

## **THE CONSTITUTION OF THE REPUBLIC OF SOMALILAND**

*Approved by referendum on 31 May 2001*

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# **THE CONSTITUTION OF THE REPUBLIC OF SOMALILAND**

IN THE NAME OF ALLAH, THE COMPASSIONATE AND THE MERCIFUL

## **PREAMBLE**

IN PURSUANCE of the resolutions of the Conference of the Somaliland Communities held in Buraao on 27th April to 5th May 1991, which reaffirmed (our) independence with effect from 18th May 1991;

NOTING that the Conference of the Elders of the Somaliland Communities held in Borama from 24th January to 25th May 1993 adopted a National Charter which:

- laid down that a national constitution which will replace the national charter be prepared and consulted upon within a year; (and)

- set out clearly the constitutional principles and the governmental structures, confident in their communities' inalienable right to decide their destiny;

HAVING experienced the dire consequences of the application of a constitution not grounded on the nation's beliefs, culture and aspirations, as was the case for a period of thirty years;

HAVING experienced the devastation wrought by a regime based on dictatorship and a policy of divide and rule to which the country was subjected for over twenty years, and ever vigilant of the return of such a regime;

REMEMBERING the series of struggles waged by the people, such as that of the "Darawiish", religious leaders and political parties;

MINDFUL of the vigorous campaign led by the patriotic organisation, the SNM, which culminated in the reassertion of (our) independence which was achieved through sacrifice of life and property so that the nation can enjoy a governmental system which meets its needs;

DESIROUS of a state which fulfils the aspirations of the nation, and is thereby appreciated by all, and which is founded on equality and justice;

RECOGNISING that lasting stability and peace can be achieved through a synergy between the economic system and the aspirations of the nation;

CONFIDENT that the Somaliland nation is a family that has everything in common, such as religion, culture, customs and language; and whose members are no different from each other and are ready to build together a state in which everyone has equal status;

AWARE that the preparation of the Constitution has gone through various stages and committees, such as the Constitution Working Party which was enjoined by the third Grand Conference on 26th

November 1996 to sift through the two draft versions of the Constitution; and more recently, the corrections and amendments made by the two Houses of Parliament on 30th April 2000; and that the Constitution was based on the following issues:

- a. The Islamic Sharia.
- b. Conclusions from the various consultations.
- c. The separation of the powers of the state as between the legislative, the executive and the judiciary.
- d. The decentralisation of the administration of the government.
- e. Guarantees of private property rights and the protection of the free market.
- f. Sanctity of human life through the entrenchment of fundamental rights and individual freedoms.
- g. Peaceful and proper co-existence with the states in the region and world wide;

HAVING thoroughly considered the spirit and words of the preamble and the rest of the Constitution;

The people of Somaliland hereby approve and proclaim to the whole world on this 31st May, 2001, that this constitution has been adopted as the nation's Constitution.

## **CHAPTER ONE**

### **Description of the State, General Principles & Fundamental Rights**

#### **Part One**

#### **General Description**

#### **Article 1: The State of the Republic of Somaliland**

1. The country which gained its independence from the United Kingdom of Great Britain and Northern Ireland on 26th June 1960 and was known as the Somaliland Protectorate and which joined Somalia on 1st July 1960 so as to form the Somali Republic and then regained its independence by the Declaration of the Conference of the Somaliland communities held in Burao between 27th April 1991 and 15th May 1991 shall hereby and in accordance with this Constitution become a sovereign and independent country known as "The Republic of Somaliland".
2. Sovereignty resides in the people who shall exercise it in accordance with the Constitution and other laws.

## **Article 2: The Territory of the Republic of Somaliland**

1. The territory of the Republic of Somaliland covers the same area as that of the former Somaliland Protectorate and is located between Latitude 8' to 11' 30' north of the equator and Longitude 42' 45 to 49' East; and consists of the land, islands, and territorial waters, above and below the surface, the airspace and the continental shelf.
2. The Republic of Somaliland is bordered by the Gulf of Aden to the north; Somalia to the east; the Federal Republic of Ethiopia to the south and the west; and the Republic of Djibouti to the north west.
3. The territory of the nation is inviolable, and shall not be trespassed upon.

## **Article 3: The Capital**

The capital of the Republic of Somaliland is Hargeisa.

## **Article 4: Citizenship**

1. Any person who is a patrial of Somaliland being a descendant of a person residing in Somaliland on 26th June 1960 or earlier shall be recognised as a citizen of Somaliland.
2. The law shall determine the acquisition or loss of the citizenship of Somaliland.

## **Article 5: Religion**

1. Islam is the religion of the Somaliland state, and the promotion of any religion in the territory of Somaliland, other than Islam, is prohibited.
2. The laws of the nation shall be grounded on and shall not be contrary to Islamic Sharia.
3. The state shall promote religious tenets (religious affairs) and shall fulfil Sharia principles and discourage immoral acts and reprehensible behaviour.
4. The calendar shall be the Islamic Calendar based on the hijra, and the Gregorian Calendar.

## **Article 6: Language**

1. The official language of the Republic of Somaliland is Somali and the second language is Arabic.
2. Other languages shall be used, when necessary.

## **Article 7: The Flag, the Emblem and the National Anthem**

1. The flag of the Republic of Somaliland shall consist of three horizontal, parallel and equal sections, the top section of which is coloured green and has inscribed in its midst in white in Arabic language (the phrase) La Ilaaho Ila-Allaah Muhammad Rasulah-Allaah(There is no God, but Allah and Mohammad was his Prophet); the middle section is white and has inscribed in its midst an equally sided five pointed black star; and the bottom section is coloured clear red.
2. The emblem of the nation shall consist of a coffee coloured falcon with (the words), in Arabic language, "ALLAHU AKBAR" (God is great) inscribed on its breast. Below the eagle are two hands shaking, and a set of scales hang above it and come down on both of its sides. The falcon and the scales and hands are in turn surrounded on both sides and below by two strands of green leaves intertwined at the base, and with the Arabic words Bismillahi Rahmani Rahim inscribed at the top gap between the two leaves.
3. The National Anthem shall be determined by law and shall reflect the principles of the Constitution, the national aspirations, and co-operative social order; and shall have its own unique music which shall be different from that of other countries.
4. Any partial or total changes to the flag, the emblem and the national anthem shall be approved by a resolution of the House of Representatives.

## **Part Two**

### **General Principles**

#### **Article 8: Equality of Citizens**

1. All citizens of Somaliland shall enjoy equal rights and obligations before the law, and shall not be accorded precedence on grounds of colour, clan, birth, language, gender, property, status, opinion etc.
2. Precedence and discrimination on grounds of ethnicity, clan affiliation, birth and residence is prohibited; and at the same time programmes aimed at eradicating long lasting bad practices shall be a national obligation.
3. Save for the political rights reserved for citizens, foreigners lawfully resident in Somaliland shall enjoy rights and obligations before the law equal to those enjoyed by citizens.

#### **Article 9: Political System**

1. The political system of the Republic of Somaliland shall be based on peace, co-operation, democracy and plurality of political parties.
2. The number of political parties in the Republic of Somaliland shall not exceed three (3).
3. A special law shall determine the procedures for the formation of a political party, but it is unlawful for any political party to be based on regionalism or clanism .

#### **Article 10: Foreign Relations**

1. The Republic of Somaliland shall observe all treaties and agreements entered into by the former state of Somalia with foreign countries or corporations provided that these do not conflict with the interests and concerns of the Republic of Somaliland.
2. The Republic of Somaliland recognises and shall act in conformity with the United Nations Charter and with international law, and shall respect the Universal Declaration of Human Rights.
3. The Republic of Somaliland accepts the principles of the self-determination of the nations of the world.
4. It accepts that political disputes which arise shall be settled through dialogue and peaceful means, and shall respect the territorial integrity of other countries.
5. It shall endeavour to replace the long-standing hostility between the countries in the Horn of Africa with better understanding and closer relations.
6. The state of the Republic of Somaliland is an independent republic which has its place among the Arab nations, and the peoples of Africa and the Islamic World, and shall accordingly endeavour to join the United Nations, the Organisation of African Unity, the Arab League and Organisation of Islamic States.
7. The state of the Republic of Somaliland shall oppose terrorism (and similar acts), regardless of the motives for such acts.

#### **Article 11: The National Economy**

1. The state shall lay down the national economic policy based on the principles of free enterprise and the joint working of private property, public property, the national wealth and foreign investment so as to realise the growth of productivity, the raising of the standard of living, the creation of jobs, and, in general, the advancement of the economy of the nation.

2. In order to ensure that the economic system does not lead to the exclusive enrichment of a group or a small section of the public, and to avoid (both) the creation of economic classes consisting of those who are prosperous and those who are not, and the widening of the economic gulf between the urban and rural communities, the state shall ensure that social benefits and economic opportunities are provided in a just and equitable manner.
3. The state shall ensure the security of foreign investment in the country. Such investment shall be regulated by law.

