

## PREAMBLE TO THE CONSTITUTION

The Somali people who have been living in the Horn of Africa ever since the beginning of history and human civilization, inspired by its continuous struggle and historical legacy based on the culture of democracy and the Islamic belief system, have succeeded in 1960 in liberating and unifying two of the region into which the colonialists had divided Somalia, thereby ushering in the birth of the Somali Republic which is 30 years old this year.

The people, while making use of the experiences of the periods following the attainment of liberation and independence, the hard experiments, the difficult life, the wars and the natural calamities, having seen different political leadership and socio-economic systems, have adopted this constitution which is based on the following principles and aspirations:

- the preservation of the independence and unity of the Somali Republic and support for the self-determination and liberation of Somali territories;
- the establishment of social justice and equality of the people;
- the reinforcement of a unified defence of the nation;
- protecting internal peace and stability;
- the development and welfare of the lives of the Somali people;
- respecting and safeguard the right and freedom of the citizen and individual, and
- supporting the world security and cooperation of the peoples of the world,

The people hope that God would help them in its implementation and the future prosperity.

## THE CONSTITUTION

### PART ONE

### GENERAL PRINCIPLES

#### CHAPTER ONE

#### THE SYSTEM OF GOVERNMENT

##### Article 1

##### (The Republic)

1. Somalia is an independent democratic republic, based on work and justice, and is part of the Arab nation and the peoples of Africa.
2. All sovereignty belongs to the people who shall exercise it through their representative institutions in accordance with the constitution and laws.

**Article 2**  
**(Flag, emblem, and capital city)**

1. The colour of the republic is light blue and is rectangular-shaped with a white star with five equal points in the centre.
2. The emblem of Somalia shall be composed of a blue shield with a golden frame that has a silver-coated five-pointed star in the centre. The shield is surmounted by a decorated embattlement with five golden heads and the two lateral ones halved. It shall be borne by two leopards facing each other and standing on two spears crossing each other under the lower point of the shield along with two palm leaves interlaced with a white ribbon.
3. The capital city of the republic shall be Mogadishu (Xamar).

**Article 3**  
**(Religion)**

1. Islam shall be the religion of the state.
2. No religion, other than Islam, can be propagated in the country.
3. Islamic Shariah shall be an important source of legislation.

**Article 4**  
**(Official language)**

The official languages of the state shall be Somali and Arabic.

**Article 5**  
**(The people)**

1. The people of Somalia shall be one people.
2. Somali nationality shall be one only, and the law shall define how to obtain or lose it.
3. No person may be denied nationality or revoked thereof for political reasons.

**Article 6**  
**(Territory of the state)**

1. The territory of the state shall be sacred, inviolable and undividable.
2. Territorial sovereignty shall extend to continental territory, islands, territorial waters, the subsoil, the airspace above and the coasts.

**Article 7**  
**(Equality of citizens)**

All citizens, regardless of gender, religion, social and economic status, political views, (place of) birth or language, shall have equal rights and duties before the law.

**Article 8**  
**(Multiparty)**

1. Multiparty system shall be adopted in the republic.
2. Political parties shall compete for the political leadership of the country in a peaceful and democratic way.
3. Political parties, whether in government or in opposition, shall be recognized as one of the pillars of political life and democracy in the country.
4. There shall be a special law regulating the system of political parties.

**CHAPTER TWO**  
**FUNDAMENTALS OF FOREIGN POLICY**

**Article 9**  
**(Principle of self-determination)**

The state shall believe in the principle of self-determination of the peoples of the world and shall fully support freedom seeking peoples and movements struggling for their liberation.

**Article 10**  
**(Unification of the Somali territories)**

The Somali state shall promote, by peaceful and legal means, the liberation of Somali territories, and shall encourage the unification of all Somali territories through peaceful means and the desire of the people concerned.

**Article 11**  
**(Policy of nonalignment and peaceful coexistence)**

1. The republic shall follow the policy of effective nonalignment.
2. The republic shall fully recognize the principle of peaceful coexistence of the peoples of the world.
3. The republic shall be opposed to the resolution of international disputes through war.

