, doctor or lawyer.
- (12) Criminal liability is a personal matter and no person may be convicted of a criminal offence for an act committed by another person.
- (13) No person may be convicted of a crime for committing an act that was not an offence at the time it was committed, unless it is a crime against humanity under international law.

Article 36. Extradition of the Accused and Criminals

- (1) Any person that has been accused or convicted may only be extradited 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 Somali Federal Government to extradite the accused or convicted.

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

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.

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 particular individuals or groups.
- (2) This 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 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 13.

Article 39. Redress of Violations of Human Rights

- (1) The law shall provide for adequate procedures for redress of violations of human rights.
- (2) Redress of violations of human rights must be available in courts that the people can readily access.
- (3) A person or organization may go to court to protect the rights of others who are unable to do so for themselves.

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.
- (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.

Article 41. Human Rights Commission

- (1) The Federal Parliament shall establish a Human Rights Commission that is independent of government 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.

Title 3: Duties of Citizens

Article 42. Duties of the Citizens

- (1) In Islam, justice requires a balance of rights and duties.
- (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;
- (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;
- (i) To defend the territory of the Federal Republic of Somalia.

CHAPTER 3: LAND, PROPERTY AND ENVIRONMENT

Article 43. Land

- (1) Land is Somalia's primary resource and the basis of the people's livelihood.
- (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 that 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 used 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;
 - (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.
- (5) The specification of the authorities of the Federal Government and the Federal Member States in regards to the administration and management of land is defined in Annex 2.
- (6) The Federal Government, in consultation with the Federal Member States and other stakeholders, shall regulate land policy, and land control and use measures.

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.

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.

CHAPTER 4: PUBLIC REPRESENTATION

Title One: General Principles of Public Representation

Article 46. The Power of the Public

- (1) The power of self-governance begins and ends with the public, which has the power to hold accountable public institutions and public servants where necessary.
- (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.
- (3) The public representation system shall be able to satisfactorily and reasonably prevent any crises that may arise as a result of political contests and election results.

Title Two: Elections

Article 47. Electoral System and Political Parties

The regulations concerning political parties, their registration, elections and the Independent Electoral Commission shall be defined in special Laws enacted by the House of the People of the Federal Parliament.

CHAPTER 5: DEVOLUTION OF THE POWERS OF GOVERNMENT IN THE FEDERAL REPUBLIC OF SOMALIA

Article 48. The Structure of Government

- (1) The structure of the government in the Federal Republic of Somalia is composed of two levels of governments:
 - (a) The Federal Government Level;
 - (b) The Federal Member States Level, which is comprised of the Federal Member State government, and the local governments.
- (2) No single region can stand alone. Until such time as a region merges with another region(s) to form a new Federal Member State or joins an existing Federal Member State, a region shall be directly administered by the Federal Government for a maximum period of two years.

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.
- (2) The House of the People of the Federal Parliament, before determining the number and boundaries of the Federal Member States, shall nominate a national commission which shall study the issue, and submit a report of its findings with recommendations to the House of the People of the Federal Parliament.
- (3) The nomination of the commission referred to in Clause two shall be preceded by the enactment of a law by the House of the People of the Federal Parliament, which shall define:
 - (a) The responsibilities and powers of the commission;
 - (b) The parameters and conditions it shall use for the establishment of the Federal Member States;
 - (c) The number of the commissioners, requirements of membership, nomination methods, office tenure, and their remuneration.
- (4) The number and the boundaries of the districts in a Federal Member State shall be determined by a law enacted by the parliament of the Federal Member State, which must be approved by the House of the People of the Federal Parliament.
- (5) Federal Member State boundaries shall be based on the boundaries of the administrative regions as they existed before 1990.
- (6) Based on a voluntary decision, two or more regions may merge to form a Federal Member State.

Article 50. Federalism Principles of the Federal Republic of Somalia

- (1) 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 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 effective exercised;
- (g) The resolution of disputes through dialogue and reconciliation.

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

- (1) Every government shall strive for a cooperative relationship with other governments, whether at the same level or at another level of government.
- (2) Every government shall respect and protect the limits of its powers and the powers of other governments, and shall:
 - (a) Have effective brotherly relationships with other levels of government in order to promote the unity of the citizenry;
 - (b) Inform governments of other levels of policies and activities it implements within its boundaries which may have an impact on the areas of other levels;
 - (c) Have policies that facilitate the planning and implementation of joint development projects.
- (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:
 - (a) Strengthening national unity;
 - (b) Security and peace of the country;
 - (c) National socio-economic development, and common market policies of the country;
 - (d) Promotion of the wealth of the people;
 - (e) Information sharing.
- (4) All levels of government must comply with the national constitution, without any government assuming more powers than the Constitution allocates.
- (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;
- (b) The establishment of guidelines that will facilitate the resolution of disputes between the various levels of government without resorting to court.

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

- (1) The Federal Government and Federal Member State governments shall ensure:
 - (a) 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:
 - (i) Water sources;
 - (ii) Agriculture;
 - (iii) Animal husbandry;
 - (iv) Pasture and forestry;
 - (v) The prevention of erosion and the protection of the environment;
 - (vi) Health;
 - (vii) Education;
 - (viii) Relations and dialogue amongst traditional leaders, and the protection and development of traditional law;
 - (ix) Relations amongst religious scholars; and
 - (x) Youth.
- (2) Federal Member States may enter cooperative agreements amongst themselves or with the Federal Government, which may not be legally binding or contradict the national constitution and the constitutions of the Federal Member States.

Article 53. International Negotiations

- (1) In the spirit of inter-governmental cooperation the Federal Government shall consult the Federal Member States on negotiations relating to foreign aid, trade, treaties, or other major issues related to international agreements.

- (2) Where negotiations particularly affect Federal Member State interests, the negotiating delegation of the Federal Government shall be supplemented by representatives of the Federal Member States governments.
- (3) In conducting negotiations, the Federal Government shall regard itself as the guardian of the interests of the Federal Member States, and must act accordingly.

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: (A) Foreign Affairs; (B) National Defense; (C) Citizenship and Immigration; (D) Monetary Policy.

CHAPTER 6: THE FEDERAL PARLIAMENT

Title One: General Provisions

Article 55. The Houses of the Federal Parliament

- (1) The Federal Parliament of the Federal Republic of Somalia consists of:
 - (a) The House of the People; and
 - (b) The Upper House.
- (2) The House of the People of the Federal Parliament and the Upper House of the Federal Parliament shall carry out their legislative duties in accordance with Title Four of this Chapter of the Constitution of the National Legislative Procedures.

Article 56. Performance of the Federal Parliament

- (1) The Houses of the Federal Parliament:
 - (a) Shall jointly perform their shared duties;
 - (b) Shall each individually perform the duties specific to them.

Article 57. The Legislative Roles that the Two Houses Share

Some of the legislative roles that the two Houses share are:

- (1) When the need arises, the House of the People of the Federal Parliament and the Upper House of the Federal Parliament shall hold joint sessions, which shall be chaired by the Speaker of the Upper House of the Federal Parliament, or any member of the Federal Parliament, in accordance with the rules and regulations of the Houses of the Federal Parliament.
- (2) While chairing the joint sessions, the Chair of the Joint Session shall not have a vote, unless there is a tie in the votes.
- (3) 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:
 - (a) To formulate procedures that guide the activities of the joint committees of the two Houses of the Federal Parliament;
 - (b) To execute procedures for implementing decisions reached by the joint committees of the Federal Parliament;
 - (c) To amend and review the Constitution in accordance with Chapter 15.

Article 58. Membership Criteria for the Federal Parliament

- (1) In order to be eligible for membership of the Federal Parliament of the Federal Republic of Somalia, a person must:
 - (a) Be a citizen of the Federal Republic of Somalia, of sound mind, not younger than 25, and a registered voter;
 - (b) Not have had their citizenship suspended by a court order in the last five (5) years;
 - (c) Have a minimum of secondary education or equivalent experience.
- (2) Before the candidature of a person is accepted, the Independent Electoral Commission shall verify whether the candidate meets the criteria set out in this article.

Article 59. Disqualification of Membership of the Federal Parliament

- (1) Membership of the Federal Parliament can be lost as a result of:

- (a) Death of the member.
 - (b) The member consistently failing to perform his or her duties.
 - (c) The acceptance of a resignation submitted by the member to the House he or she is a member of.
 - (d) Failing to attend two consecutive ordinary sessions of his or her House without a reasonable excuse.
 - (e) The member accepting to hold a government position other than a ministerial post.
 - (f) The member's citizenship rights having been suspended in accordance with the Constitution.
- (2) If a Member of the Federal Parliament loses their membership, the runner-up in the last election shall take up the position.
 - (3) The electoral law shall regulate the procedure for determining the runner-up, who should be sworn in within 30 days of the day of the loss of membership of the Federal Parliament of the member he or she is replacing.

Article 60. Term of Office

- (1) The term of office of the Federal Parliament is 4 years from the day of the announcement of the election results.
- (2) A member of Federal Parliament may be re-elected.

Article 61. Responsibilities of Members of the Federal Parliament

- (1) When fulfilling his or her duties, every member of the Federal Parliament shall be guided by the best interests of the nation as a whole.
- (2) While fulfilling his or her duties in accordance with Clause (1) of this Article, every member of the House of the People of the Federal Parliament has a special responsibility to represent the constituency he or she has been elected from, regardless of their political or party affiliations.
- (3) Every member of the Upper House of the Federal Parliament has a special responsibility to represent the interests of the Federal Member State that the member represents, and to safeguard the federal system, whilst acting in the spirit of inter-governmental cooperation.

Article 62. Joint Committees of the Federal Parliament

- (1) The two houses of the Federal Parliament can form joint committees to facilitate their work.
- (2) Common rules of procedure passed by the two houses shall determine the number of joint committees to be formed, and the procedure of their work.