#### **Article 12: Public Assets, Natural Resources and Indigenous Production**

1. The land is a public property commonly owned by the nation, and the state is responsible for it.
2. The care and safeguarding of property, endowments and public assets is the responsibility of the state and all citizens; and shall be determined by law.
3. The Government shall have the power to own and possess movable and immovable property; and to purchase, sell, rent, lease, exchange on equivalent value, or otherwise expend that property in any way which is in accordance with the law
4. The central state is responsible for the natural resources of the country, and shall take all possible steps to explore and exploit all these resources which are available in the nation's land or sea. The protection and the best means of the exploitation of these natural resources shall be determined by law.
5. Where it is necessary to transfer the ownership or the benefits of a public asset, the transfer shall be effected in accordance with the law.
6. The state shall encourage indigenous economic production such as agriculture, livestock, fisheries, minerals, production of frankincense and myrrh and gum etc., and manufacture based on indigenous products.
7. The payment of Zakat is a cornerstone of Islam, and its administration shall be determined by law.

#### **Article 13: Banks**

The state shall establish a Central Bank which shall direct the monetary system and the currency of the nation. The opening of commercial and development banks shall be made possible and private banks shall be accorded preferential status.

#### **Article 14: Taxes and Duties**

1. The imposition of taxes and other duties shall be based on the interests and well being of the society. Therefore, no taxes or duties which have not been determined by law shall be collected.
2. The levying, waiver and changes in taxes and other duties shall be determined by law.
3. Usury and commercial practices which are against the interests of the society and unlawful enrichment are prohibited.

#### **Article 15: Education, Youth and Sports**

1. The state shall pay particular attention to the advancement, extension and dissemination of knowledge and education as it recognises that education is the most appropriate investment that can play a major role in political, economic and social development.
2. Education is in the public interest, and is rooted in the experience and the special environment of the Somaliland society.

3. The learning of and training in the Islamic religion is a fundamental path and shall be compulsory at all levels of education. At the same time, the promotion of Koranic schools is the responsibility of the state.
4. Citizens and resident foreigners may open schools and educational or training projects of all levels in accordance with the Education Law.
5. The state shall accord a first priority to primary education, and shall endeavour to spread primary education to the regions and the districts.
6. The eradication of illiteracy and the (provision) of adult education is a national obligation, and the efforts of the public and the state shall be combined to fulfil this obligation.
7. The national policy is that primary education shall be free.
8. In order to ensure a healthy physical and mental growth of the young, and to improve their well being and maturity, the state shall give special attention to the promotion and encouragement of physical education and sports which will be recognised as one of the basic subjects in the educational curriculum of both state and other schools.

#### **Article 16: Promotion of Knowledge, Literature, Arts and Culture**

1. The state shall promote knowledge and literature, and shall encourage creativity and research.
2. The law shall determine the rights to authoring, creating and inventing.
3. The state shall promote the Arts and the modest culture of the society whilst at the same time benefiting from the knowledge of other world societies. Literature, the arts, and indigenous sports shall be specially encouraged whilst Islamic behaviour is observed.
4. The state shall promote the Arts and the modest culture of the society, and shall eradicate customs which damage religion, development, culture and the health of the society. The production of alcohol and the cultivation or the sale or use of intoxicants (drugs) in the territory of Somaliland are prohibited.

#### **Article 17: Health**

1. In order to fulfil a policy of promoting public health, the state shall have the duty to meet the country's needs for equipment to combat communicable diseases, the provision of free medicine, and the care of the public welfare.
2. The state shall be responsible for the promotion and the extension of healthcare and private health centres.

#### **Article 18: The Environment and the Relief of Disaster**

1. The state shall give a special priority to the protection and safeguarding of the environment, which is essential for the well being of the society, and to the care of the natural resources. Therefore, the care of and (the combating of) the damage to the environment shall be determined by law.
2. The state shall undertake relief in disasters such as famine, storms, epidemics, earthquakes, and war.

#### **Article 19: The Care of the Vulnerable of the Society**

The state shall be responsible for the health, care, development and education of the mother, the child, the disabled who have no one to care for them, and the mentally handicapped persons who are not able and have no one to care for them

### **Article 20: Work, Trade, and the Welfare of Employees**

1. All able citizens have a right and a duty to work. The state shall, therefore, be responsible for the creation of work and the facilitating of the skills training of employees.
2. The conditions of work of the young and women, night working and working establishments shall be regulated by the Labour Law.
3. All employees have a right to payment appropriate to the work they undertake, and are free to enter into agreements with their employers on an individual or collective basis. Forced labour is prohibited.
4. The state shall endeavour to create understanding and clear rights between employees and employers and shall accordingly introduce a law (in this respect).
5. State employees and members of the armed forces shall be entitled remuneration for their duties and to payments for sickness, injury, or disability in accordance with the law.
6. The state shall promote the support systems, insurance and safety of employees and shall strengthen the relevant responsible bodies.

## **Part Three**

### **The Rights of the Individual, Fundamental Freedoms and the Duties of the Citizen**

#### **Article 21: Implementation and Interpretation**

1. The legislative, executive and judicial branches of the state and the local government of the regions and the districts of the Republic of Somaliland, of all levels, shall be bound by the provisions of this Part.
2. The articles which relate to fundamental rights and freedoms shall be interpreted in a manner consistent with the international conventions on human rights and also with the international laws referred to in this Constitution.

#### **Article 22: Political, Economic, Social and Electoral Rights**

1. Every citizen shall have the right to participate in the political, economic, social and cultural affairs in accordance with the laws and the Constitution.
2. Every citizen who fulfils the requirements of the law shall have the right to be elected (to a public office) and to vote.

#### **Article 23: Freedom of Movement and Association**

1. Every person who is a citizen or lawfully resident in the country shall be free to move to or settle at any place of his choice, or leave or return to the country at will.
2. The matters (rights) set out in Clause 1 of this Article are subject to any law which forbids the movement to or settlement at specific places or during specific times.
3. All citizens shall have the right to form, in accordance with the law, political, educational, cultural, social, and occupational or employees' associations.
4. Associations with objectives which are contrary to the national interest or are secret or are military in nature or armed or are otherwise against the law, whatever their outward appearance might be, are prohibited.

**Article 24: The Right to Life, Security of the Person, Respect for Reputation and Crimes against Human Rights**

1. Human life is the gift of Allah and is beyond price. Every person has the right to life, and shall only be deprived of life if convicted in a court of an offence in which the sentence laid down by law is death.
2. Every person shall have the right to security of his person. Physical punishment and any other injury to the person is prohibited.
3. Every person shall have the right to have his dignity, reputation and private life respected.
4. Crimes against human rights such as torture, extra-judicial killings, mutilation and other similar acts shall have no limitation periods.

**Article 25: The Right to Liberty, Guarantees and the Conditions of Rights and Freedoms**

1. No person shall be deprived of his liberty except in accordance with the law.
2. No person may be arrested, searched, or detained, except when caught in flagrante delicto, or on the issue of a reasoned arrest warrant by a competent judge.
3. The state shall guarantee to all citizens their rights and freedoms and the punishment for any of their infringements shall be determined by law.
4. The freedoms of the person shall not override the laws protecting the public morals, the security of the country or the rights of other individuals.

**Article 26: Crime and Punishment**

1. Crimes and (their) punishment shall be laid down by the law, and no punishment shall be administered in a manner which is contrary to the law.
2. The liability for the punishment of any crime shall be confined to the offender only.
3. An accused person is innocent until proven guilty in a court.

**Article 27: The Rights of Persons Deprived of their Liberty**

1. Any person who is deprived of his liberty has a right to meet as soon as possible his legal representative, relatives or any other persons he asks for.
2. Any person who is deprived of his liberty because of alleged criminal offences shall have the right to be brought before a court within 48 (forty eight) hours of his arrest.
3. No person shall be compelled to proffer a confession, a witness statement or testimony under oath. Any such matters (evidence) obtained under duress shall be void.
4. No person shall be detained in a place which is not determined by law.
5. The law shall lay down the maximum period in which a person can be detained in custody pending investigations.
6. Any accused person who is convicted by a court shall have the right to appeal to a higher court.
7. When a person is detained in custody or his detention is extended, he shall have the right to have his status communicated to any person he so chooses.
8. Prisons are for reform and correction. The state is responsible for the rehabilitation and skills training of prisoners so that they can return to society with reformed characters.
9. The punishment for the infringement of Clauses 1 to 7 of this Article shall be determined by law.



**Article 28: Right to Sue and Defend**

1. Every person shall have the right to institute proceedings in a competent court in accordance with the law.
2. Every person shall have the right to defend himself in a court.
3. The state shall provide free legal defence in matters which are determined by the law, and court fees may be waived for the indigent.

**Article 29: The Sanctity of the Home**

The home and other dwellings shall be inviolable, and their surveillance, search and entry shall not be allowed without a reasoned order from a judge. Any such order must be read properly to the proprietor or occupier before entry is effected. It is prohibited for any person carrying out a search to contravene the order of the judge.