**Article 12**  
**(Policy of cooperation)**

The state shall promote the policy of cooperation of the peoples and states of the world, based on mutual interest, equality and respect for the independence and political system of every nation.

**Article 13**

**(The republic and international relations)**

The generally recognized international law and international treaties to which the republic is part thereto and effected in accordance with the law, shall have the force of law in the country.

**Article 14**

**(Human rights)**

The state shall recognize the Universal Declaration of Human Rights of the United Nations adopted on 10<sup>th</sup> December 1948.

**PART TWO**

**RIGHTS, FREEDOM AND DUTIES OF THE CITIZEN AND PERSON**

**CHAPTER ONE**

**BASIC RIGHTS OF THE CITIZEN**

**Article 15**

**(Right to vote)**

1. Every citizen who fulfills the conditions prescribed by the law shall have the right to elect and be elected.
2. Voting in election shall be personal, free, secret and open to all on equal basis.

**Article 16**

**(Right to government employment)**

Citizens who fulfill the conditions laid down by the law shall have right to get government employment on equal basis.

**Article 17**

**(Right to reside and travel)**

1. Every citizen shall have the right to reside and travel freely in any part of the country and shall be subject to deportation.
2. Every citizen shall have the right to leave the country and return thereto.

**Article 18**

**(Right to form political party)**

1. Citizens shall have the right to association in political parties in accordance with the law.

2. It shall be prohibited to form a political party that is secret or with military form or desires to take over the government through fighting or with a tribal/clan name.

#### **Article 19**

##### **(Right to form labour organizations/trade unions)**

Citizens shall have the right to form labour organizations/trade unions in order to protect their labour interests and these organizations shall have legal personality.

#### **Article 20**

##### **(Right to strike)**

The right to strike shall be recognized and shall be exercised within the limits stipulated by the law. Every discriminatory act that takes away the rights and freedom of labour organizations shall be prohibited.

#### **Article 21**

##### **(Right to form civic organizations)**

1. Citizens shall have the right to freely form civic organizations.
2. No one may be obliged to join or remain in a civic organization, whatever type it may be.
3. It is prohibited to form a secret civic organization or that with military or quasi-military form.

#### **Article 22**

##### **(Freedom to demonstration and opinion)**

1. Every citizen shall have the right to organize, take part in, a meeting or demonstration.
2. Also, the citizen shall have the right to express his opinion in a speech, in writing and any other form, without censorship.
3. The exercise of rights contained in this article should not contravene the laws of public morality or decency or stability of the country.

#### **Article 23**

##### **(Freedom of press)**

The state shall guarantee the freedom of the press, printing and publication, which shall be regulated in a special law.

**CHAPTER TWO**  
**BASIC RIGHTS OF THE INDIVIDUAL**

**Article 24**

**(Right to life and personal security)**

1. Every person shall have the right to life and his personal security.
2. A person can be liable to death penalty only due to the most serious offences against human life or the personality of the state.

**Article 25**

**(Personal freedom)**

1. Every individual shall have the right to his or her personal liberty.
2. No one shall be liable to detention, or restrictions of his or her personal liberty, unless when apprehended in *flagrante delicto* or being detained pursuant to a warrant of arrest by competent judicial authorities.
3. Whoever is detained or his or her personal liberty restricted for being suspected of an offence, in a case of emergency that is expressly defined by the law, must be reported to the competent judicial authority within 48 hours and the measure must be ratified within the time specified by the law.
4. Whoever is deprived of his/her personal liberty must be informed immediately of the offence of which he/she is suspected.
5. No person may be subjected to a security measure beyond those specified by the law. A security measure is a decision reasonably issued by a competent authority.
6. No person may be personally searched except the situation specified in Paragraph 2 and 3 of this article and in other situations stipulated in the law in relation to judicial, health or tax matters, always following the provisions laid down by the law and respecting personal dignity and liberty.