Title Two: The House Of The People Of The Federal Parliament

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

- (1) 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;
 - (c) To study laws passed by the Upper House of the Federal Parliament;
 - (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.

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

- (1) The members of the House of the People of the Federal Parliament shall be elected by the citizens of the Federal Republic of Somalia in a direct, secret and free ballot.
- (2) The members of the House of the People of the Federal Parliament shall number two hundred and twenty-five (225) 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.
- (4) Any person who becomes the President of the Federal Republic of Somalia shall become a life member of the House of the People after leaving the Office of President of the Federal Republic of Somalia, unless he or she has been removed from this Office before the end of his presidential term in accordance with Article 92 of the Constitution, and he shall be an additional member of the House of the People of the Federal Parliament.

Article 65. The Speaker and Deputy Speakers of the House of the People of the Federal Parliament

- (1) At its first session, presided over by the eldest member, the House of the People of the Federal Parliament shall elect a Speaker and two (2) Deputy Speakers.
- (2) If on any occasion neither the Speaker nor the Deputy Speakers are present, the house shall elect one of its members to preside temporarily.
- (3) Before assuming office, the Speaker shall relinquish any official position in a political party, and shall be strictly neutral in the performance of his or her functions.
- (4) The Speaker and his or her deputies shall be elected through a secret ballot by a majority vote of the members of the House of the People of the Federal Parliament, and may be removed by a two-thirds majority vote of the members of the House of the People of the Federal Parliament.

Article 66. House Sessions of the House of the People of the Federal Parliament

- (1) A newly elected House of the People of the Federal Parliament must hold its first sitting within 30 days of the declaration of the result of the general election, on a date fixed by the National Electoral and Political Parties Registration Commission.
- (2) The House of the People of the Federal Parliament must hold two regular sessions each year, and each session should last for a minimum of four (4) months.
- (3) The rules of procedure of the House of the People of the Federal Parliament shall determine the timings, dates and the resting period of the regular sessions of the House of the People of the Federal Parliament.
- (4) The House of the People of the Federal Parliament shall be convened for a special session whenever:
 - (a) Called by the President of the Federal Republic acting on the request of the Council of Ministers;
 - (b) Called by its Speaker;
 - (c) Requested in writing by at least 20% of the members of the House of the People of the Federal Parliament.

Article 67. Dissolution of the House of the People of the Federal Parliament

The House of the People of the Federal Parliament cannot be dissolved before the end of its four-year term unless the House has been unable to approve the Council of Ministers and the program of the government under Article 100, Clause 1, paragraph (c).

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

- (1) The House of the People of the Federal Parliament shall adopt its own rules of procedure, which shall provide for full participation of its members
- (2) The House of the People of the Federal Parliament shall divide itself into committees that will carry out the duties of the House of the People of the Federal Parliament.
- (3) When draft legislation is brought before the House of the People of the Federal Parliament, it shall task it to the relevant house committee so that it may be studied, and a report of its findings and recommendations presented to the plenary of the house.
- (4) Draft legislation rejected by the House of the People of the Federal Parliament cannot be returned before the House of the People of the Federal Parliament for six months from the day of the rejection of the legislation.
- (5) The House of the People of the Federal Parliament and its committees shall sit in public, in accordance with the general principle of transparency in government. The rules of procedure shall define when it is necessary for the House of the People to have a closed door session.

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

- (1) The House of the People of the Federal Parliament has legislative duties, including the duty:
 - (a) To pass, amend or reject any law tabled before it;
 - (b) To prepare laws, except laws related to financial matters.
- (2) The House of the People of the Federal Parliament has the following additional powers:
 - (a) To approve the Independent Commissions brought before it by the Prime Minister;
 - (b) To hold accountable and monitor the national institutions, and to ensure the implementation of national laws;
 - (c) To summon the Prime Minister, members of the Council of Ministers and the Chairmen of the Independent Commissions and Offices. The House of the People

of the Federal Parliament has the authority to review the duties of any official who does not respond when summoned by the House of the People of the Federal Parliament;

- (d) To give a vote of confidence in the Prime Minister and the Council of Ministers, and in government projects, to be conducted by a simple majority vote of the total members (50%+1) by means of a show of hands to the Prime Minister and members of the Council of Ministers;
- (e) To carry out a vote of no confidence in the Prime Minister and his deputy or deputies by a simple majority vote of the total members (50% +1) to be conducted by means of a show of hands;
- (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.

Article 70. The Immunity of the Members of the House of the People of the Federal Parliament

- (1) No member of the House of the People shall be penalised for giving their views to the House of the People of the Federal Parliament and its Committees.
- (2) Without the approval of the House of the People of the Federal Parliament, no member of the House of the People of the Federal Parliament may be prosecuted for a criminal offense, be detained, or be physically searched, and nor may the member's house or other dwellings be searched unless the member has been caught in the act of committing a crime that calls for compulsory detention orders. Furthermore, without the approval of the House of the People of the Federal Parliament, no member may be detained or imprisoned, even in the fulfillment of a final court order.
- (3) A member can be held liable for non-criminal offenses without the approval of the House of the People of the Federal Parliament.
- (4) A special law shall define the immunity of the members of the House of the People of the Federal Parliament.
- (5) The allowances and other benefits of the members of the House of the People of the Federal Parliament shall be paid from the central treasury of the Federal Government

Title Three: The Legislative Powers Of The Upper House Of The Federal Parliament

Article 71. The Upper House of the Federal Parliament

- (1) 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;
 - (b) Passing, amending, or rejecting the laws that are tabled before it in accordance with Articles 80-84;
 - (c) Study of laws delegated to it in accordance with Article 80-84;
 - (d) Participation in the election of the President of the Federal Republic in accordance with Article 89;
 - (e) Dismissal of the President in accordance with Article 92;
 - (f) Participation in the process of declaring war in accordance with the Constitution;
 - (g) Carrying out other duties required by the Constitution to ensure proper implementation and review of the Constitution;
 - (h) Participation in the process of declaring a state of emergency in accordance with the Constitution;
 - (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 Council;
 - (ii) Chairmen and Judges of the Constitutional Court;
 - (iii) Members of the Interim Independent Electoral Commission;
 - (iv) Members of the Boundaries and Federation Commission;
 - (v) Members of the Disputes Resolution Commission.

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

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 should have an equal number of representatives in the Upper House of the Federal Parliament;
- (c) That the members of the Upper House of the Federal Parliament should be representative of all communities of the Federal Republic of Somalia.

Article 73. The Speaker and Deputy Speaker of the Upper House of the Federal Parliament

The Speaker and the Deputy Speaker of the Upper House of the Federal Parliament shall be elected and dismissed through procedures similar to those of the elections for the Speaker and Deputy Speakers of the House of the People of the Federal Parliament.

Article 74. House Sessions of the Upper House of the Federal Parliament

- (1) A newly elected Upper House of the Federal Parliament must hold its first sitting within 30 days of the declaration of the result of the general election. The date of the first session shall be determined by the National Electoral and Registration of Political Parties Commission.
- (2) The Upper House of the Federal Parliament must hold two regular sessions each year, and each session shall last for a minimum of four (4) months.
- (3) The Rules of Procedure of the Upper House of the Federal Parliament shall determine the timings, the dates and the resting period of the regular sessions of the Upper House of the Federal Parliament.
- (4) The Upper House of the Federal Parliament shall be convened for a special session whenever:
 - (a) Called by the Prime Minister;
 - (b) Called by its Speaker;
 - (c) Requested in writing by at least two (2) Federal Member States.

Article 75. Rules of Procedure of the Upper House of the Federal Parliament

- (1) The Upper House of the Federal Parliament shall adopt its own Rules of Procedure, which shall provide for full participation of its members.

- (2) The Upper House of the Federal Parliament shall divide itself into Committees that shall facilitate the fulfillment of duties allocated to them by the Upper House of the Federal Parliament.
- (3) When draft legislation is tabled before the Upper House of the Federal Parliament, it shall task the relevant house committee to study it, and present a report of its findings and recommendations to the plenary of the house.
- (4) Draft legislation rejected by the Upper House of the Federal Parliament cannot be returned before the Upper House of the Federal Parliament for six months from the day of the rejection of the legislation.
- (5) The Upper House of the Federal Parliament and its committees shall sit in public, in accordance with the general principle of transparency in government.

Article 76. Decision-making in the Upper House of the Federal Parliament

- (1) Unless stated otherwise by the Constitution, each member of the Upper House of the Federal Parliament shall have one vote.
- (2) Decisions of the Upper House of the Federal Parliament can pass only with a majority vote of the total Members of the Upper House of the Federal Parliament.

Article 77. Presence of Ministers in the Sessions of the Upper House of the Federal Parliament

- (1) Ministers may attend the sessions of the Upper House of the Federal Parliament, and may speak, but shall not the right to vote. The Rules of Procedures of the Upper House of the Federal Parliament may provide for regular sessions in which ministers respond to written or oral questions from members of the House.
- (2) The Upper House of the Federal Parliament or its committees may summon the Prime Minister and members of the Council of Ministers to ask them questions related to their duties.
- (3) The Upper House of the Federal Parliament shall inform in writing the above officials of the subject matter of the meeting at least one week before the agreed date of the meeting.

Article 78. The Immunity of the Members of the Upper House of the Federal Parliament

- (1) The members of the Upper House of the Federal Parliament shall have immunity similar to that of the members of the House of the People of the Federal Parliament stated in this Constitution.
- (2) The Upper House of the Federal Parliament cannot be dissolved.

Title Four: Legislative Procedures In Parliament

Article 79. Legislative Project

- (1) According to the Constitution, a legislative project consists of the proposal of draft law, including:
 - (a) Reviewing, replacing, and proposing amendments to the Constitution;
 - (b) Writing and preparing a new draft law;
 - (c) Proposing a new draft law;
 - (d) Reviewing an existing law.
- (2) The debate on a legislative project for reviewing this Constitution shall be initiated at the House of the People of the Federal Parliament.
- (3) The debate on any draft Law may be initiated at either House of the Federal Parliament.