**Article 30: Freedom of Communication**

No person's private written communication, postal letters, or telecommunications shall be interfered with except in matters in which the law allows their investigation, tracing or listening in and a reasoned order from a judge has been obtained.

**Article 31: The Right to Own Private Property**

1. Every person shall have the right to own private property, provided that it is acquired lawfully.
2. Private property acquired lawfully shall not be expropriated except for reasons of public interest and provided that proper compensation is paid.
3. The law shall determine matters that are within the public interest, which may bring about the expropriation of private property.

**Article 32: Freedom of Public Demonstration, Expression of Opinion, Press and other Media**

1. Every citizen shall have the freedom, in accordance with the law, to express his opinions orally, visually, artistically or in writing or in any other way.
2. Every citizen shall have the freedom, in accordance with the law, to organise or participate in any peaceful assembly or demonstration.
3. The press and other media are part of the fundamental freedoms of expression and are independent. All acts to subjugate them are prohibited, and a law shall determine their regulation.

**Article 33: Freedom of Belief**

1. Every person shall have the right to freedom of belief, and shall not be compelled to adopt another belief. Islamic Sharia does not accept that a Muslim person can renounce his beliefs.
2. The Mosque is a blessed place and deserves veneration. It is the place for preaching religion and for providing the nation guidance in spiritual and temporal matters, and the preaching therein of matters which would divide the nation (sedition) is prohibited. The state shall be responsible for its general protection and any practicable support.

**Article 34: The Duties of the Citizen**

1. Every citizen shall have the duty, in accordance with the law, to strengthen the unity of the nation, the protection of the sovereignty of the state, and the defence of the country and the religion.
2. Every person has the duty to respect the Constitution and the laws of the country.
3. Every person has the duty to pay promptly his taxes and other duties as imposed under the law.
4. Every person shall have the duty to care for, protect and save the environment.

5. The law shall determine the punishment for failure to fulfil the duties imposed in Clauses 1 to 4 (of this Article).

**Article 35: Extradition of Accused and Convicted Persons and Political Asylum**

1. Any foreigner who enters the country lawfully or is lawfully resident in the country and who requests political asylum may be accorded asylum if he fulfils the conditions set out in the law governing asylum.
2. The extradition of a Somaliland citizen to another country is prohibited.
3. The Republic of Somaliland may extradite to their countries convicted or accused foreigners if there is a treaty between the Republic of Somaliland and the country requesting their extradition.

**Article 36: The Rights of Women**

1. The rights, freedoms and duties laid down in the Constitution are to be enjoyed equally by men and women save for matters which are specifically ordained in Islamic Sharia.
2. The Government shall encourage, and shall legislate for, the right of women to be free of practices which are contrary to Sharia and which are injurious to their person and dignity.
3. Women have the right to own, manage, oversee, trade in, or pass on property in accordance with the law.
4. In order to raise the level of education and income of women, and also the welfare of the family, women shall have the right to have extended to them education in home economics and to have opened for them vocational, special skills and adult education schools.

**CHAPTER 2**

**THE STRUCTURE OF THE STATE**

**Article 37: The Sovereignty and Powers of the State,**

1. Allah who created the Somaliland nation in this land has endowed it with sovereign status and powers. The people of the Republic of Somaliland have vested their sovereign powers, as set out in this Constitution, in a state founded on, and which shall act in accordance with, the Constitution.
2. The structure of the state shall consist of three branches which are: the legislative, the executive and the judiciary. The separation of the powers of these branches shall be as set out in the Constitution. Each branch shall exercise independently the exclusive powers accorded to it under the Constitution.

**Part One**

**The Legislative Branch**

**Article 38: The Parliament and Joint Sittings**

1. The legislative powers of the Republic of Somaliland are vested exclusively in the Parliament which shall consist of two Houses - the House of Representatives and the House of the Elders. The power to legislate cannot be transferred to anyone outside the Parliament.

2. All bills passed by the Parliament shall come into force when the President publishes them in accordance with the Constitution.
3. The Parliament shall fulfil its duties in accordance with the Constitution and its Rules.
4. The most important objectives and duties of the Parliament are as follows:
  - a) The protection of the peace and security of the Republic and Republic's sovereign rule over its land, sea and air.
  - b) The adoption by the Republic of Somaliland of all the laws necessary in a muslim state.
  - c) The implementation of the laws of the Republic and the genuine achievement of justice which is the foundation of the Republic's general stability and the confidence that the members of the Somaliland public have in each other and their reliance on each other.
5. The two Houses of the Parliament shall hold joint and separate sittings.
6. The two Houses of the Parliament shall sit jointly when considering matters such as the following:
  - a) the receipt of the Report of the President on the opening of the two Houses;
  - b) the debates on the Republic of Somaliland joining international or cross regional organisations, or the ratification of international or regional treaties;
  - c) the Resolution on and declaration of a state of war when the Republic of Somaliland is faced with war;
  - d) the debates on natural disasters;
  - e) the debates relating to emergency laws;
  - f) the confirmation of the appointment of the Chairman of the Supreme Court; (and)
  - g) any other matters considered by the two Houses as meriting joint sittings.

## **The House of Representatives**

### **Article 39: General Provisions of the House**

The House of Representatives consists of members who represent the public, and forms the first part of the country's legislative, passing laws and approving and overseeing the general political situation and the direction of the country.

### **Article 40: Membership and Election of the House**

The House of Representatives shall consist of 82 members who shall be directly elected by secret ballot in a free general election.

### **Article 41: Eligibility for Candidacy**

Any person who is standing for election to the House of Representatives must fulfil the following conditions:

1. He must be a Muslim and must behave in accordance with the Islamic religion.
2. He must be a citizen who is not younger than 35 (thirty five) years.
3. He must be physically and mentally able to fulfil his duties.
4. He must be educated to, at least, secondary school level or equivalent.
5. He must not have been subject of a final sentence for a criminal offence by a court within the preceding five years.
6. He must be a responsible person with appropriate character and behaviour.

7. No employee of the state shall be eligible for candidacy unless he has tendered his resignation from office prior to a period determined by law. Such resignation shall be accepted.

**Article 42: Period of Office and Election Term**

1. The period of office of the House of Representatives is 5 (five) years beginning from the date when the Supreme Court declares the electoral results.

2. The President shall announce the election of the new House a month before the expiry of the period of office of the outgoing House.

3. If the election of the House of Representatives cannot be conducted because of dire circumstances, the outgoing House shall continue in office until the end of these circumstances and a new House is elected. Dire circumstances are: a wide war, internal instability, serious natural disasters, such as earthquakes, epidemic diseases, (and) serious famines; and shall be determined and resolved by the House of Elders on the proposal of the Council of Government.

**Article 43: The Seat of the House of Representatives**

The seat of the House of Representatives is the Capital City.

**Article 44: The Convening of the New House**

1. The new House shall hold its inaugural meeting within 30 (thirty) days from the date when the electoral results are declared, and shall be convened by the President of the Republic.

2. If the President fails to convene the inaugural meeting, the House shall meet on its own initiative on the 45th (forty fifth) day beginning from the date when the electoral declaration is made.

3. The new House shall be opened by the Chairman of the Supreme Court who shall administer the oath of office to the members. The meeting of the House shall then be chaired by the oldest member (in age), and the House shall then elect, from amongst its members, a Speaker and two Deputy Speakers.

**Article 45: The Meetings of the House of Representatives**

1. The meetings of the House shall be open, but can also be closed; and their procedures shall be set out in Rules.

2. The quorum of the meetings of the House is the presence of over half of its total membership, excluding the seats that have been declared vacant.

3. Except for constitutional issues or matters which the Rules of the House state otherwise, resolutions of the House shall be passed by a simple majority of the members present at a meeting.

4. The (motion for) postponement of a meeting shall be approved by a simple majority of those present, and the meeting may then be postponed for a maximum of period of seven (7) days.

5. Ministers and Deputy Ministers have a duty to attend the meetings of the House of Representatives if requested, in writing, to do so; and they shall have the right to participate in the debate, but can not vote. In the same way, the President may ask the Vice-President or any Minister to attend, on his behalf, the meetings of the House.

**Article 46: Sessions and the Procedures of the House of Representatives**

1. The House shall hold every year 3 (three) ordinary sessions which shall last 28 (twenty eight) weeks in total. The sessions shall be separated by a period of no less than 4 (four) weeks and no more than 8 (eight) weeks.

2. An extra-ordinary session of the House of Representatives may be held:

a) on request of the President;

- b) on convening by the Speaker of the House of Representatives; (or)
  - c) on request, in writing, of 1/3 (one third) of the members of the House.
3. The House shall adopt its Rules at its first session, and shall establish such committees, as it deems necessary.
  4. The President shall deliver the State of the Nation speech at the start of the first session of each year. The speech shall cover the political situation, the Government's programme, the economy, and the financial and security situations.

**Article 47: The Remuneration and Expenses of the House of Representatives**

The members of the House of Representatives shall be entitled to remuneration and expenses as determined by law.