**Article 26**

**(Safeguarding the person whose personal liberty is taken away)**

1. A person whose personal liberty is taken away may not be harmed physically or psychologically.
2. Corporal punishment shall be prohibited.
3. Any violation of the physical or psychological well-being of a person in detention shall be an offence liable to punishment.

**Article 27**  
**(Private ownership)**

1. Private ownership shall be guaranteed by the law which shall define the modes of acquisition and forfeiture, its essence and limits of its use for the purpose safeguarding its social role.
2. Private ownership may be expropriated or requisitioned for reasons of public interest, in exchange for suitable and quick compensation to the owner.
3. The law shall define what could amount to public interest for which private ownership could be expropriated.
4. Expropriated property shall be returned to its original owner when the interest that led to the expropriation is no longer valid.

**Article 28**  
**(Respect for private home)**

No home or private property of any one may be entered into or violated, save in the cases mentioned in Paragraph 2, 3 and 5 of Article 25.

**Article 29**  
**(Freedom of communication)**

The secrecy of correspondence and other forms of communication shall not be tempered with, except in the cases expressly determined by the law.

**Article 30**  
**(Freedom of religion)**

Every person shall have the right to profess any religion or other creed that he/she believes in.

**Article 31**  
**(Right to legal proceedings and defense)**

1. Every person shall have the right to institute judicial proceedings in accordance with the law before a competent court.
2. Every person shall have the right of defense against any legal proceedings he/she wishes, at whatever level or stage may be.
3. The state shall guarantee to provide free legal aid in conditions prescribed by the law.

**Article 32**  
**(Petitions against administrative decisions and right to compensation)**

1. Petitions against the decisions of state administrative agencies shall be lodged in the courts, and law shall determine how to lodge the petitions and procedure to be followed.

2. Every person whose rights have been violated by state officials and employees or agencies in the course of performing their official duties, shall have the right to be compensated by the state or by the agency concerned.
3. The criminal, civil and administrative liability of state officials and employees regarding the violations mentioned in the previous paragraph shall regulated by the law.

**Article 33**  
**(Criminal liability)**

1. Criminal liability shall be personal.
2. The accused shall be presumed innocent until he/she is finally convicted by the court of the offence which he/she is accused of.

**Article 34**  
**(Retroactivity of the Penal Law)**

No one may be punished for act that was not an offence under the law at the time when it was committed, nor may a punishment be imposed other than the one prescribed by the law.

**Article 35**  
**(Extradition of accused or offender)**

1. A person who has committed an offence in his country or another country and has taken refuge in Somalia may be extradited, provided that there is an extradition treaty between the Somali state and the state that has requested the extradition of the accused offender. Extradition of accused or offender may not affect political offences.
2. The state may grant political asylum to a person who has fled his country or another country due to political oppression while struggling for the interests of the people, human rights or peace.

**CHAPTER THREE**  
**DUTIES OF THE CITIZEN AND INDIVIDUAL**

**Article 36**  
**(Protection of public property)**

Every citizen shall have a duty o protect and consolidate public property.



**Article 37**  
**(Defense of the country)**

1. The defense of the country, preservation and consolidation of the unity of the Somali people and keeping state secrets shall be a sacred duty on every citizen.
2. The duty of national defense shall be compulsory and law shall regulate it.

**Article 38**  
**(Duty to pay tax)**

1. Every person shall have a duty to pay the tax that due on him/her in accordance with the law.
2. The law shall regulate the system of taxation which must be based on the principles of social justice.

**Article 39**  
**(Observance of the constitution and laws)**

Every person shall have the duty to faithfully observe the constitution and laws of the country.

**PART THREE**  
**SOCIO-ECONOMIC BASE**

**CHAPTER ONE**  
**THE ECONOMY**

**Article 40**  
**(Economic development)**

The state shall lay down the general policy for the country's economy based on public property and private property cooperation, in order to raise production, uplift living standards, create job opportunities and develop the country's economy, in general.