Article 80. Initiating New Laws

- (1) A legislative project at National Level may be initiated by:
 - (a) The Council of Ministers; or
 - (b) At least 10 members of the House of the People of the Federal Parliament, except legislative projects that concern the Annual Budget which shall be initiated only by the Council of Ministers

Article 81. Political Resolutions

- (1) Both Houses of the Federal Parliament can initiate legislations.

- (2) Only the House of the People of the Federal Parliament has the authority to reject a legislative project.
- (3) There shall be an article that allows harmonization of the two Houses of the Federal Parliament unless there is an agreement.
- (4) Only the House of the People of the Federal Parliament may send a legislative project to the President of the Federal Republic for his signature and its publication in the Official Gazette.

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

- (1) When the House of the People of the Federal Parliament receives a draft law, it may take any of the following courses of action:
 - (a) To pass it in unchanged form, or pass it with amendment(s) and then submit it to the Upper House of the Federal Parliament for approval.
 - (b) To reject it and inform the Upper House of the Federal Parliament of the reasons for the rejection.
- (2) When the Upper House of the Federal Parliament receives a draft law passed by the House of the People of the Federal Parliament, it may take any of the following courses of action:
 - (a) To pass it the way it has been submitted, and send it back to the House of the People of the Federal Parliament
 - (b) To amend the draft law, and send it back to the House of the People of the Federal Parliament, with reasons for the amendment(s)
 - (c) To reject the draft law, and send it back to the House of the People of the Federal Parliament, with reasons for its rejection.
- (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
 - (b) To reject the amendment and over-rule the decision of Upper House through a 2/3 majority 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 the rejection and drop the draft law
 - (b) To over-rule the rejection of the Upper House of the Federal Parliament with a two-thirds (2/3) majority of its total membership and then submit it to the President of the Republic for his signature and its publication in the Official Gazette.

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

- (1) When the Upper House of the Federal Parliament receives a draft law, it can do either of the following:
- (a) To pass it the way it is, or pass it with amendment(s), and then submit it to the House of the People of the Federal Parliament for approval.
 - (b) To reject it, and inform the House of the People of the Federal Parliament of the reasons for the rejection.
- (2) When the House of the People of the Federal Parliament receives a draft law that has been passed by the Upper House of the Federal Parliament, it may act in any of the following ways:
- (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.
 - (b) To amend it and send it back to the Upper House of the Federal Parliament, with reasons for the amendment(s);
 - (c) To reject it and send it back to the Upper House of the Federal Parliament, with reasons for the rejection.
- (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 send 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.
 - (b) To reject the amendment and over-rule the decision of the House of the People of the Federal Parliament by a two-thirds (2/3) majority vote of the total

membership of the House, and then send it back to the House of the People of the Federal Parliament.

- (4) When the Upper House of the Federal Parliament receives a draft law that has been rejected by the House of the People of the Federal Parliament, it may do either of the following:
 - (a) To accept the rejection, and drop the draft law;
 - (b) To over-rule the rejection of the House of the People through by a two-thirds (2/3) majority vote of its total membership, and then send it back to the House of the People of the Federal Parliament.
- (5) When the House of the People of the Federal Parliament receives a draft law which 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 which it has amended or rejected, and its decision has been over-ruled by the Upper House of the Federal Parliament, it may take do either of the following:
 - (a) To over-rule the decision of the Upper House of the Federal Parliament by a two- third (2/3) majority vote of the total membership of the House of the People of the Federal Parliament, and drop the draft law;
 - (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.
- (7) If the two House of the Federal Parliament differ on a draft Law, when the draft Law reaches the level mentioned in section 4 or 6, either of the Houses can request for the formation of a joint Committee of the two Houses in order to settle the difference and come up with a draft Law that both the two Houses agree on based on the general principles of cooperation between the Governments in accordance with Article 52.

Article 84. Disseminating 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 the Federal Parliament, and for their publication in the Official Gazette.

Article 85. Assent to Legislation

Draft legislation becomes law once it has been passed in accordance with the legislative procedure as stipulated in this chapter, signed by the President of the Federal Republic, and published in the Official Gazette.

Article 86. Challenging Legislation

- (1) Legislation that has been passed in accordance with the legislative procedure, as stipulated in this Chapter, may only be challenged if it contradicts the Constitution.
- (2) Legislation that has been passed in accordance with the legislative procedure, as stipulated in this Chapter, may be challenged by:
 - (a) All members of the Upper House of the Federal Parliament or one representative of a Federal Member States;
 - (b) A third of the members of the House of the People of the Federal Parliament;
 - (c) The Council of Ministers of the Federal Republic of Somalia;
 - (d) Ten thousand (10,000) or more registered voters
- (3) Legislation that has been challenged, in accordance with Clause 1 and 2 of this Article, must be presented to, and decided upon, only by the Constitutional Court.
- (4) If the Constitutional Court dismisses a challenge to the legislation, the expenses shall be met by the party that has brought the matter to the Constitutional Court.
- (5) The procedure for challenging legislation, and deciding upon it, shall be stated in the laws regulating the judiciary.

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;
 - (c) The guardian and promoter of the founding principles of the Constitution.
- (2) The President of the Federal Republic of Somalia shall carry out his duties in accordance with the Constitution and the other laws of the Federal Republic of Somalia.

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

- (1) Any citizen is eligible for the position of President of the Federal Republic of Somalia, as long as he or she meet the eligibility requirements of:
 - (a) Being a Somali citizen and a Muslim,
 - (b) Being not less than forty years of age;
 - (c) Having relevant knowledge or experience for the role;
 - (d) Having sound mind;
 - (e) Not having been convicted by a court of a major crime.

Article 89. Election of the President of the Federal Republic of Somalia

- (1) The Houses of the Federal Parliament shall elect the President of the Federal Republic of Somalia in a joint session, presided over by the Speaker of the House of the People of the Federal Parliament.
- (2) A minimum of two-thirds (2/3) of the members of each house of the Federal Parliament must be present when electing the President of the Federal Republic of Somalia.
- (3) Candidatures must be proposed to the joint session of the houses of the Federal Parliament by a minimum of twenty (20) members of the House of the People of the Federal Parliament, or a minimum of one (1) Federal Member State.
- (4) When the members of the Upper House of the Federal Parliament are voting for the President of the Federal Republic of Somalia, each one of them has one vote.
- (5) Every presidential candidate has to declare his candidacy to the houses of the Federal Parliament and should present his election programme to the Federal Parliament, which shall then elect him by the following process:
 - (a) The election of the President of the Federal Republic of Somalia shall be conducted by secret ballot.
 - (b) Any candidate who gains a two-thirds (2/3) majority vote of the total membership of the two houses of the Federal Parliament shall be elected President of the Federal Republic of Somalia.
 - (c) If no candidate gains the necessary two-thirds majority in the first round, a second round of voting shall be conducted for the four candidates with the greatest number of votes from the first round, and any candidate who gains a

two-thirds majority vote of the total membership of the two houses of the Federal Parliament in the second round shall be elected President of the Federal Republic of Somalia.

- (d) If no candidate gains the necessary two-thirds majority in the second round, a third round of voting shall be conducted between the two candidates with the greatest number of votes from the second round, and the candidate who gains the greatest number of votes in the third round shall be elected President of the Federal Republic of Somalia.

Article 90. The Responsibility 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:

- (1) Declare a state of emergency and war in accordance with the law.
- (2) Serve as Commander in Chief of the Armed Forces.
- (3) Appoint and dismiss the Commanders of the Forces at the Federal Government Level on the recommendation by the Council of Ministers.
- (4) Appoint the Prime Minister, and to dissolve the Federal Government if it does not get the required vote of confidence from the House of the People of the Federal Parliament by a simple majority (50% +1).
- (5) Dismiss ministers, state ministers and deputy ministers on the recommendation of the Prime Minister.
- (6) Sign draft laws passed by the Federal Parliament in order to bring them into law.
- (7) Open the House of the People of the Federal Parliament.
- (8) Hold an annual session with the House of the People of the Federal Parliament,
- (9) Address the House of the People of the Federal Parliament at any other time.
- (10) 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.
- (11) Appoint senior Federal Government officials and the heads of the Federal Government Institutions on the recommendation of the Council of Ministers
- (12) Appoint ambassadors and high commissions on the recommendation of the Council of Ministers.
- (13) Receive foreign diplomats and consuls.
- (14) Confer State Honors on the recommendation of the Council of Ministers.

- (15) Dissolve the House of the People of the Federal Parliament when its term expires, thereby prompting new elections.
- (16) Pardon offenders and commute sentences on the recommendation of the Judicial Service Commission.
- (17) Sign international treaties proposed by the Council of Ministers and approved by the House of the People of the Federal Parliament.

Article 91. Term of Office of the President of the Federal Republic of Somalia

The President of the Federal Republic of Somalia shall hold office for a term of Four (4) years, starting from the day he takes the oath of the President of the Federal Republic of Somalia, in accordance with Article 96 of the Constitution.

Article 92. Impeachment and Discharging of duties of the President of the Federal Republic of Somalia

- (1) The House of the People of the Federal Parliament can propose the dismissal of the President of the Federal Republic of Somalia if he is accused of treason, or gross violation of the Constitution or the laws of the Federal Republic of Somalia.
- (2) The motion for dismissing the President of the Federal Republic of Somalia may be introduced by no less than one-third of the total membership of the House of the People of the Federal Parliament, and may be presented to the Constitutional Court, which shall preside over the case to see whether it has legal grounds.
- (3) If the Constitutional Court determines that the case has legal grounds, the President of the Federal Republic of Somalia may be dismissed by a two-thirds majority vote of the total membership of the two Houses of the Federal Parliament.
- (4) In the event of the dismissal of the President of the Federal Republic of Somalia, in accordance with Article 92, Clauses 1-3. The Speaker of the House of the People of the Federal Parliament shall assume the duties of the President of the Federal Republic of Somalia.