**Article 48: Prohibition of Holding other Office and of Private Gain**

A member of the House of Representatives shall not hold any other public office whilst serving as a Representative, and shall not use his office for private gain.

**Article 49: The Privileges of the Members of the House of Representatives**

1. No member of the House may be detained, and no action may be taken against him for any matter which he learnt or raised at the House or on which he expressed his opinion.
2. Clause 1 does not extend to insults or slander committed by a member.
3. No member of the House of Representatives shall be investigated, questioned, arrested, imprisoned or otherwise subjected to any other acts relating to punishment without the consent of the House of Representatives.
4. Action may be taken against the member if he is caught in flagrante delicto, in which case the House shall be informed promptly.
5. The House shall consider whether the action taken against the member is proper.
6. If the House is not in session, consent for the action taken against the member must be sought from the Standing Committee of the House of Representatives, and the House shall be informed at the following session.
7. Civil suits against a member of the House of Representatives may be instituted, and no consent is required.

**Article 50: Loss of Membership of the House of Representatives**

The membership of the House of Representatives shall be lost on:

1. the death of the member or incapacity which makes it impossible for him to fulfil his duties;
2. the voluntary resignation by the member, which has been accepted by the House;
3. one of the pre-requisite conditions of his election being broken; or on the member's failure to fulfil his duties;
4. the passing of a final sentence for a crime which has been proven in a court;
5. the absence, without a valid excuse, from 20 (twenty) consecutive sittings.

**Article 51: Filling Vacant Seats in the House of Representatives**

If a seat of the House of Representatives becomes vacant during any period prior to the final six months of the term of office of the House, it shall be filled as determined by law, and the new member shall serve for the remainder of the term of office.

### **Article 52: Staff of the House of Representatives**

1. The House of Representatives shall have a Secretariat headed by a General Secretary who is not a member of the House. He shall assist the Speaker of the House in administrative matters, and in all financial and management issues; and shall have a deputy.
2. The House of Representatives shall have Advisers, such as a Legal Adviser, and advisers on the economy, politics etc., who shall all, be chosen for their expertise and knowledge.
3. The other employees of the Secretariat shall be appointed by the Secretary General after he receives the approval to do so from the Speaker. The appointment, dismissal, remuneration and rights of the Secretary General, his deputy, the Advisers and other employees of the House shall be determined by the Rules of the House.

### **Article 53: The Powers and Duties of the House of Representatives**

1. All appointments of Ministers, Deputy Ministers or Heads of the organs of the state shall be subject to confirmation by the House of Representatives in accordance with the Constitution.
2. The House of Representatives shall also have power to debate, comment on, refer back with reasons or approve the programme of the Government.
3. The House of Representatives shall ratify governmental (international) agreements (treaties) such as political, economic and security agreements or those agreements which impose new financial burdens which have not been covered in the Budget, or which will involve the promulgation or amendment of legislation.
4. The House of Representatives shall submit to the Council of Government (the Cabinet) advice and recommendations about the direction of the general political situation.
5. The Council of Government (the Cabinet) shall seek the approval of both Houses (the House of Representatives and the House of Elders) for the imposition of a state of emergency in either the whole of the country or parts of it.
6. The House of Representatives shall have the power to summon the Government or its organs or agencies in order to question them about the fulfilment of their responsibilities.
7. The Committees of the House of Representatives shall have the power to question Ministers, Heads of the state organs or agencies or other senior national officers, whose duties are relevant to them, about the performance of their duties

### **Article 54: The Legislative Powers of the House of Representatives**

The legislative powers of the House shall extend to the following financial matters:

1. The imposition of taxes, duties and other schemes for raising revenue.
2. The establishment of a Somaliland Income Fund or other Funds which are earmarked for specific issues. The management, collection and disbursement of these Funds shall be determined by law.
3. The printing of currency, and the issue of bonds, other certificates and securities.
4. The regulation of the economic and the financial systems.

### **Article 55: The Budget**

1. The House of Representatives may debate and amend the Budget, and approve it by a resolution of the House.
2. If the new Budget is not approved before the start of the new financial year, the old Budget shall continue to be in force until such time the new one is approved.
3. The House of Representatives shall approve any expenditure which was not included in the Budget.

4. The procedures for the preparation of the general Budget and the financial year shall be determined by law.
5. The budgets and the annual accounts of the state organs, agencies, companies and other partly owned entities of the state and their presentation to the House of Representatives shall be determined by law.
6. The annual accounts shall be presented to the House of Representatives within six months of the end of the financial year to which they relate, and the House shall debate them and reach a resolution thereof.
7. The Auditor General shall have responsibility for the presentation of the annual accounts.

#### **Article 56: Dissolution of the House of Representatives**

The House of Representatives may be dissolved:

1. When the House does not sit for two consecutive ordinary sessions without the existence of any circumstances beyond its control.
2. When dissolution is proposed by a 1/3 (one third) of the members of the House; and is approved by 2/3s (two thirds) of the total members of the House.
3. The Constitutional Court shall issue a ruling in respect of the matters referred to in Clauses 1 and 2 of this Article, and shall submit the ruling relating to Clause 1 to the President and that relating to Clause 2 to the House of Representatives.
4. The House of Representatives may also be dissolved by the President after the public has agreed, in a national referendum organised by the Constitutional Court, to the reasons for the dissolution (advanced by the President).
5. When the President considers the ruling of the Constitutional Court issued in respect of the matters referred to in Clauses 1 or 2 of this Article, or the result of the national referendum under Clause 4 of this Article, he shall promulgate a Presidential Decree dissolving the House of Representatives and at the same time setting out the date of the election of the new House, which shall take place within 60 (sixty) days.
6. If the national referendum does not approve of the dissolution of the House of Representatives or the new elections cannot be held, the term of office of the House shall continue.
7. The House of Representatives shall not be dissolved during the first year of its term of office, or during the last year of the President's term of office.

## **Part Two**

### **The House of Elders**

#### **Article 57: General Provisions of the House**

The House of Elders of the Republic of Somaliland is the second part of the legislative, and shall review the legislation passed by the House of Representatives before it is forwarded to the President; and shall have special responsibility for passing laws relating to religion, traditions (culture) and security.

#### **Article 58: The Election of the Members of the House and their Period of Office**

1. The members of the House of Elders shall be elected in a manner to be determined by law.

2. The period of office of the House of Elders is six (6) years beginning from the date of its first meeting.

**Article 59: Eligibility for Candidacy**

Without prejudice to the requisite age and level of knowledge as set out below, any person who is standing for election to the House of Elders must fulfil the same conditions which are needed for eligibility for election to the House of Representatives:

1. He must not be aged less than 45 (forty five years).
2. He must be a person who has a good knowledge of the religion or an elder who is versed in the traditions.

**Article 60: The Membership of the House of Elders**

1. The House of Elders shall have 82 (eighty two) members, and shall elect from amongst its members a Speaker, two deputy Speakers and such committees, as it deems necessary. The House shall have a Standing Committee of 25 (twenty five) members.
2. The following shall always become honorary members:
  - a) Five members to be selected by the President on the basis of their special significance to the nation, whose term of office shall coincide with that of the House.
  - b) Any person who has served as a Speaker of the House of Elders or the House of Representatives.
  - c) Any person who has served as a President or Vice-President of the Republic of Somaliland.
  - d) Honorary members do not have the right to vote in the House and can not serve in the Standing Committee.

**Article 61: The Powers and Duties of the House of Elders**

1. The passing of legislation relating to religion, traditions (culture) and security.
2. With the exception of financial legislation, the review of legislation approved by the House of Representatives. It may refer back, with written reasons of its views, any such legislation to the House of Representatives only once within 30 (thirty) days beginning from the date when the relevant legislation was forwarded to the office of the Speaker of the House of Elders.
3. Advice on the shortcomings of the administration of the Government and the presentation of such advice to the House of Representatives.
4. Assistance to the Government in matters relating to religion, security, defence, traditions (culture), economy and society, whilst consulting the traditional heads of the communities.
5. The summoning of the members of the Government and putting questions to them about the fulfilment of their duties.
6. The House of Elders shall also have the power to put to the House of Representatives proposals for projects so that the House of Representatives can debate and reach resolutions thereof.

**Article 62: The Inaugural Meeting of the House of Elders**

The inaugural meeting of the House of Elders shall take place within 30 (thirty) days of the date when their selection is completed. The meeting shall be opened by the Chairman of the Supreme Court who shall administer the oath of office, and shall then be chaired by the oldest member of the House (in age) until the election of the official Speaker of the House and his two Deputies.



**Article 63: The Secretary of the House and Advisers**

The House of Elders shall have a secretary, who is not a member of the House. The House may also have advisers, including a legal adviser. The structure of the Secretariat of the House shall be the same as that of the House of Representatives.

**Article 64: The Rules of the House**

At its first session, the House of Elders shall pass the Rules of the House.

**Article 65: The Remuneration and Expenses of the House of Elders**

The members of the House of Elders shall be entitled to remuneration and expenses as determined by law.