**Article 41**  
**(Ownership of natural resources)**

1. Natural resources that are under the ground or found on the ground or in territorial waters, shall be state property, and the law shall define the best way of exploiting them.
2. The state shall give special priority to the protection of the environment.

#### **Article 42**

##### **(Cooperation of the people)**

The state shall encourage, and constantly support and cement, any social cooperation organized and administered by the people, especially cooperative societies and self-help groups, recognizing the big role that unified efforts and cooperation of the people will play in the country's development.

#### **Article 43**

##### **(Economic entrepreneurship)**

Private entrepreneurship shall be free, and the state shall encourage it.

#### **Article 44**

##### **(Outside investment)**

The state shall welcome, and guarantee foreign investment in the country, which shall be regulated by special laws.

### **CHAPTER TWO**

#### **DEVELOPMENT OF EDUCATION, SCIENCE AND LITERATURE**

#### **Article 45**

##### **(Education)**

1. The state shall give special priority to the promotion, expansion and dissemination of public, technical, and vocational education and science, and shall consider education as the best investment which shall play the biggest role in the Somali political, economic and social development.
2. Education in the country shall favour the people and shall conform to the special conditions and environment of the Somali society.
3. Learning and upbringing of Islamic education shall be compulsory for the students of government schools and equivalent private schools.
4. It shall be allowed to open private and special schools and institutions in accordance with the law.

#### **Article 46**

##### **(Basic education and illiteracy)**

1. The state shall give the first priority to basic education.
2. Basic education shall be free and shall be the right of all the citizens, and shall be guaranteed by the state.

3. The state shall undertake the promotion of basic education among all the communities in the country.
4. Eradication of illiteracy and adult education shall be a national duty, and the people and the state shall pool their resources together in fulfilling such duty.

#### **Article 47**

##### **(Promotion of science and literature)**

1. The state shall promote science and arts and shall encourage scientific and artistic creativity and scientific research.
2. Patent rights for writings and innovations shall be regulated by the law.

#### **Article 48**

##### **(Youth and sports)**

1. In order to ensure a healthy physical and mental growth, the upbringing and uplifting the social conscience of the youth, the state shall give special importance to the development and encouragement of athletics and sports.
2. Athletics and sports shall be an essential subject of the education curriculum of government schools and other equivalent schools.

### **CHAPTER THREE**

### **CULTURE AND SOCIAL WELFARE**

#### **Article 49**

##### **(Promotion of culture)**

1. The state shall promote the sound cultural practices of the Somali people, while at the same time benefiting from the international knowledge of human society.
2. The state shall encourage and promote art, literature and the national folklore.
3. The state shall collect, protect and preserve the country's historic objects and sites, while developing the know-how and technology that shall enable the performance of such obligation.
4. The state shall preserve the good customs and shall aim to eradicate from the society outdated customs that harm the unity, civilization and health of the society.

#### **Article 50**

##### **(Rural development)**

The state shall work on a programme of settlement for rural population, while creating objective circumstances that could encourage settlement, and, in

particular, it shall support economic, social and administrative programmes for rural development.

#### **Article 51**

##### **(Health)**

1. The state shall shoulder the responsibility for the general health of the society and for equipping the country with the equipment to prevent and treat diseases.
2. In particular, The state shall take on the responsibility for the health of mother and children and the prevention of contagious diseases.
3. The state shall encourage the development of health services and special healthcare centres.

#### **Article 52**

##### **(Family welfare)**

1. The family shall be the basis of society, and shall stand on the pillars of religion, morality and patriotism.
2. The state shall protect and encourage marriage.
3. The state shall guarantee the welfare of mother and child and shall introduce the necessary laws in that regard.
4. The state also shall guarantee the care of orphans of those who have sacrificed or gave their lives while defending the country.
5. The welfare, upbringing and education of children shall be the duty of parents, in accordance with the law.
6. It shall be the duty of grown up children to care for their parents who cannot care for themselves.

#### **Article 53**

##### **(Care for the weak)**

1. The state shall be responsible for the care of the handicapped, children without parents and the elderly, provided that they do not have any one else to care for them.
2. The state shall develop children care homes and youth centres.