Article 93. Resignation of the President of the Federal Republic of Somalia

The President of the Federal Republic of Somalia may resign to the Federal Parliament through the Speaker of the House of the People of the Federal Parliament.

Article 94. Acting President of the Federal Republic of Somalia

- (1) If the President of the Federal Republic of Somalia is absent from the country, or unable to fulfill his duties due to illness or any other reason, the Speaker of the House of the People of the Federal Parliament shall assume these duties until such time as the President of the Federal Republic of Somalia resumes office.
- (2) In the event of the Speaker assuming the duties of the President of the Federal Republic, the Deputy Speaker of the House of the People of the Federal Parliament shall act as the Speaker of the House of the People of the Federal Parliament.

Article 95. Vacancy in the Office of the President of the Federal Republic of Somalia

- (1) If the Office of President of the Federal Republic of Somalia falls vacant, the Speaker of the House of the People of the Federal Parliament shall act as President of the Federal Republic until such time as a new President of the Federal Republic is elected, within a maximum of thirty (30) days.
- (2) If the President of the Federal Republic suffers a terminal illness that is expected to lead to his or her death within a period of 3 months and this is attested to by medical experts, the office of the President of the Federal Republic shall legally be deemed vacant .
- (3) The election of a President of the Federal Republic of Somalia to fill an office left vacant in accordance with Clause 2 of this Article shall be conducted in accordance with the presidential election procedure stated in Article 89 of the Constitution.
- (4) A President of the Federal Republic elected in accordance with Clause 3 of this Article shall complete the remaining period of the term of the previous President.

Article 96. Oath of the President of the Federal Republic of Somalia

- (1) Before assuming office, the President of the Federal Republic of Somalia shall take an oath before the Federal Parliament, administered by the Chairman of the High Court, which shall be as follows:
 - (a) "I swear in the name of Allah that I will perform my duties honestly and in the best interest of the Nation, People and Religion, and that I will abide by the Constitution and the other Laws of the Country"

CHAPTER 8: THE EXECUTIVE

Article 97. The Council of Ministers

- (1) The executive power of the Federal Government shall be vested in the Council of Ministers, in accordance with the Constitution.
- (2) The Council of Ministers is the highest executive authority of the Federal Government and consists of the Prime Minister, the deputy prime minister (s), ministers, state ministers and deputy-ministers.
- (3) The Prime Minister shall appoint deputy prime ministers, ministers, state ministers, and deputy ministers. Those eligible for membership of the Council of Ministers may be, but shall not be limited to, members of the House of the People of the Federal Parliament.
- (4) Vacancy in the office of the Prime Minister caused by the resignation, dismissal, failure to fulfill responsibility, or death of the Prime Minister shall lead to the dissolution of the Council of Ministers.

Article 98. Criteria for Membership of the Council of Ministers

- (1) The person holding the office of the Prime Minister or Deputy Prime Minister must :
 - (a) Not be below the age of forty (40) years;
 - (b) Have a university-level education.
- (2) The person being appointed as Minister, State Minister or Deputy-Minister must:
 - (a) Not be below the age of thirty (30) years;
 - (b) Have a university-level education
- (3) During their term of office, members of the Council of Ministers are prohibited from:
 - (a) Holding any responsibility other than that of membership of the House of the People of the Federal Parliament;
 - (b) Having a private profession, or carrying out private commercial, economic, or industrial activities;
 - (c) Purchasing or hiring government assets;
 - (d) Selling or renting their assets to the government.

Article 99. Responsibilities of the Council of Ministers

The Council of Ministers has the powers to:

- (a) Formulate the overall government policy and implement it;
- (b) Approve and implement administrative regulations, in accordance with the law;
- (c) Prepare draft laws, and table them before the House of the People of the Federal Parliament;
- (d) Prepare the annual budget and finalise the accounts;
- (e) Set the national development plan;
- (f) Implement laws, ensure national security, and protect state interests;
- (g) Appoint and dismiss senior public officials;
- (h) Propose the appointment or dismissal of ambassadors, consuls and diplomats.
- (i) Exercise any other power conferred upon it by the Constitution or by other laws.

Article 100. Responsibilities and Powers of the Prime Minister

(1) The responsibilities of the Prime Minister are to:

- (a) Be the Head of the Federal Government;
- (b) Appoint and dismiss members of the Council of Ministers;
- (c) Present the Council of Ministers and Government Program before the House of the People of the Federal Parliament to seek their endorsement.
- (d) Carry out any other function conferred upon him or her by the Constitution or by any other law that complies with the Constitution and its underlying values.

Article 101. Deputy Prime Minister

The Deputy Prime Minister acts for the Prime Minister when the Prime Minister is out of the country, and carries out other responsibilities as may be delegated by the Prime Minister.

Article 102. Functions of the Minister, Deputy-Minister and State Minister

- (1) Every minister is personally responsible for the functions of his or her ministry.
- (2) Every deputy-minister shall carry out functions delegated to him or her by his or her minister.
- (3) State Ministers shall carry out specific functions assigned to them by the Prime Minister.

Article 103. Caretaker Governments

Between the date of a general election and the swearing in of the new Prime Minister, the existing Prime Minister and Council of Ministers shall continue to serve in a caretaker capacity to carry out routine duties.

Article 104. Oath

- (1) After obtaining a vote of confidence, the Prime Minister and the Council of Ministers shall, before assuming their duties, take the Oath in a special session of the House of the People of the Federal Parliament, administered by the Chairman of the High Court, and which shall read as follows:
 - (a) "I swear in the name of Allah that I will perform my duties honestly and in the best interest of the Nation, People and Religion, and that I will abide by the Constitution and the other Laws of the Country"

CHAPTER 9 : THE JUDICIAL AUTHORITY

Article 105. The Judicial authority of the Federal Republic

- (1) Judicial authority is vested in the courts.
- (2) The Judicial Structure shall be regulated in a law enacted by the Federal Parliament.

Article 106. Judicial Independence

- (1) The judiciary is independent of the legislative and executive branches of government whilst fulfilling its judicial functions. Members of the judiciary shall be subject only to the law.
- (2) No civil or criminal proceedings shall be instituted against a judge in respect of the exercising of any judicial function.
- (3) The home or person of a judge cannot be searched without the authorization of the Judicial Service Council.

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.
- (2) No judicial decision shall be made unless all parties have had the opportunity to present their case.
- (3) Reasons shall be given for all judicial decisions.

Article 108. National Court Structure

- (1) The national court structure shall be of three levels, which are:
 - (a) The Constitutional Court;
 - (b) The Federal Government Level Courts;
 - (c) The Federal Member State Level Court. The highest court at the Federal Government Level shall be the Federal High Court, whilst the highest court at the Federal Member State level shall be the Federal Member State High Court.

Article 109. The Structure of the National Courts

- (1) The Federal Republic shall have one court structure which is composed of the Constitutional Court and the Courts both at the Federal Level and at the level of the Federal Member States.
- (2) If a case is presented before a court, and the case concerns the Federal Government, the Court shall refer the case to the Federal Government Level Court.

- (3) If a case is presented before a Court and the case concerns a constitutional matter, the Court may refer the case to the Constitutional Court.
- (a) Any Court with Judicial Powers can decide on whether a matter brought before it is a constitutional matter or not, if this will not contradict the exclusive powers of the Constitutional Court, as stipulated in Article 109C of the Constitution;
 - (b) The Constitutional Court is the final authority in constitutional matters;
 - (c) The Constitutional Court shall have sole jurisdiction on matters of interpretation of the Constitution which have not arisen out of court litigation;
 - (d) Any Individual, or groups, or the government may submit directly to the Constitutional Court a reference application on matters concerning the public interest.
- (4) Notwithstanding clauses 2 and 3 of this Article, the Federal Parliament shall enact a law providing detailed laws for the interaction between the Federal Government Level Courts and the Federal Member States Courts part from the matters stated in the paragraphs of Articles (2) and (3), the Parliament shall enact Laws that describe how the Courts at the Federal level and those at the Federal Member States Level will work together.

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:
- (a) The Chief Judge of the Constitutional Court
 - (b) The Chief Judge of the High Court
 - (c) The Attorney General
 - (d) Two people who are members of the Somali bar, appointed by the Somali Law Society for a four year term;
 - (e) The Chair of the Human Rights Commission;
 - (f) Three people of high reputation within Somali society, proposed by the Council of Ministers, and then appointed by the President for a term of five (5) years, and renewable only once.
- (3) The Judicial Service Commission shall elect a chair from amongst its members.

- (4) The term of office for the members of the Judicial Service Commission is 4 years, renewable only once.
- (5) A disciplinary regulation passed by the Judicial Service Commission shall apply to all the members of the Judicial Service Commission.
- (6) In accordance with a law and regulation formulated by itself, the Judicial Service Commission can do the following:
 - (a) Appoint, discipline and transfer any member of the Judiciary at the Federal Government level;
 - (b) To decide on remuneration and pensions of members of the Judiciary at the Federal Government level;
 - (c) To decide on other work matters of the Judiciary.

Article 109B. The Formation of the Constitutional Court

- (1) This Constitution establishes the Constitutional Court which is composed of five Judges including the Chief Judge and the Deputy Chief Judge.
- (2) The Judicial Service Commission shall nominate as judge of the Constitutional Court only persons of high integrity, with appropriate qualifications in law and shari'a, and who is highly competent in Constitutional matters.
- (3) The Judicial Service Commission should propose to the House of the People the person they want to choose as a Constitutional Judge.
- (4) If the House of the People of the Federal Parliament approves the name proposed in accordance with Clause 3 of this article, the President of the Federal Republic shall appoint that Person as a Judge of the Constitutional Court.
- (5) From amongst their members, the Constitutional Judges shall appoint the Chief Judge and Deputy Chief Judge.