**Article 66: The Privileges of the Members of the House of Elders**

The privileges of the members of the House of Elders shall be the same as those of the House of Representatives. Such privileges may be removed by the House of Elders.

**Article 67: Resignation of Members of the House of Elders**

Any member of the House of Elders may forward his resignation to the House of Elders which shall accept it.

**Article 68: Loss of the Membership of the House of Elders**

A person may lose his membership of the House of Elders:

1. if one of the conditions under which he was selected is no longer valid, or he can not fulfil his duties in accordance with the Rules of the House of Elders;
2. if a member received a final sentence for a crime which has been proved in a court;
3. if the House accepts his resignation.

**Article 69: The Dissolution of the House**

The House of Elders may be dissolved in the same manner as the House of Representatives.

**Article 70: Prohibition of Holding other Office and of Private Gain**

A member of the House of Elders shall not hold any other public office whilst serving as a member of the House, and shall not use his office for private gain.

**Article 71: Meetings and Sessions**

The meetings of the House of Elders shall be open, and may be closed as provided in the Constitution. The quorum for meetings, the majority by which resolutions can be passed and the convening of extra-ordinary sessions shall be the same as the procedures applicable to the House of Representatives.

**Article 72: Vacant Seats in the House of Elders and Procedures for Filling them**

1. A seat at the House of Elders may become vacant on the realisation of one of the conditions set out in Article 50.
2. If a seat of the House of Elders becomes vacant during any period prior to the final six months of the term of office of the House, it shall be filled as determined by law, and the new member shall serve for the remainder of the term of office of the House.

**Article 73: The Seat of the House of Elders**

The seat of the House of Elders is the CapitalCity.

**Article 74: Introduction of Draft Legislation**

Bills (draft legislation) may be introduced at the House of Representatives by:

1. The Council of Government (the Cabinet).
2. The requisite number of members of the House of Representatives as laid down in Rules passed by the House.
3. Except for financial bills, at least 5000 (five thousand) citizens who are eligible to vote.

**Article 75: The Promulgation, Publishing and Implementation of Legislation**

All laws shall be promulgated and published in the Official Journal by the President within three weeks (21 days) beginning from the date when the two Houses have forwarded them, and shall come into force within thirty (30) days beginning from the date of their publication, but a longer or shorter period for coming into force may be set out in each law.

**Article 76:**

A bill shall become law on approval by the House of Representatives, and shall come into force after its signature by the President in accordance with Article 38.

**Article 77: The Procedures for Legislation**

1. Each House of Parliament shall forward any bills that it passes to the other House for review and advice.
2. Each House may refer a bill back to the other only once.
3. The Rules of the Parliament shall lay down the procedures for the progress of bills, and shall make clear the special status of bills relating to finance and those that the Government considers to be urgent, which shall (both) be given priority.
4. Any bill passed or approved by both Houses of Parliament on a 2/3s (two thirds) majority or more shall not be referred back (to the Parliament) by the President who shall thereby signit. If the President considers that the bill is in conflict with an Article or Articles of the Constitution, he shall inform the Speakers and the Attorney General, who shall refer it to the Constitutional Court.
5. The President shall sign any bill forwarded to him by Parliament within three weeks (21 days) beginning from the date when the bill was received at the Office of the President, providing that he has not referred it back to Parliament.
6. If the President fails to sign a bill forwarded to him by Parliament within the requisite period, and has not referred it back to Parliament, then the bill shall henceforth become law, and shall be promulgated by the House which forwarded it (to the President).

**Article 78:**

1. All bills, other than those relating to finance, passed by the House of Representatives by a majority shall be forwarded to the House of Elders which shall:
  - a) Approve them or propose amendments.
  - b) If the House of Elders does not approve the bill, or its proposed amendments are not accepted by the House of Representatives, the latter has the right to return the bill to the House of Elders during its next session. If the House of Elders (still) does not approve the bill, nor submit a response within a month, the bill shall pass and shall accordingly be forwarded to the President.

2. All bills passed by the House of Elders by a majority shall be forwarded to the House of Representatives, which shall:

a) Approve it or propose amendments.

b) If the House of Representatives does not approve the bill, it shall not be referred back.

3. If the President accepts a bill passed by both Houses and forwarded to him, he shall issue it in the Official Journal within (21) days. If, however, the President does not accept the bill or proposes amendments, he shall inform the Speaker of the House of Representatives his reasons for such action within (21) days.

4. If the House (of Representatives) is not satisfied with the reasons given by the President, and the bill is passed again on a 2/3s (two thirds) majority of the members of the House, the President shall accept the bill. If there is no such majority (in the House), the bill shall lapse.

5. Except for financial bills, if the House of Elders refuses to accept on a point of principle and by a 2/3s (two-thirds) majority of its membership any bill passed by the House of Representatives, and the House of Representatives is not satisfied with that rejection, but fails to pass the bill again by a majority of less than 2/3s (two-thirds) of its membership, then the bill shall lapse.

#### **Article 79: Accusations against the Members of the Houses**

1. The members of the Houses (Representative or Elders) may be indicted for a criminal offence if they are caught in flagrant delicto for an offence which carries a punishment no less than (3) three years imprisonment.

They can not, however, be brought before a court, nor imprisoned until they are stripped of their privileges for the responsibilities that they hold for the nation.

2. The criminal prosecution brought against the accused members of the Houses, shall be conducted by the Attorney General after the appropriate House to which the members belong has stripped them of their privileges on a majority vote of two thirds of the total membership of the House.

Such cases shall be heard by the High Court of Justice.

## **CHAPTER THREE**

### **THE EXECUTIVE**

#### **Part One**

#### **Article 80: The President and the Vice-President**

The state shall have an executive branch, which is separate and independent of the legislative and the judicial branches.

#### **Article 81: The Executive Branch**

The Executive Branch (sometimes referred to as “the Government”), shall be headed by the President and shall consist of:

- The President;
- The Vice-President;
- The Council of Ministers appointed by the President.

### **Article 82: The Conditions for Eligibility for Election as President or Vice-President**

To be elected as President or Vice-President, a person must fulfil the following conditions:

1. He must be a citizen of Somaliland by birth, and, notwithstanding residence as a refugee in another country, must not hold any other citizenship,
2. He must be a Muslim, and must behave in accordance with Islamic religion.
3. He must not be aged less than 40 years.
4. He must be physically and mentally fit to fulfil his duties.
5. He must possess knowledge of and experience in management (public and otherwise).
6. He must not have been convicted by a court for an offence against the Somaliland nation.
7. His spouse must be Muslim.
8. He must be fully apprised of the realities of the country, having been resident in the country for a period of at least two years before the date when the election is scheduled to take place.
9. He must register his private property.

### **Article 83: Election Procedures**

1. The President and the Vice-President shall be elected jointly through a direct general election by means of a secret ballot.
2. The joint election of the President and the Vice-President shall be based on the list system and shall take place a month before the end of the term of office of the outgoing President.
3. The outgoing President and Vice-President shall continue in office until the new President and the Vice-President assume their offices within a month (of the election).
4. The two candidates in the list which obtains the highest number of votes cast in the Presidential and Vice-Presidential election shall be recognised as the successful candidates.
5. If on the expiry of the term of office of the President and the Vice-President, it is not possible, because of security considerations, to hold the election of the President and the Vice-President, the House of Elders shall extend their term of office whilst taking into consideration the period in which the problems can be overcome and the election can be held.

### **Article 84: Oath of Office of the President and the Vice-President**

Before the President and the Vice-President can assume office, they shall be sworn at a ceremony attended by the Speakers of the House of Representatives and the House of Elders and the Chairman of the Supreme Court.

### **Article 85: Matters in which the President and the Vice-President are not Allowed**

1. The President and the Vice-President and their spouses shall not engage in any business activities during their term of office.
2. The President shall not be absent from the country for a period exceeding 45 (forty five) consecutive days unless the absence is for reasons of health.
3. All presents given, as a mark of respect for their office, to the President, the Vice-President, their spouses and the senior officers of the nation, who have a national standing, shall be the property of the nation.

### **Article 86: Vacancy of Office and the Procedure for the President and the Vice-President to Vacate their Office**

The office of President or Vice president may become vacant in the event of the one of the following:

1. Conviction of a criminal offence which leads to loss of office.

2. Inability to fulfil the duties of the office because of ill health.
3. Death.
4. The President or the Vice-President may forward his written resignation from office to the Speaker of the House of Representatives and the Speaker of the House of Elders, and the two Houses may, in a joint sitting, accept it or reject it by a (simple) majority of their total membership.
5. If the two Houses reject the resignation referred to in Clause 4 of this Article, the President or the Vice-President shall have the right to submit again his resignation within three months of the initial resignation request, whereupon the two Houses shall be obliged to accept it.

**Article 87: Salary and Emoluments**

The salary, expenses and the public property to which the President and the Vice-President are entitled to shall be determined by law.