#### **Article 54**

##### **(Women)**

The state shall create for women opportunities to enable them effective take part in the political, economic and social life of the country.

#### **Article 55**

##### **(Work and the workers)**

1. The state shall safeguard and promote work in all its various types.
2. Compulsory labour of any kind shall be prohibited. The law shall determine the situations when work can be compulsory due to military requirement, civilian necessity or pursuant to a court ruling.
3. Workers shall be entitled to receive without any discrimination remunerations equal to the amount and value of the job they perform.
4. Workers shall be entitled to a paid weekly rest and annual leave and they may not be forced to give them up.
5. The law shall determine the working hours, the minimum age for work and the minimum wage, and shall guarantee for young people and women a work suitable for their conditions.
6. The state shall guarantee the right of retirement pension for its employees, both civilian and military. It shall also guarantee to give full support to cases of accident and diseases that result from work in accordance with the law.

#### **Article 56**

##### **(Social security and assistance)**

The state shall introduce laws to protect and insure the society, and shall promote the system of social services and assistance, while giving support to the general insurance agencies of the country and the humanitarian agencies for the weak people.

### **PART FOUR STATE STRUCTURE**

#### **CHAPTER ONE THE NATIONAL ASSEMBLY**

##### **SECTION ONE ORGANIZATION OF THE NATIONAL ASSEMBLY**

#### **Article 57**

##### **(Legislative power)**

The legislative power of the country shall be vested in the National Assembly.

#### **Article 58**

##### **(Election of the National Assembly)**

1. The National Assembly shall consist of deputies elected by the citizens through free, direct and secret ballot and other deputies determined by the constitution.
2. The number of deputies and the electoral system shall be determined by a special law.
3. Every citizen who is at least 25 years of age shall be eligible to be elected as deputy in the National Assembly. A special law shall determine the exceptional cases or other situations where a person may not be elected.
4. The president of the republic may nominate to be deputies in the National Assembly up to four people extra selected from among the citizens who have shown special distinction in the fields of science, literature and arts or have higher honour of patriotism.
5. Every person who becomes a president shall be an ex officio deputy for life, provided that he/she is not convicted by court with one of the offences stipulated in Article 85 of the constitution, and shall be an extra deputy not counted in the number of deputies.

#### **Article 59**

##### **(Term of office)**

1. The term of office of the National Assembly shall five years, starting from the day the result of the election was declared.
2. The date for the election of a new assembly shall be set by the president of the republic, and shall take place within the last 30 days of the period that the legislative session is going.
3. The new assembly shall convene its first session within 30 days, starting from the day the result of the election was declared.
4. When there are circumstances that do not allow holding of elections, the president of the republic, after consulting the speaker of the National Assembly and the prime minister, shall have power to extend the term but not more than one year.

#### **Article 60**

##### **(Dissolution of the National Assembly)**

1. The National assembly may be dissolved before the end of its term, when such dissolution is suggested in a motion moved by one third of the deputies of the assembly and passed by two thirds.
2. The National Assembly may also be dissolved by the president, having consulted the speaker of the National Assembly, when it is clear that the assembly cannot discharge its duties or discharges them in a manner prejudicial to the legislative interest.

3. The assembly may not be dissolved during the first year of its term and during the last year of the president's term in office.
4. Election of the new assembly shall take place within three months, starting from the day when the dissolution decision was announced.
5. The dissolved assembly shall retain legislative power until the election results of the new assembly is declared.

#### **Article 61**

##### **(Sessions)**

1. The National assembly shall hold two sessions every year.
2. The assembly may be convened in an extraordinary session when such session is proposed by the president of the republic or the assembly is convened by the speaker of the assembly or such session is requested by the government or by one third of the deputies of the assembly.