Article 109C. The Powers of the Constitutional Court

- (1) The Constitutional Court shall have the following exclusive powers:
 - (a) Upon request from a member of the Council of Ministers, a committee from either one of the Houses, or ten members of either house of the Federal

Parliament, the Court to review draft legislation, and determine its compatibility with the Constitution;

- (b) To hear and decide cases as stipulated in Article 86(concerning challenges to the constitutionality of a law passed by the Federal Parliament;
 - (c) To hear and decide a case and rule on cases resulting from matters stated in Article 109 (3), concerning matters of interpretation of the Constitution not arising out of Court litigation;
 - (d) To hear and decide cases arising out of disputes between the Federal Government and the Federal Member State governments, and between Federal Member State governments;
 - (e) To hear and decide cases arising out of disputes between organs of the Federal Government, concerning their respective constitutional powers and duties;
 - (f) To hear and decide cases arising in terms of Article 92 concerning the impeachment trials of the President.
- (2) The Constitutional Court shall determine the date from which the decision to void legislation shall come into effect.
 - (3) In the case of legislation held to be unconstitutional, except in terms of Paragraph (b) of this Clause, taking into account the effect of the decision on the date of invalidation on the stakeholders and other social interests, the constitutional court may declare the legislation invalid from the time of enactment, or from the time of the judgment, or, to enable appropriate action pending invalidity, from a date specified in the future.
 - (4) In the case of criminal legislation, if the effect of declaring the law invalid from the enactment date would be of benefit to a person who has been convicted through this unconstitutional legislation, the invalidity must be from the time of enactment.

CHAPTER 10: THE INDEPENDENT COMMISSIONS

Article 110. General Principles

- (1) An independent Commission is a body that is independent of government or political control, and able to make use of expertise relevant to the particular areas of its work.
- (2) In its mandate and operations, an independent commission shall embody and reflect the spirit of human rights, democracy and transparency.
- (3) An independent commission must not be subject to the direction or control of any person or institution.
- (4) The funding for each independent commission shall be allocated by a separate vote in the national budget.

Article 111. The Formation of Independent Commissions

- (1) The country shall have independent commissions both at the Federal Government level as well and at the level of the Federal Member States, and their obligations, duties and numbers shall be defined in a law passed by both Houses of the Federal Parliament.
- (2) While putting into consideration the specific taskings that those commissions are entrusted with, the Federal member states of Somalia must be consulted when the appointing the commissioners.

Article 111 A. The Judicial Service Commission:

- (1) There shall be a Judicial Service Commission, which shall advise the Federal Government on justice in the administration; consisting of justice in recruitment, dismissal, and any legal action taken against judges.
- (2) The Judicial Service Commission has to be independent, neutral, should be non-partisan and should abide by the independence of the judiciary.
- (3) The commission shall be comprised of not more than nine members; which include those who are the most experienced in the judicial matters, the ministers who head the judicial administration, lawyers, teachers of law schools and the members of the Civil Society Organizations who are involved in matters of Human Rights.
- (4) The Judicial Service Commission shall have powers, and responsibilities charged with them which are stipulated in the Constitution and the National Laws.

Article 111 B. The Human Rights Commission

- (1) There shall be a Human Rights Commissions 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 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;
 - (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 should not have more than nine members/persons.

Article 111 C. The Anti-Corruption Commission (AC)

- (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 only act 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 mechanisms;
 - (c) To promote integrity, accountability, and proper management of public matters and property.
- (4) The powers of the Anti-Corruption Commission include the power to:
 - (a) Prevent, investigate and publish corruption allegations.
 - (b) Freeze, seize, confiscate or return any gains from criminal activity;
 - (c) 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;

- (d) Abuse of functions and illicit enrichment.
- (6) The Anticorruption Commission shall be independent, impartial, representative and inclusive and shall not have more than nine members.

Article 111 D. Parliamentary Service Commission

- (1) At the beginning of the term of the House of the People, both houses of the Federal Parliament shall establish a Parliamentary Service Commission serving for the term of the House of the People.
- (2) The Parliamentary Service Commission shall consist of—
 - (a) The Speaker of the House of the People as chairperson;
 - (b) The Speaker of the Upper House as vice-chairperson;
 - (c) Four members elected by the House of the People from among its members, of whom at least two shall be women;
 - (d) Two members elected by the Upper House from among its members, of whom at least one shall be a woman;
 - (e) One member appointed by the House of the People from among persons who are experienced in public affairs, but are not members of Parliament.
- (3) A member of the Parliamentary Service Commission shall vacate office –
 - (a) At the end of the term of the House of the People;
 - (b) If the member is a member of the Federal Parliament and ceases to be a member of the Federal Parliament; or
 - (c) If the member is an appointed member, on revocation of the person's appointment by the House of the People.
- (4) The Parliamentary Service Commission shall be responsible for—
 - (a) Providing services and facilities to ensure the efficient and effective functioning of the Federal Parliament;
 - (b) Constituting offices to support the parliamentary service, and appointing and supervising office holders;
 - (c) Preparing annual estimates of expenditure of the parliamentary service and submitting them to the House of the People for approval, and exercising budgetary control over the service;
 - (d) Performing any other function necessary for the well-being of the members and staff of the Federal Parliament as prescribed by federal law.

- (5) With the approval of the relevant House, the Parliamentary Service Commission shall appoint a Clerk for each House of the Federal Parliament. The offices of the Clerks and offices of members of the staff of the Clerks shall be offices in the Parliamentary Service.

Article 111 E. Boundaries and Federation Commission

- (1) There shall be a Boundaries and Federation Commission to support the territorial evolution of Somalia into a fully-fledged federation of states.
- (2) The Boundaries and Federation Commission may draw on national and international expertise, conduct studies, make and print maps and conduct inquiries to support the creation of viable federal states.
- (3) The Boundaries and Federation Commission shall take into account demographic and cartographic information as well as political, economic and social criteria and recommend to the Federal Parliament the demarcation of boundaries of Federal Member States
- (4) The commission shall be independent, impartial, inclusive and representative of all geographical parts of Somalia.
- (5) The final determination of the boundaries of federal member states shall be made by the Federal Parliament and shall be based on the recommendations of the Boundaries and Federation Commission.

Article 111 F. Interstate Commission

- (1) There shall be established by federal law an Interstate 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
 - (b) Resolve any administrative, political or jurisdictional disputes between the federal government and one or more governments of the federal member states or between governments of federal member states.
- (3) 3. The Interstate Commission shall be composed of members appointed by the Prime Minister and at least an equal number of members appointed by each government of the federal member states.

Article 111 G. Independent Electoral Commission (IEC)

- (1) There shall be established an Independent Electoral Commission, established under the constitution. The Commission shall be independent of the executive and shall manage its own budget. The Commission shall be inclusive and representative and be impartial and neutral and shall not have more than nine members.
- (2) The mandate of the commission includes:
 - (a) The conduct of presidential elections;
 - (b) The conduct of federal 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 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;
 - (l) Voter education.
- (3) The Federal Parliament shall establish the Independent Electoral Commission and the relevant legislation required to support it as a matter of priority.

Article 111 H. National Security Commission

- (1) A National Security Commission shall be established by federal law. The National Security Commission shall be independent and shall comprise of 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:

- (i) Monitor security related expenditure;
 - (ii) Seek redress from abuses by security personnel.
- (3) The priority issues 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;
 - (d) Ensuring civilian control of the armed forces;
- (4) Civilian Oversight Sub-Committee
 - (a) The Commission shall establish a Civilian Oversight Sub-Committee. The sub-committee shall comprise of security experts, members of parliament, academics and civil society representatives from all sectors of Somali society.
 - (b) The mandate of the sub-committee shall be to:
 - (i) Present proposals to ensure that human security is prioritized and incorporated into the national security framework;
 - (ii) Develop a framework through which the public may provide oversight;
 - (iii) Monitor security related expenditure;
 - (iv) Seek redress from abuses by security personnel.

Article 111 I. Forgiveness and Reconciliation Commission

- (1) There shall be established the Forgiveness 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 Commission shall be independent, impartial and representative and shall include: traditional elders and leaders, members of Parliament, respected members of civil society, judges and security personnel.
- (3) The mandate of the commission shall include:
 - (a) Bearing witness to, record and in some cases grant amnesty to the perpetrators of crimes relating to human rights violations, as well as reparation and rehabilitation;
 - (b) Promoting forgiveness, reconciliation and national unity.

Article 111 J. The Office of the Ombudsman

- (1) The Constitution shall make the Office of the Ombudsman.
- (2) The Ombudsman shall act in accordance with the Constitution and Statute Laws only.
 - (a) A member of the Council of Ministers, the Legislatures or any other person shall not interfere with the work of the Office of the Ombudsman.
 - (b) Each department in 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 shall nominate an Ombudsman.
 - (a) The Judicial Service Commission can recommend the nomination of a person as an Ombudsman, only if such a person is qualified to be nominated as a Judge in a Constitutional Court in line with clauses 120(3) and 124(1) (which concern the qualifications for a judge in the High Court).
 - (b) The Ombudsman's term in office is seven years, and the terms of termination of service shall be in line with the regulations and processes governing the dismissal or retiring of a member of the High Court who was in office for only one term as stipulated clauses 125, (2),(3), (4) and (5) (which concern the reasons and procedures to be followed relieving a Judge of his duties)
- (4) In clause five, the word "officer" shall include one that was elected or nominated or one who works for a Federal Institution, a Regional Government or a Local Government; or an officer who is part of a business owned, managed or is in the hands of the government, in which the Government owns a huge share, or an officer member of the defense or police forces, but it does not include a Judge in a Constitutional Court, a High Court or any other officers involved until an allegation becomes evident of a judicial task.
- (5) The Ombudsman shall:-
 - (a) Investigate complaints regarding allegations or outright violations against basic rights and freedom, abuse of power, unfair behavior, mercilessness, lack of clemency, indiscipline/disrespect, towards a person who lives in Somalia by an officer who works at the various levels of Government, an apparently unfair behavior, or act in a corrupt manner, or a behavior by an officer deemed as illegal by a democratic society or regarded as mischief or injustice.
 - (b) Investigate complaints in relation to the activities of the Public Service Commission of the Government, administrative institutions of the Government, and the defense and police forces whoever such complaints relate to, failure to equally align those services or fair recruitment among all people in those services or to administer those services fairly.