**Article 88: Term of Office**

1. The term of office of the President and the Vice-President is 5 years beginning from the date that they are sworn into office.
2. No person may hold the office of President for more than two terms.

**Article 89: Procedure for Filling the Vacancy**

1. In the event of the one of the circumstances set out in Article 86 happening to the President within the first three years of his five-year term of office, the Vice-President shall act as a temporary President, and the election of the President shall be held within six months.
2. In the event of one of the circumstances set out in Article 86 happening to the President within the last two years of his 5 year term of office, the Vice-President shall assume the office of President for the remainder of the term, and shall then nominate a Vice-President from among the members of the House of Representatives subject to the approval of the two Houses. If the two Houses refuse to confirm the nomination, he shall nominate another member (of the House of Representatives) within 30 days beginning from the date of the refusal of confirmation.  
The person so appointed shall serve (as Vice-President) for the remainder of the constitutional term of office and shall, at the same time, relinquish his membership of the House of Representatives.
3. Similarly, in the event of the one of the circumstances set out in Article 86 happening to the Vice-President, the President shall nominate a member of the House of Representatives as Vice-President, subject to the approval of the two Houses. The honourable appointee shall hold office for the remainder of the term of office, and his seat at the House of Representatives shall then become vacant. If the two Houses refuse to confirm the appointment, the President shall nominate another member within 30 days beginning from the date of refusal of confirmation by the two Houses.
4. In the event of the one of the circumstances set out in Article 86 happening to both the President and the Vice-President at the same time, the office of President shall be assumed temporarily by the Speaker of the House of Elders. The election of the President and the Vice-President shall then be held within 60 days beginning from the date of the occurrence of the circumstance.

## Part Two

### **Article 90: The Powers of the President**

The President is the Head of the nation and the state, and is the symbol of the unity of the citizens of the Republic of Somaliland. He is responsible for the care of the nation's resources, the protection of the peace, the advancement of the society and the proper conduct of the administration of the state. In order to fulfil these responsibilities, the President shall have following powers:

1. The leadership of the general policy of the Government.
2. The appointment and removal from office of the members of the Council of Ministers.
3. Having consulted the appropriate Ministers and in accordance with the Constitution and other relevant special laws, the appointment and removal from office of the senior officers of the state. Such senior officers of the state are:
  - a) the Auditor-General;
  - b) the Chairman of the Central Bank;
  - c) the Chairman and the Committee members of the Civil Service Agency;
  - d) the Chief Accountant;
  - e) the Director Generals of the Ministries and the state organs and agencies;
  - f) the Commanders of the Armed Forces and their deputies;
  - g) Ambassadors;
  - h) the Attorney General; and
  - i) any other senior officers (heads) whose appointment or dismissal has been assigned to the President in accordance with any law passed by legislative bodies.
4. The leadership of the national Armed Forces as he is the Commander-in-Chief.
5. Without prejudice to the principles of just retaliation (Qisas) and the limits under Islamic Sharia, the exercise of pardon and amnesty, and the grant of political asylum after consultation with the appropriate bodies.
6. The signing of international agreements (and treaties).
7. The participation in international conferences as representative of the Republic of Somaliland.
8. Holding audience for foreign diplomats and receiving their credentials.
9. The appointment of Ambassadors representing the Republic of Somaliland in foreign countries, international and regional organisations.
10. The granting of awards and honours, such as medals.
11. Leadership in conditions of war, and at the same time, the proclamation of state of emergency.
12. The implementation of laws which do not fall within the jurisdiction of the judicial branch.
13. Any other powers set out in the Constitution or any other laws.
14. The President shall fulfil his duties in accordance with the Constitution and other laws of the land.

### **Article 91: Powers of the Vice-President**

The Vice-President of the nation shall have the power:

1. To act as President in the absence or illness of the President.
2. To undertake such duties as delegated to him by the President.
3. To act as President in the event of the office of President becoming vacant because of the following reasons:
  - a) The resignation of the President;
  - b) the conviction of the President for a crime which resulted in his loss of office;

- c) inability of the President to undertake the duties to which he was elected because of ill health; and
- d) death.

**Article 92: Other Powers of the President Relating to Emergency Laws**

1. In the event of the emergence of special circumstances which endanger the security of the country, jeopardise law and order, create upsets in the general stability or in the confidence in the economy, the President shall issue emergency laws which are aimed at combating such special circumstances as set out above. If the two Houses are in session when the emergency laws are issued by the President, he shall present the laws to them within seven (7) days so that they can make their own resolutions. If, on other hand, the two Houses are not in session, the Speakers shall call an extra-ordinary meeting within 14 days. The Government shall implement the emergency laws until such time the two Houses have made their own resolutions.
2. Emergency laws shall have the same effect as legislation passed by the House of Representatives or the House of Elders, and shall come into force on their signature by the President.
3. Emergency laws shall be reviewed once every three (3) months by the two Houses whose resolutions shall be passed by a simple majority vote.

**Article 93: Protocol of Senior Leaders of the State**

1. The President and the Vice-President shall hold first position in the protocol of the nation.
2. The Speaker of the House of Elders shall hold the next position.
3. The Speaker of the House of Representatives shall hold the third position in the protocol of the nation.

**Part Three**

**Article 94: The Council of Ministers**

1. The Council of Ministers shall assist the President in the fulfilment of his duties and shall resolve collectively the general policies, planning and programmes of the state.
2. Ministers and Deputy Ministers shall be appointed or dismissed by the President. Their appointments shall be presented to the House of Representatives whose quorum shall be half of their total membership plus one, and the House shall confirm or reject the appointment, on a show of hands, by a simple majority vote.
3. The Minister or Deputy Minister so appointed shall be sworn into office, within thirty (30) days of the appointment being confirmed by the House of Representatives, by the Chairman of the Supreme Court, in the presence of the President or, in the latter's absence from the country or illness, the Vice-President.
4. Ministers and Deputy Ministers shall not hold any occupation other than that accorded to them by the nation.
5. No person who can not fulfil the conditions necessary for eligibility for election to the House of Representatives shall be appointed as a Minister or a Deputy Minister.
6. A Minister may be responsible for one or more Ministries.
7. The President shall preside over the ordinary and extra-ordinary meetings of the Council of Ministers.

8. No Minister or Deputy Minister may be detained unless caught in flagrante delicto in respect of an offence punishable by imprisonment for three years or more, or the President has removed his privileges after having been satisfied by proposals put to him by the Attorney General.

**Article 95: Continuation of Responsibilities**

1. Any Minister or Deputy Minister who resigns or is dismissed shall remain in office until such time his successor takes over the responsibilities of the office.

2. A Minister or Deputy Minister who is awaiting the handing over of the responsibilities of office to his successor shall neither make any appointments nor enter into any agreements on behalf of his Ministry.

**Article 96: Accusation against and Impeachment of the President, the Vice-President and the Ministers**

1. If the President and the Vice-President are accused of following crimes:

a) high treason, or

b) contravention of the Constitution,

the charges against the President or the Vice-President in respect of the crimes in this Clause shall be laid by at least one third of the members of the House of Representatives, who shall forward their charges to the Speaker of the House of Representatives. The House may approve of the charges on a majority vote of half of its total membership, plus one (absolute majority).

2. The House of Representatives shall empanel a committee of ten members who shall prosecute the charges against the President or the Vice-President in front of the House of Elders, and may also engage independent counsel who can assist the House in the prosecution.

3. The House of Elders shall consider the charges at a sitting chaired by the Chairman of the Supreme Court, and shall hear the prosecution brought by the committee on behalf of the House of Representatives. The President and the Vice-President shall have their own defence counsel. The House of Elders shall approve of the charges on a majority vote of two thirds of its total membership.

4. If the Attorney General charges a Minister or a Deputy Minister with an offence set out in Clause 1 of this Article, he shall forward the details of the charges to the President. If the President is satisfied with the details provided by the Attorney General, he shall remove the privileges of the Minister or Deputy Minister. But, if he is not so satisfied, he shall order the Attorney General to drop the charges.

5. The charges relating to the Ministers shall be tried by the High Court of Justice which shall consist of the Chairman of the Supreme Court, four judges of the Supreme Court and four members elected, two each, by the two House of Parliament from amongst their members.



## **CHAPTER FOUR**

### **Part One**

#### **The Judicial Branch**

##### **Article 97:**

1. The state shall have a judicial branch whose function is to adjudicate on proceedings between the Government and the public and between the various members of the public.
2. The Judicial Branch shall fulfil its duties in accordance with the Constitution, and shall be independent of the other branches of the state.

##### **Article 98:**

1. The Judiciary shall have the power to:
  - a) interpret, in accordance with the Constitution, the laws passed by the Constitutional bodies and emergency laws;
  - b) adjudicate on disputes between the governmental bodies and the public and between the members of the public;
  - c) adjudicate on all disputes which relate to compliance with the provisions of the Constitution
2. A judge shall not engage in any other occupation whilst in office.
3. The proper status of judges shall be determined by the law.