#### **Article 62**

##### **(Sittings and decisions of the assembly)**

1. The National Assembly shall, in its first meeting, elect from among its members a speaker, deputy speakers and other members of the office of the speaker.
2. The meetings of the assembly shall be open to the public. However, secret meetings may be held if such meetings are suggested by the president, the government or at least one fourth of the deputies and approved by the assembly.
3. The meeting of the assembly shall be valid when it is attended by the majority of the deputies.
4. Decisions of the assembly shall be taken one vote of the majority, except when a special majority is required by the constitution or by law.
5. The duty to ensure security shall be on the speaker of the assembly or whoever acts in his/her place.

#### **Article 63**

##### **(Participation of members of the government)**

1. The prime minister, ministers and deputy ministers shall have the right to attend the meetings of the assembly and of its committees, and to be heard when they request to speak. Senior officials and experts that are specifically appointed by members of the government may also attend the meetings and shall be heard.
2. Members of the government shall be obliged to attend the meetings when requested by the National Assembly.
3. A government member who is not a deputy shall no vote in the assembly.

## **Article 64**

### **(By law/standing orders)**

The conduct of business of the National Assembly shall be regulated by laws or rules of procedure adopted by the assembly, and which may be suggested by the speaker or by at least five deputies.

## **Article 65**

### **(The power of the assembly)**

The National assembly shall have the following powers:

- a) amendment of the constitution;
- b) legislation and approval of decisions that affecting the country's development.
- c) approval of international treaties that affect defence and security of the independence of the republic, political, economic and trade treaties and those that bring financial responsibility to the state.
- d) approval of the economic development plan of the country.
- e) holding the government and its members to account.
- f) other powers that the constitution grants it.

## **Article 66**

### **(Deputies)**

1. Every deputy shall represent the public interest of the Somali people.
2. At the beginning of his/her duty in the assembly, each deputy shall take the following oath:  
"In the name of God, I swear that I will respect the constitution and laws of the country; that I will defend the independence, freedom and unity of the country and the Somali people to the best of my ability; that I will faithfully and honestly serve the Somali people"
3. Deputies may not be persecuted for views and opinions expressed or votes cast in the assembly and its committees, while discharging their duties.
4. Without authorization from the National Assembly, no criminal proceeding shall be instituted against a deputy, nor shall a deputy be arrested nor shall he be searched personally, his home or any other private place, except in case of *flagrante delicto* for an offence in respect of which a warrant of arrest is mandatory. Likewise, without authorization from the assembly, no deputy shall be arrested or detained in execution of a court sentence, even when it has become final.
5. A law suit, other criminal case, may be instituted against a deputy without asking for the approval of the National Assembly.
6. Deputies shall be entitled to emoluments and sitting allowances regulated by a special law.



## **Article 67**

### **(Petitions against deputies)**

1. The Supreme Court shall have jurisdiction over petitions challenging the qualifications for the election of deputies or their continuation in office.
2. Every voter may file a petition, stating the grounds thereof within 30 days from the declaration of the election results or from the date that the cause of ineligibility to be a deputy has become known.
3. The Supreme Court shall give its decision with 90 days from the date of expiry of period fixed in the previous paragraph of this article.
4. If the Supreme Court approved the petition, the National Assembly shall declare the deputy's seat vacant, and shall be filled in accordance with the law.

## **SECTION TWO**

### **LEGISLATIVE PROCEDURES AND OTHER POWERS OF THE ASSEMBLY**

## **Article 68**

### **(Draft law or bill)**

1. A bill or draft law may be introduced by the president of the republic or the government. It may also be introduced by the deputies of the National Assembly or 10,000 citizens who have the right to vote.
2. The law shall govern the manner in which citizens may initiate a draft law or bill, and shall not pertain to matters of taxation.
3. A bill or draft law that was introduced by deputies shall be discussed only when the motion is supported by at least five deputies.
4. Prior to the discussion in the assembly, every bill or draft law shall be examined by the relevant parliamentary committee which shall present the finding of their examination to the assembly.
5. If a draft law or bill could not be passed by the assembly, the same draft law may be re-introduced after six months, starting from the date of the rejection decision of the assembly.