- (c) To take appropriate steps which the public calls for, to rectify or change items mentions in earlier clauses through a fair, and appropriate process, which include, but not limited to:
 - (i) Consultations and sacrifices among the people concerned;
 - (ii) Reporting on the complaints and matters presented to the Ombudsman, and submit to the head of the offender;
 - (iii) To forward the matter to the Attorney General;
 - (iv) To bring the matter before a court that forbids improper conducts by an officer;
 - (v) Or forward to the Attorney General a matter suspected to involve corruption.
- (6) The Attorney General shall submit a yearly report to the House of the People, the Upper House of the Regional Governments and to the general public.

Article 112. Appointment of Federal Commissions

Unless the constitution provides otherwise, the relevant Minister shall propose the names of commissioners, to the Council of Ministers. If the Council of Ministers approves, the names shall be submitted to the concerned House of the Federal Parliament. If the concerned House of the Federal Parliament approves the names, they shall be sent to the President of the Federal Republic for formal appointment.

Article 113. Regulations of Independent Commissions

The regulations of the Independent Commissions shall be stated in a law passed made by the House of the People of the Federal Parliament.

Article 114. The Independent Offices

There shall be independent institutions which the Federal Government and the Federal Member States shall have; such as the Attorney General, the Auditor General and the Federal Central Bank.

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.

Article 116. Protection of the rights of civil servants

- (1) 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.

Article 117. Appointment of higher 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 Cabinet

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.

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.

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 that of the Federal Member States shall be harmonized.

CHAPTER 13: PUBLIC FINANCE

Article 122. Principles of public finance

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

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 monetary policy.
- (6) The Federal Central Bank is the National Reserve Bank

Article 124. Federal legislation on financial matters

- (1) 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 which 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.

Article 125. The National Treasury

- (1) A law enacted by the Federal Parliament shall establish a national treasury. 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 Treasury shall ensure the implementation of the principle stated in paragraph (1) and it shall stop disbursement of funds to any government department that commits major violations or constantly violates the law of National Treasury.

CHAPTER 14 : PEACE AND SECURITY

Article 126. 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;
 - (b) The intelligence services;
 - (c) The police force;
 - (d) The prison 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 mission to guarantee the sovereignty and independence of the country and to defend its territorial integrity.
- (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. t .
- (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.
- (6) The armed national security agencies shall be controlled by civilian agencies.

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.

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.

Article 129. 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.
- (2) The office of the Ombudsman can initiate an investigation if it suspects the existence of violation committed by the security forces against an individual or on a section of the community. If the investigations reveals convincing results it can take up the matter before a relevant court of law.
- (3) A special law shall determine the powers and duties of the Ombudsman

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.

Article 131. Articles 131 - 198 have been deferred

CHAPTER 15: FINAL AND TRANSITIONAL PROVISIONS

Title One: Amending The Constitution

Article 199. **Provisions applicable to an amendment to the Constitution proposed after the expiry of the first term of the Federal Parliament.**

Notwithstanding sub-Article (2), whether before or after the expiry of the first term of the Federal Parliament, neither House of Parliament may consider an amendment to the Founding Principles mentioned in Chapter 1 of this Constitution

- (1) Subject to Article 1, and other than an amendment of the boundaries of Federal Member States in terms of **Articles xxx ???** a House of the Federal Parliament may consider an amendment to the Constitution only in terms of the procedures set forth in sub-Articles (3) through (9).
- (2) The federal or a state government, a Member of the Federal Parliament or a petition signed by at least 40,000 citizens may initiate the amendment process.
- (3) A sponsor of a constitutional amendment in terms of sub-Article (2) may introduce that proposed amendment into either House of the Federal Parliament.
- (4) If a majority of the Members of the House in which its sponsors introduce a proposed constitutional amendment accept that amendment on first or a subsequent reading, the Speaker of the House of the People and the Speaker of the Upper House of the Federal Parliament of Somalia shall each appoint ten members of that Speaker's House to a Joint Committee of the two Houses.
- (5) The Joint Committee appointed in terms of sub-Article (5) shall --
 - (a) Review a proposal for the amendment;
 - (b) Inform the public of the proposal;
 - (c) Ensure that adequate opportunity exists for public debate;
 - (d) Consult with members of the public;
 - (e) Ensure that members of the public have adequate opportunity to present their comments and suggestions to the joint committee; and
 - (f) Engage federal member state legislatures and incorporate the federal member states' harmonized submissions into the proposed amendment, whereas the matter concerns State interests.
- (6) Within two months of its appointment, the Joint Committee shall submit its report to each House of the Federal Parliament.

- (7) The Federal Parliament adopts a proposed amendment only after approving it on a final vote in the House of the People by at least two-thirds of the existing Members, and on a final vote in the Upper House of the Federal Parliament by at least two-thirds of the existing members.
- (8) A House of Parliament may only take a final vote three months or more after the report of the Joint Committee in terms of sub-Article (7).
- (9) If the Parliament approves one or more proposed amendments in terms of this Article and Article 203 concerning review of the final constitution, it shall conduct a referendum on the revised constitution as amended.

Article 200. Provisions applicable to an amendment to the Provisional Constitution (Schedule One (A), or a law mentioned in Schedule One (B) of this Constitution, proposed before the expiry of the first term of the Federal Parliament: The Oversight Committee

- (1) In this Article and in Article 201–
'Oversight Committee' means the Provisional Constitution Review and Implementation Oversight Committee.
'Review and Implementation Commission' means the Independent Provisional Constitution Review and Implementation Commission
- (2) This Constitution establishes the Oversight Committee as a Committee of the Federal Parliament.
 - (a) Each House of the Federal Parliament of the Federal Republic of Somalia shall elect five of its Members as members of the Oversight Committee. In addition, each existing Federal Member State of the Federal Republic of Somali that qualifies as a Federated State under the Federal Constitution of Somalia shall nominate one State Delegate as a member of the Oversight Committee;
 - (b) The Oversight Committee shall oversee, direct and approve the work of the Review and Implementation Commission, and, generally, the implementation of the Constitution.
- (3) The members of the Oversight Committee shall select its Chairperson from among the members of the Oversight Committee.
- (4) Not later than one month after the Oversight Committee selects its Chairperson, the Oversight Committee shall by majority vote adopt rules for its functioning.
- (5) The Oversight Committee shall from time to time, assign to the Review and Implementation Commission a drafting project based upon the requirements of Schedules One (A) and One (B) and such other requirements as shall be deemed necessary pursuant to the outcomes of

**the National Constituent Assembly provisional adoption as set forth in the Protocol
Establishing the National Constituent Assembly.**

- (6) In assigning a drafting project mentioned in sub-Article (5), the Oversight Committee shall prioritize the project as follows: It shall --
- (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 --
 - (i) National security, public safety, the protection of basic human rights, or the environment;
 - (ii) Inequality in quality of life of different segments of the Somali population, including income inequality, inequality in health care delivery, and inequality in education;
 - (iii) Economic development, including the availability of jobs, ensuring that a fair proportion of surplus value earned by foreign investors is reinvested in the Federal Republic of Somalia, and ensuring that Somali citizens receive education in, and obtain jobs related to the use of new technologies, and
 - (iv) Safeguarding public funds against corruption and misuse.
 - (c) Accord lesser priority to a drafting project concerning a social problem related to the responsibility of an existing Ministry other than those concerned with high priority social problems;
 - (d) So far as possible on the basis of accurate social cost/benefit calculations, assign relative priorities between proposed drafting projects seemingly of equal priority;
 - (e) Invite Members of both Houses of the Federal Parliament of the Federal Republic of Somalia to discuss prioritization of proposed constitutional amendments and proposed draft bills
 - (f) Annually submit to the Federal Parliament of the Federal Republic of Somalia for approval, amendments, approval, or rejection, of a current Legislative Drafting Program of priority proposed Constitutional amendments and proposed draft bills, in the order in which the Oversight Committee will assign projects for drafting to the Review and Implementation Commission, and from time to time add or subtract from that program as the current situation warrants.
- (7) As the Review and Implementation Commission, in terms of sub-Article (6), completes a project assigned to it for drafting, as mentioned in Article 201, it shall submit for the Oversight Committee's review the draft Constitutional amendment or draft bill, accompanied by the Report mentioned in sub-paragraph 201(7)(b).

- (8) The Oversight Committee shall --
- (a) Internally review a draft Constitutional amendment or draft bill and the accompanying Report, received in terms of sub-Article (7);
 - (b) Inform the public of the proposal and the Report;
 - (c) So far as possible, ensure that adequate opportunity exists for public debate;
 - (d) Consult with members of the public and other members of the Federal Parliament of the Federal Republic of Somalia; and
 - (e) Engage Federal Member State Legislatures and incorporate harmonized submissions into the proposed amendment, where the matter concerns State interests.
- (9) If after the consultations mentioned in sub-Article (8) the Oversight Committee decides to incorporate various suggestions into the proposed Constitutional amendment or bill, it shall return the proposed Constitutional amendment or bill and Report to the Review and Implementation Commission for redrafting, with instructions.
- (10) If after the consultations mentioned in sub-Article (8) the Oversight Committee decides to submit the proposed Constitutional amendment or bill for enactment, it shall forward the proposed Constitutional amendment or bill to the Speaker of the House of the People, together with its accompanying Report, for further proceedings in terms of this Constitution.
- (11) The Oversight Committee shall report not less than once each quarter year to both Houses the progress in completing the projects mentioned in Schedules One (A) and One(B) and as required pursuant to the outcomes of the National Constituent Assembly as stipulated in the Protocol Establishing the National Constituent Assembly.
- (12) The Oversight Committee ceases to exist upon the approval of its dissolution by a simple majority (50% plus 1) of each House of the Federal Parliament of the Federal republic of Somalia.