##### **Article 99: The Structure of the Judiciary**

1. The Judiciary consists of the courts and the Procuracy.
2. The judges and the members of the Procuracy are independent when exercising their judicial functions and shall be guided only by the law.

##### **Article 100: The Courts**

The courts of the Republic of Somaliland shall consist of:

1. the Supreme Court;
2. the Appeal Courts of the Regions;
3. the Regional Courts;
4. the District Courts; and
5. the Courts of the National Armed Forces.

##### **Article 101: The Supreme Court**

The Supreme Court is the highest organ of the Judiciary and is also at the same time the Constitutional Court. In addition to the Chairman, the number of judges in the court shall not be less than four. A special law shall govern the court.

##### **Article 102: The Lower Courts**

The appointment and the conduct of the work of the lower courts (the Appeal Courts of the regions, the Regional and the District Courts) shall be determined by a special law.

##### **Article 103: The Procuracy**

The Procuracy of the state shall consist of the Attorney General and his deputies.

**Article 104: The Courts and Procuracy of the Armed Forces**

1. The courts of the Armed Forces shall have special jurisdiction in hearing criminal charges brought against the members of the armed forces in peace or war.
2. The courts and procuracy of the Armed Forces shall be determined by a special law.

**Article 105: The Appointment of the Chairman and Judges of the Supreme Court**

1. The President, in consultation with the Judicial Commission and having considered the level of education, professional experience and good character of the appointees, shall appoint the Chairman and judges of the Supreme Court. The appointment of the Chairman of the Supreme Court is subject to confirmation by the Houses of Parliament at a joint sitting which shall be held within three months of the date of the appointment.

The highest-ranking judge in seniority among the Supreme Court judges shall act as the Deputy Chairman of the Court.

2. No person who does not fulfil the following conditions shall be appointed as Chairman of the Supreme Court:

- a) He must be a citizen of the Republic of Somaliland.
- b) He must possess a university degree in a recognised law course.
- c) He must have professional experience of not less than ten years in total; and must have worked as a judge and/or a prosecutor, and/or lawyer, and/or law lecturer.

3. The President may relieve the Chairman of the Supreme Court of his duties but shall require the approval of the both the House of Representatives and the House of Elders.

**Article 106: The Relationship of the Judicial Bodies and the Ministry of Justice**

1. The Ministry of Justice shall be responsible for fulfilling the administrative decisions of the Judicial Commission.

2. The working relationship of the Ministry of Justice and the judicial organs shall be set out in a law.

**CHAPTER FIVE**

**MISCELLANEOUS PROVISIONS**

**Part One**

**Article 107: The Judicial Commission**

1. The Judicial Commission is the body which directs the administration of the Judiciary, and shall consist of the following:

The Chairman of the Supreme Court Chairman

The two Supreme Court judges who rank highest in seniority Member

The Attorney General Member

The Director General of the Ministry of Justice Member

The Chairman of the Civil Service Agency Member

Two members selected from the public once every two years by the House of Representatives, one of whom to be chosen from among the intellectuals and the other from the businessmen, and

two members to be selected from the public once every two years by the House of Elders, one of whom to be chosen from among those who are well versed in the traditions and the other from the religious scholars.

2. The quorum for the meetings of the Commission is (7) members.

3. If the Chairman of the Supreme Court is unable to fulfil the duties of chairing the Commission because of reasons of health, holidays or on vacating his office, the member of the Commission who is the Supreme Court judge with the highest rank in seniority, shall act as the temporary chairman. The Secretary of the Judicial Commission shall be the Chief Registrar of the Supreme Court.

**Article 108: the Functions of the Judicial Commission**

1. The Judicial Commission shall be responsible for the appointment, removal of office, promotion, demotion, transfer and discipline of the judges of the lower courts (the Appeal, Regional and District Courts), and the Deputy Attorney Generals. The other personnel who work in the judiciary shall come under the provisions of the Civil Service Law.

2. No judge or Deputy Attorney General may be detained without the consent of the Judicial Commission, but such consent shall not be required if the judge or the Deputy Attorney General is caught in flagrant delicto in relation to an offence which carries a sentence of no less than three (3) years imprisonment.

3. The Attorney General shall submit to the Commission the charges for the removal of the privileges and the disciplining of judges and Deputies of the Attorney General.

**Part Two**

**Article 109: The Structure of the Country**

1. The territory of the Republic of Somaliland shall consist of regions, and each region shall be divided into districts.

2. The structure of the regions and the districts, their boundaries and hierarchy shall be determined by law.

3. Changes in the number of regions and districts and their boundaries and the reasons for the changes shall be proposed by the Council of Government (Cabinet) and approved by the House of Representatives and the House of Elders.

**Article 110: The Administration of the Regions and the Districts**

1. The administration of the regions and the districts is part of the administration of the Government of the Republic of Somaliland.

2. The relationship of the central government and the regions and districts shall be set out in a special law.

**Article 111: The Regional and District Councils**

1. The regions and the districts of the country shall have legislative councils, whose powers are limited to passing by-laws which do not conflict with the laws of the country, and executive councils.

2. The total membership of each regional or district council, the conditions of membership and their election procedures shall be determined by law.

3. The Chairman of the district, shall, in consultation with the prominent members of village communities, propose village administration committees whose appointments shall be subject to the approval of the legislative council of the district.
4. The regional and district councils shall have power to plan their economic and social affairs.
5. The Chairman of the region shall be appointed by the Government and shall act as the representative of the central government in the region and the districts that come under it.
6. The Chairman of the region is the link between the central government and the districts of the region and shall come under the Ministry of Interior.
7. The term of office of the regional and district councils shall be 5 (five) years.
8. a) A regional or district council may be dissolved before the end of its term of office.  
b) The conditions which could lead to such dissolution and the procedures for dissolution shall be determined by law.
9. The secretary of the region or the district and the heads of the branches or sections of the Ministries shall continue to fulfil the council's responsibilities in line with the existing laws (and by-laws) until the election of a new council.
10. The regional and district councils shall have their own proper regulations, and shall be assisted in this task by the Ministry of Interior.

#### **Article 112: The De-centralisation of Administrative Powers**

1. The administration of community services, such health, education up to elementary/intermediate school level, livestock husbandry, internal security, water, electricity, communication etc. shall be the responsibility of the regions and districts in so far as they are able to do so.
2. The demarcation of the administrative and tax levying powers between the central government and the regions/districts shall be determined by the law setting out the relationship between the central government and the regions/districts.
3. The demarcation referred to in Clause 2 of this Article must be such as to make it possible for the regions and districts to become self-sufficient in their provision of community services.

### **Part Three**

#### **The Organs of State**

#### **Article 113: The Special Organs of the state**

The national organs of state are:

1. The Procuracy.
2. The Central Bank
3. The Civil Service Agency
4. The Auditor General

Other organs may be created, if deemed necessary, in accordance with the law.

#### **Article 114: The Appointment of and Removal from Office of Heads of the Organs of the State**

1. The appointment of the Attorney General, the Governor of the Central Bank, the Chairman and the members of the Civil Service Agency and the Auditor General shall be proposed by the Chair-

man of the Council of Government (Cabinet) and shall be approved by the House of Representatives before the appointee is sworn into office.

2. The Heads listed in this Article may be removed from office by the President only.

3. The office holders of the state whose appointments are, according to the Constitution, subject to confirmation shall not hold office in a temporary capacity for more than three months (whilst awaiting confirmation).

#### **Article 115: The Ulema Council and their Responsibilities**

The Ulema Council is independent and shall have the responsibility of :

1. Formulating formal declarations on:

a) religious disagreements that may arise; and

b) any matters in which there is a conflict as to whether they are contrary to the Sharia, or appear to the Council as being contrary to the Sharia.

The Council shall forward their declarations to the offices which have requested the declarations or to the Constitutional Court, as they deem fit.

2. Undertaking research of all kinds from a religious perspective and, particularly, in a way which advances scientific and religious knowledge. (Also, they shall) review, and validate translated religious Sharia works, and specially those (prior to their acceptance legally) which the courts rely on in their rulings and those which are included in the educational syllabus and relate to religious traditions and knowledge.

#### **Article 116: The Total Membership of the Council and Term of Office**

The membership of the Ulema Council shall consist of 11 (eleven) members who shall serve for a 5 year term of office. Any suitable member may be re-appointed.

#### **Article 117: The Conditions of Membership**

Each member of the Ulema Council must fulfil the following conditions:

1. He shall be a citizen and is mentally and physically able to fulfil his duties.

2. He shall not be aged less than 40 (forty) years.

3. He shall be someone who is known for his piety (allegiance to Allah) and good manners.

4. He shall not have been convicted of a criminal offence that was proven in a court during the preceding five years.

5. He shall have been educated in religious matters to a university level or equivalent.

6. On the assumption of his duties, a member shall observe neutrality in political matters and in religious views.

#### **Article 118: Matters in which Members are not Allowed**

The members of the Ulema Council shall not be:

1. associated with a political party or a special religious group;

2. hold any other national office whilst still carrying the responsibilities of the Council.