Article 201. Provisions applicable to an amendment to the Constitution proposed before the expiry of the first term of the Somali Federal Parliament: The Review and Implementation Commission

- (1) This Constitution establishes the Review and Implementation Commission as a Commission subject to the overall direction of the Oversight Committee in accordance with Article 200.
- (2) At the beginning of the first term of the Federal Parliament of the Federal Republic of Somalia, the relevant Minister shall nominate to the Prime Minister five members of the Review and Implementation Commission whom the relevant Minister selects from short lists prepared by Council of Ministers. In addition, existing Federal Member States should

nominate one additional delegate to the Review and Implementation Commission, based on the same selection criteria.

- (3) The relevant Minister shall select as a nominee a person, not a Member of Parliament, who meets the following criteria for appointment to the Review and Implementation Commission:
- (a) Has a good moral character and reputation;
 - (b) Possesses a degree from a recognized university;
 - (c) Has demonstrated competence at high levels of public administration or law in Somalia; or
 - (d) Has knowledge and experience of at least ten years in matters relating to one or more of the following fields:
 - (i) Law
 - (ii) Public administration
 - (iii) Economics
 - (iv) Gender
 - (v) Human rights; and
 - (e) Has had a distinguished career in the nominee's respective field, and
 - (f) Has extensive legislative drafting experience.
- (4) The Prime Minister shall place the names of the nominees before each House of the Federal Parliament of the Federal Republic of Somalia within 15 days after the Cabinet is formed, which shall, within fourteen days, approve all or reject one or more of the nominees.
- (5) If either House rejects a nominee, the relevant Minister shall in terms of sub-Article (3) nominate a replacement, and thereafter follow the procedure prescribed in sub-Articles (4) through (6).
- (6) After the Federal Parliament of the Federal Republic of Somalia has selected five nominees in terms of sub-Articles (4) and (5), the Prime Minister shall designate one of the nominees as Chairperson, and forward the nominees' names to the President, who shall forthwith appoint the Prime Minister's designee as Chairperson, and the other two nominees as Members of the Review and Implementation Commission.
- (7) The Review and Implementation Commission shall:
- (a) As the Oversight Committee may direct, draft a proposed constitutional amendment in terms of Schedule One(A), or a proposed bill as mentioned in Schedule One(B), or as otherwise required pursuant to the outcomes of the National Constituent Assembly;
 - (b) Prepare a Research Report to accompany that proposed amendment or bill, which Report, in terms of evidence, both justifies the proposed amendment or

bill and predicts the probability that the proposed amendment or bill will induce its prescribed behaviors, and that those behaviors will ameliorate the social problem at which the proposed amendment or bill aims;

- (c) Accomplish the necessary legal and factual research required to fulfill the tasks mentioned in sub-paragraphs (a) and (b);
- (d) In terms of sub-Article 200(7), submit the completed proposed amendment or draft bill accompanied by the Report mentioned in sub-Paragraph (b) to the Oversight Committee;
- (e) Report every three months to the Oversight Committee, or upon request by the Oversight Committee, on progress in the review and implementation of this Constitution and any impediments to the review and implementation process;
- (f) Work with the Chief Justice of the Constitutional Court to ensure the constitutionality of the proposals; and
- (g) Subject to budgetary limitations, employ staff sufficient to accomplish its duties under this Constitution.

Article 202. Mandates and prescribed timelines for priority institutions and independent commissions the Federal Parliament of the Federal Republic of Somalia shall establish.

- (1) Unless otherwise stated in this constitution, the Federal Parliament of the Federal Republic of Somalia shall appoint no more than nine members to serve on independent commissions.
- (2) The Federal Parliament shall establish the following institutions and independent commissions within the following timeframes applicable after the Council of Ministers is formed:
 - (a) The Judicial Services Council - 30 days;
 - (b) Constitutional Court - 60 days;
 - (c) The Human Rights Commission, Ombudsman, Civilian Oversight Commission on Security, the National Security Commission – 45 days;
 - (d) The Parliamentary Service Commission – 15 days;
 - (e) The Independent Interim Electoral Commission and the Boundaries and Federation Commission – 60 days;
 - (f) The Intergovernmental/Interstate Commission – 1 year;
 - (g) The Forgiveness and Reconciliation Commission – 30 days.

- (3) In order to facilitate the work of the Federal Parliament in accomplishing these tasks, the **Technical Revision Committee** shall prepare the draft legislation required to establish such commissions under this Constitution for the Oversight Committee and the Review and Implementation Commission to finalize and submit to the Federal Parliament to consider as soon as practicable in order to meet the deadlines established in sub-Article (2) above.

Article 203. 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 of the existing Members, and in a final vote in the Upper House of the Federal Parliament by at least two-thirds of the existing members.
- (2) In a referendum held concerning the Provisional Constitution as amended, held at/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.

Article 204. 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 203 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 Federated 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 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 199.

- (4) If the Parliament approves one or more proposed amendments in terms of Article 199 , the Federal Parliament shall follow the procedures set forth in Article 199 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 sub-Article (4) vote to approve the final Constitution as amended , that Constitution becomes the Constitution of the Federal Republic of Somalia.

Title Two: Miscellaneous Provisions

Article 205. Coming into effect of this Constitution

This Constitution comes into effect on the first day after approval by a National Constituent Assembly convened in terms of the Roadmap Agreement, the Garowe 1 and Garowe II Principles, the Galkayo and the Addis Ababa Agreements, the Presidential Decree and the relevant Protocols.

Article 206. Continuation of the laws

All laws in force immediately before the effective date shall continue to be in force and shall be construed and applied with such alterations, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution until such time as such laws are amended or repealed.

Article 207. International obligations

Until the treaty imposing a treaty obligation in effect on the date that this Constitution comes into force expires or is amended, that treaty obligation remains in effect.

Article 208. 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 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 suggest a particular answer to the question.

Article 209. Existing Federal Member States in Somalia

- (1) Until such time that all the Federal Member States of Somalia are established and the adopted 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.

Article 210. Repeal of the Transitional Federal Charter

The Transitional Federal Charter ceases to exist upon the dissolution of the National Constituent Assembly.

SCHEDULES

SCHEDULE ONE (A) – TRANSITION: PROPOSED AMENDMENTS TO THE CONSTITUTION IN THE FIRST TERM OF THE SOMALI FEDERAL PARLIAMENT

In terms of Article 200 and 201, 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:

- (1) To Article 22, prescribing detailed methods of exercising the right of political participation;
- (2) To Article 32, concerning the right of access of information;
- (3) To Article 40, prescribing procedures for redress for violations of human rights
- (4) To Article 42, establishing a Human Rights Commission.
- (5) To Article 44, concerning dispositions of federal land;
- (6) To Articles 48 and 82, concerning political parties and the electoral system.
- (7) To Articles 110 and 113, prescribing the obligations, duties, number of members, and procedures of Independent Commissions.;
- (8) To Article 182(1)(b), concerning the giving of guarantees by the federal government for loans by regional states;
- (9) To Article 182(1)(c), concerning procedures for public procurement;
- (10) Article 182(1)(d), concerning the auditing of accounts of non-governmental bodies that receive government funding
- (11) To Article 183, establishing the National Reserve and prescribing rules for the audit and control of State revenues;
- (12) To Article 111 J, concerning the Ombudsman;
- (13) To Article 189(2)(h), prohibiting private militias;
- (14) To Article 189(2)(i), regulating private security companies;
- (15) To sub-Articles 189(3), (4) and (5), concerning states of emergency.

SCHEDULE ONE (B) – PRIORITY LAWS TO BE ENACTED IN THE FIRST TERM OF THE SOMALI 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:

- (1) A law in terms of Article 8, prescribing how to obtain or lose citizenship in the Somali Republic.
- (2) A law in terms of Article 9, prescribing the status of the capital city.
- (3) A law in terms of Article 30, concerning the establishment of private schools, institutes and universities.

- (4) A law in terms of Article 34, concerning the right to free legal aid to defendants In criminal cases.
- (5) A law in terms of Article 37, concerning the extradition of accused persons and criminals.
- (6) A law in terms of Article 38, concerning refugees and asylum.
- (7) A law in terms of Article 40, prescribing procedures for redress for violations of human rights.
- (8) A law in terms of Article 46, concerning the dumping of waste.
- (9) A law in terms of Article 50 concerning the number and boundaries of federal states, and the resolution of boundary disputes.
- (10) A law in terms of Article 52, prescribing rules concerning collaborative relationships between the several levels of government.
- (11) A law in terms of Article 63 and 85, concerning the exercise of concurrent legislative power by regional state governments, and the establishment of joint committees of the two Houses
- (12) A law in terms of Article XX, prescribing rules for the national census.
- (13) A law in terms of Article 69, prescribing rules of procedure for the House of the People.
- (14) A law in terms of Article 71, defining the immunity of Members of the Somali Federal Parliament.
- (15) A law in terms of Article 76, prescribing rules of procedure for the Upper House of the Federal Parliament
- (16) A law in terms of Article 157, identifying and prescribing appointment procedures for higher ranking government officials and employees.
- (17) A law in terms of Article 158, prescribing the legal status of state employees.
- (18) A law in terms of Article 123, establishing the Central Bank of the Federal Republic of Somalia.
- (19) A law in terms of Article 182(1)(a), concerning the way in which the budgets of regional states are to be presented, and the timetable for the budgetary process in the Regional States;
- (20) A law in terms of Article 182(1)(b), concerning the giving of guarantees by the federal government for loans by regional states;
- (21) A law in terms of Article 184(2) and 189, concerning the security forces.
- (22) A law of the Federal Member States in terms of Article 184(5) and 189(3), concerning the police forces of the Regional States..
- (23) Laws in terms of Art. 189(2)(a), establishing specialized bodies as necessary to deal with anti-terrorism, anti-piracy, human trafficking and other organized crime;

- (24) A law in terms of Article 189(2)(b), regulating the structure and functions of the federal police;
- (25) A law in terms of Article 189(2)(c), regulating the relationships between the federal police service and the police services of the Regional States
- (26) A law in terms of Article 189(2)(d), to clarify the issue of obedience to illegal orders;
- (27) A law in terms of Article 189(2)(e), concerning the establishment and operation of the special parliamentary committee for the armed forces;
- (28) A law in terms of Article 189(2)(f), concerning the involvement of civilians in the oversight of the federal police service;
- (29) A law in terms of Article 206, concerning the conduct of a referendum.