#### **Article 119: The Appointment of the Members of the Ulema Council**

1. The members of the Ulema Council shall be nominated by a committee consisting of an equal number of persons chosen respectively by the Council of Government (Cabinet) and the House of Elders, and the nominations shall be confirmed by the House of Elders.

2. The Ulema Council shall elect from among its members a Chairman and a Deputy Chairman.

**Article 120: Vacancies in the Membership of the Ulema Council**

The membership of the Ulema Council may become vacant:

1. on resignation by a member or death;
2. on one of the conditions of membership being no longer valid;.(and)
3. on a member being subject to a final sentence for a criminal offence.

**Article 121: Salaries and Remuneration**

The salaries and remuneration of the members of the Ulema Council shall be determined by law.

**Article 122: The Law of the Organs of State**

Each special organ of state shall have a law setting out its structure, responsibilities and the status of its head.

**Part Four**

**Article 123: The Principles of the National Armed Forces**

1. The national Armed Forces shall be responsible for protecting and defending the independence of the country. In addition, they shall, when needed, undertake duties in periods of state of emergency, in accordance with the Constitution.
2. The national armed forces shall always obey and act in accordance with the Constitution and the laws of the country.
3. The structure (and composition) of the national armed forces shall reflect all the various Somali-land communities.
4. The person who is appointed as Minister of Defence shall be a civilian citizen.
5. The command structure of the national Armed Forces shall be determined by law.

**Article 124: The Police and the Corrections Forces**

1. The Police Force shall be responsible for protecting the peace and for enforcing the law, and its structure and duties shall be set out by law.
2. The Corrections Force shall be responsible for guarding and reforming prisoners and its structure and duties shall be set out by law.

**Article 125: The Preparation of the Referendum Law and the Appointment of the Referendum Committee**

Whilst taking note of the provisions of the Constitution, a referendum law shall be issued so as to make possible the holding of the referendum. A Committee to organise the referendum shall be appointed in accordance with the Constitution.

**Article 126: Amendments or Corrections of the Constitution**

1. Proposals for the amendments and/or corrections of the Constitution shall be made by:
  - a) The President, after consulting the Council of Government (Cabinet).
  - b) 1/3 (one-third) of the total membership of the House of Representatives.
  - c) 1/3 (one-third) of the total membership of the House of Elders.
2. Any proposal to amend and/or correct the Constitution must be reasoned and signed.

3. Amendments and/or corrections of the Constitution shall be debated by the House of Representatives and the House of Elders two months after the House of Representatives resolves by a majority of their total number that the amendments and/or the corrections are necessary.
4. Any amendment and/or correction of an Article or Articles of the Constitution shall come into force after its approval by 2/3 (two-thirds) of the total membership of the House of Representatives and by 2/3 (two-thirds) of the total membership of the House of Elders in separate votes.
5. If the House of Representatives does not resolve by a majority of its total membership that the amendment or the addition or both is necessary; or if one of the two Houses does not approve of the amendment and/or correction by a 2/3 (two-thirds) majority of its total membership, the proposal shall not be re-introduced during the following 12 (twelve) months.

**Article 127: The Limits of Amendments or Corrections of the Constitution**

No proposal to amend or correct the Constitution shall be made if it includes a provision which is in conflict with the:

- a) Principles of Islamic Sharia.
- b) Unity of the country(territorial integrity).
- c) Democratic principles and the multi-party system.
- d) Fundamental rights and individual freedoms.

**Article 128: The Basis and the Supremacy of the Constitution**

1. The Constitution shall be based on Islamic principles.
2. The Constitution shall be the supreme law of the land, and any law which does not conform to it shall be null and void.

**Article 129: The Constitutional Oath**

The Chairman of the Supreme Court, who is, at the same time, the Chairman of the Constitutional Court, shall administer this constitutional oath to any person who is obliged to take an oath under the Constitution before that person can assume his office. In the same way, he shall also take an oath to be administered by the President.

“I SWEAR BY ALLAH THAT I SHALL BE TRUE TO THE ISLAMIC RELIGION AND MY SOMALILAND COUNTRY, AND SHALL MANAGE MY PEOPLE IN EQUITY AND JUSTICE SO LONG AS I HOLD OFFICE.”

**Article 130: The Implementation of the Constitution**

1. This Constitution shall come into force when a referendum has been held and the outcome of the referendum is known. It shall, however, be implemented, in the interim, for a period of three years (3) beginning from the date when it is approved by the 3rd Conference of the Somaliland Communities.
2. If the referendum can not be held within the set period, the interim period in which the Constitution is implemented may be increased by the Parliament (the Representatives and the Elders).
3. In the event of one of the circumstances listed in Article 50 happening to a member of the House of Elders or the House of Representatives, the community which he represented shall fill that vacancy until such time the system of elections through parties is adopted.
4. In the event of the circumstances listed in Article 86 happening to the President or the Vice-President or both until such time a party system with direct elections is adopted, the two Houses (Representatives and Elders) shall elect jointly, within 45 days, the President or the Vice-President

or both. The Speaker of the House of Elders shall fill the vacant office during the period preceding such election.

5. All the laws which were current and which did not conflict with the Islamic Sharia, individual rights and fundamental freedoms shall remain in force in the country of the Republic of Somaliland until the promulgation of laws which are in accord with the Constitution of the Republic of Somaliland. At the same time, laws which conform to the Constitution shall be prepared, and each such law shall be presented within minimum time scales set by the House.

6. If the regions and districts fail to set up their councils within 3 (three) months, the Government, in consultation with the relevant members of the Houses of Representatives and Elders who represent these regions or districts and also with the elders in these communities, shall appoint, on a temporary basis, regional and district administrators.

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The names of the Constitution Preparation Committee: This is the Committee which prepared the Constitution at the 1997 Hargeisa Conference

(Note: All the spellings of the names are in Somali Script)

1. Sh. Cabdilaahi Sh. Call Jawhar - Chairman
2. Maxamed Axmed Cabdulle - Deputy Chairman
3. Ciqaadir X. Ismaaciil Jirde - Secretary
4. Sh. Maxamuud Suufi Muxumed
5. Maxamed Siclid Maxamed (Gees)
6. Sh. Call Sh. Cabdi Guuleed
7. Faysal Xaajl Jaamac (Counsel)
8. Cismaan Xuseen Khayre (Judge)
9. Prof. Faarax Cabdllaahi Farlid
10. Prof. Maxamuud Nuur Caalin
11. Xasan Cabdi Xabad
12. Axmed Macaim Jaamac
13. Yuusuf Aadan Xuseen
14. Cismaan Cali Blue
15. Maxamed Jaamac Faarax

The Constitution Revision Committee

The House of Elders:

(Mud is short for Mudane “the honorable” – a title used by members of Parliament)

- 1) Mud. Sicid Jaamac Cali, Chairman
- 2) Mud. Axmed Nuur Aw Cali, Secretary
- 3) Mud. CILaahi Sh. Xasan,
- 4) Mud. Siclid CILaahi Yaasir



- 5) Mud. Cali X. Cabdi Ducaale
- 6) Mud. Clraxmaan Axmed Areye
- 7) Mud. Maxamed Clise Faarax
- 8) Mud. Yuusuf C/Laahi Cawaale
- 9) Mud. Muxumed Aw Axmed
- 10) Mud. Maxamed Gaaxnuug Jaamac
- 11) Mud. Maxamed Cismaan Guuleed

#### The House of Representatives

- 1) Mud. Xasan Axmed Ducaale, Chairman
- 2) Mud. Cali Maxamed Cumar, Secretary
- 3) Mud. C/raxmaan Xuseen Cabdi
- 4) Mud. Maxamed Xuseen Dhamac
- 5) Mud. Cabdi Daahir Camuud
- 6) Mud. C/Laahi Ibraahim Kaarshe
- 7) Mud. Axmed C/Laahi Cal
- 8) Mud. Faysal X. Jaamac
- 9) Mud. Maxamed Aadan Gabaloos
- 10) Mud. Cumar NuurAare
- 11) Mud. Yaasiin Faarax Ismaaciil
- 12) Mud. Yaasiin Maxamuud Xiir
- 13) Mud. Cali Obsiye Diiriye

The Committee for Corrections, Authentication and Production of Copies of the Constitution who also appended their signatures:

- 1) Mud. Axmed Maxamed Aadan, Speaker of the House of Representatives
- 2) Mud Axmed Nuur Aw Cali, Secretary of the House of Elders
- 3) Mud C/Laahi Sh. Xasan, member of the House of Elders
- 4) Maxamed Xuseen Cismaan, Secretary of the House of Representative.

#### SIGNED BY:

Sh. Ibraahim Sh. Yuusuf Sh. Madar, Speaker of the House of Representatives.  
Axmed Maxamed Aadan, Speaker of the House of Representatives

The Secretariat of the Constitution Committee:

- 1) Faisa Maxamed Axmed
- 2) C/risaaq Siciid Ayaanle