Errata Sheet

Signed Harmonized Draft Provisional Constitution as Signed by the Signatories

Article 6

(1) and (2) refer to a schedule 1 which shall show the national Flag and the national emblem. Schedule 1 however does not show any flag or emblem. Add picture of flag as Schedule 1 (A) & picture of emblem as 1(B) and then adjust rest of schedule 1 to follow.

Article 8 ENGLISH TRANSLATION ONLY

(2) reads there shall be only one Somali Nationality; nationality should read citizenship.

Article 26

(3) should be deleted, as issues contemplated in the former Article 49 (restoration of illegally obtained property) has been deleted.

Article 36

Mistake in numbering as there is no Article 36.

Article 38

(5) refers to a deleted Article on the procedures to declare a state of emergency. Change to reflect and refer to Article 131 (new article on states of emergency).

Article 43

(5) refers to specifications of authorities concerning land in Annex 2. Annex does not provide for such specifications. (5) should be deleted.

Article 47

Agreed name to appear throughout should read “National Independent Electoral Commission”

Article 47

For clarity, should read “elections at the federal government level”.

Article 48 - ENGLISH TRANSLATION ONLY

Reads that no single Region can stand alone as it seeks to find other state(s) to join with to form a Federal Member State. State(s) is the wrong terminology, it should read region (s) as there are no existing states to merge with.

Article 49

(5) to be consistent with Article 73, should be changed to 1991

Article 54

Include at the end: “which shall be the powers and responsibilities of the federal government”.

Article 57 ENGLISH TRANSLATION ONLY

Header does not match the content anymore; Article should be named Joint Sitzings and first sentence deleted.

Article 58

Reads Electoral Commission; Electoral Commission should read National Independent Electoral Commission as per Article 111G.

Article 64

(2) states that the number of members of the House of the People shall be 225. (4) provides for membership in the House of the People of former Presidents of the Republic. To avoid misunderstandings, in (2) “The number of members” should read: “The number of ordinary members”.

Article 65

For greater clarity, add at the end of (1) “from among its members” to read “(1) At its first session, presided over by the eldest member, the House of the People of the

Federal Parliament shall elect a Speaker and two(2) Deputy Speakers from amongst its members”.

Article 66

Reads National Electoral and Political Parties Registration Commission; National Electoral and Political Parties Registration Commission should read National Independent Electoral Commission as per Article 111G.

Article 68

As per the TFC decision, Six months should read 30 days.

Article 69

Paragraph 1 (b) reads except laws related to financial matters; as per TFC decision financial matters should read related to the annual budget, and it should be added: “which shall be formulated by the cabinet”.

Article 73 ENGLISH TRANSLATION ONLY

Reads: “procedures similar to the ones in the House of the people”. Change to “the same procedures need to be applied”.

Article 74

(1) Reads National Electoral and Political Parties Registration Commission; National Electoral and Political Parties Registration Commission should read National Independent Electoral Commission as per Article 111G.

Article 75

As per TFC decision, (4) should read “30 days” instead of “six months”.

Article 77

In Paragraph 1 the rules of the House of the People should read: the rules of the Upper House.

Article 78

Reads: “shall have immunity similar to that of the members of the House of the people”. Should read: “shall have the same immunity to that of members of the House of the People”.

Article 79

Title of Article should be changed to read “Draft Legislation” and all subsequent mention of “legislative project” should also be changed to “draft legislation

Article 79

Paragraph 1 (b) reads writing and proposing a new law. It should be added: “which is not related to the annual budget”.

Article 80

TFC decision that Laws may be initiated in Upper House is missing; Include:

(2) Draft legislation may be presented to the Upper House of the Federal Parliament by

- (a) At least one representative of a Federal Member State; or
- (b) Any committee of the Upper House of the Federal Parliament.

Article 81

(3) is unclear and seems to be a comment. Dispute resolution needs to be included as per Article 83 (7). So it is recommended that (3) reads: 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 harmonized draft legislation to both Houses in the spirit of intergovernmental cooperation as stipulated in Article 53.

Article 91

Reads as term of office of the president 5 years; 5 years should be replaced by 4 years as to harmonize it with the term of parliament.

Article 109

(1) is redundant to Article 108 (1) and should be deleted. Change title of Article to read: “The Proceedings of the National Courts”

Article 109-Article 109C

There are repetitions and drafting comments in the English version, which must be deleted.

Article 109(c) SOMALI VERSION

Formatting issue need to number the sub articles (d), (e) & (f)

Article 109 C

Paragraph (d) refers to an Article on the resolution of disputes (former Article 75). Such an Article does not exist anymore; Reference to Article 75 needs to be deleted and the provision should read:

(d) To resolve any disputes between the Federal Government and the Federal Member States or among the Federal member States.

Article 111A

Composition of Judicial Service Commission is differently regulated as in Article 109A; It is recommended to delete the composition modalities in Article 111A as Article 109A is more precise.

Article 111 C

(3) (b) refers to international cooperation in general. It should read “international cooperation related to anti-corruption policies”.

Article 111 C SOMALI VERSION

Formatting issue, add sub-article numbers (a), (b), (c)

Article 111 J

Qualifications of Ombudsman in refer to qualifications of High Court Judges in an Article 124 that has been deleted. Same with dismissal procedures in an Article 125 which has been deleted; these references must be deleted.

Article 111E

As per the TFC, the agreed name was Boundaries and Federation Commission instead of Boundaries and Federal Commissions; Replace Boundaries and Federal Commissions by Boundaries and Federation Commission.

Article 111I

Commission should be named: Truth and Reconciliation Commission.

Chapter 14 SOMALI VERSION

Reads now as “Section 14”, change language to be consistent, should read “Chapter 14” also make sure is reflected in Table of Contents.

Article 131

The provision on a state of emergency has been left out. Add the following language at 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 that 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.

(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.

Articles 132 – 198

Delete reference to these articles and adjust numbering of all articles which follow.

Schedules

As per errata sheet change in **Article 6**, Schedule 1A should show a picture of the Somali flag and Scheduled 1B should show a picture of the Somali emblem, adjust all schedules under 1 to follow accordingly 1C, 1D, etc.

Schedule 1 A

In schedule 1 A there are numerous references to Articles that have been referred. As long as they are not included in the constitution reference to an Article must be avoided and deleted in the following cases:

8. to Article 182(1)(b), concerning the giving of guarantees by the federal government for loans by regional states;

9. to Article 182(1)(c), concerning procedures for public procurement;

10. Article 182(1)(d), concerning the auditing of accounts of non-governmental bodies that receive government funding

11. to Article 183, establishing the National Reserve and prescribing rules for the audit and control of State revenues;

In Schedule 1 A Nr. 13 and 14 reference is given to Article 189. However, such issues are now regulated in Article 130 and this should be changed accordingly.

In schedule 1 A Nr. 15 reference is given to sub-Articles 189(3), (4) and (5), concerning states of emergency but declaration of a state of emergency is included in Article 131. Change reference to reflect new article numbering

Schedule 1 B

In schedule 1 B there are numerous references to Articles that have been referred or deleted. As long as they are not included in the constitution reference to an Article must be avoided and deleted in the following cases:

- 11. A law in terms of Article 63 and 85, concerning the exercise of concurrent legislative power by regional state governments, and the establishment of joint committees of the two Houses.
- 12. A law in terms of Article XX, prescribing rules for the national census.
- 16. A law in terms of Article 157, identifying and prescribing appointment procedures for higher ranking government officials and employees.
- 17. A law in terms of Article 158, prescribing the legal status of state employees.
- 19. A law in terms of Article 182(1)(a), concerning the way in which the budgets of regional states are to be presented, and the timetable for the budgetary process in the Regional States;
- 20. A law in terms of Article 182(1)(b), concerning the giving of guarantees by the federal government for loans by regional states;
- 22. A law of the Federal Member States in terms of Article 184(5) and 189(3), concerning the police forces of the Regional States.

The following references in Schedule 1 B could be considered as referring to Article 130 and changed accordingly:

- 21. A law in terms of Article 184(2) and 189, concerning the security forces.
- 23. Laws in terms of Art. 189(2)(a), establishing specialized bodies as necessary to deal with anti-terrorism, anti-piracy, human trafficking and other organized crime;
- 24. A law in terms of Article 189(2)(b), regulating the structure and functions of the federal police;
- 25. A law in terms of Article 189(2)(c), regulating the relationships between the federal police service and the police services of the Regional States

26. A law in terms of Article 189(2)(d), to clarify the issue of obedience to illegal orders;

27. A law in terms of Article 189(2)(e), concerning the establishment and operation of the special parliamentary committee for the armed forces;

28. A law in terms of Article 189(2)(f), concerning the involvement of civilians in the oversight of the federal police service.