## **Article 69**

### **(Passage and publication of the law)**

1. Every law that the National Assembly has passed shall be promulgated by the president of the republic within 30 days.
2. The president shall have the power to send the law back to the National Assembly, within the time stipulated in Paragraph 1 of this article, giving the

grounds thereof and requesting that it shall be debated again and a decision made on it.

3. If the members of the assembly passed the law again with a two thirds majority, the president shall president must promulgate the law within 30 days.
4. If the assembly declares with a simple majority that the law is an emergency law, it must be promulgated within the time-limit fixed by the law, provided that the time-limit shall not be less than five days.
5. The law that has been passed by the assembly and promulgated by the president shall be published in the official gazette and shall come into force 15 days after its publication in the official gazette, unless the law indicates a different timeframe.

#### **Article 70**

##### **(Delegation of legislative power)**

1. The National Assembly may delegate to the government the power to issue on specific subjects or matters and for specific period, provisions having the force of law. The principles and directives that need to be followed may be provided in the delegating law.
2. Provisions made under a delegated authority shall be issued by decree

#### **Article 71**

##### **(Decree law/Temporary provisions)**

1. In a case of urgent necessity, the government may introduce temporary provisions having the force of law issued by a presidential decree. The decree shall, within one month, be presented to the National Assembly to convert it into law.
2. The National assembly shall decide on the conversion with 15 days from date the decree was issued when in session, or 15 days from the date from its first subsequent session, when the assembly is not in session.
3. Provisions that are not converted into law shall cease to have effect *ab initio*. However, the assembly shall have power to fix a different date for the provisions to cease to have effect or otherwise regulate the legal consequences arising therefrom.

#### **Article 72**

##### **(General and special amnesty)**

1. The National assembly may delegate the power to grant general and specific amnesty to the president of the republic by a law approved by the majority two thirds of its members.

2. The general and specific amnesty may not be granted in respect of offences committed after the introduction of the draft law.

**Article 73**  
**(Budgets)**

1. The government shall, before the National Assembly, at least two months before the end of the fiscal year, present the estimated budget bill of the state. The budget shall take effect when the assembly legally adopts it.
2. The budget shall be debated and voted for chapter by chapter.
3. If the budget could not be approved before the beginning of the new year, the budget of the previous year shall continue to be in effect for a period of not more than three months.
4. The assembly shall legally approve the *isu wareejinta madaxyada* of the budget.
5. The law approving the budget may not establish new taxes and expenditures.
6. Within the first six months of each year, the government must present to the National Assembly the annual accounts budget of the previous fiscal year for approval.
7. The law shall determine the preparation form of budgets and the fiscal year.

**Article 74**  
**(Taxation)**

1. The imposition, modification, abolition and suspension of taxes may be effected only by law.
2. Taxes collected and other revenues of the state shall be deposited in the treasury, to be part of state budget, unless the law specifies otherwise.
3. Draft laws or bills involving new state expenditure or an expenditure larger than previously budgeted for, shall specify the sources of the new expenditure.

**Article 75**  
**(State of war)**

The National Assembly shall authorize the declaration of state of war and shall confer on the government the necessary powers.

**Article 76**  
**(Inspection power of the assembly)**

1. Each deputy shall have the right to put to the government or its members questions and submit interpellations to which they shall reply within 20 days. The deputy also shall have a right to propose motions to the National Assembly.

2. The assembly may order investigations, delegating the function to committees consisting of deputies and experts.

## **CHAPTER TWO THE PRESIDENT OF THE REPUBLIC**

### **Article 77 (Head of state)**

The president of the republic shall be the head of state, and shall represent the state authority, the unity and freedom of the Somali people.

### **Article 78**

1. Any Somali citizen, who is a Muslim, whose father and mother are both original Somalis, who had not married, before and during his term of office, a spouse who is not of Somali origin, who has the right to vote or elect deputies and who is not less than 45 years of age shall be eligible to be elected to office of the president of the republic.
2. The president of the republic, during his term of office, shall not exercise any other public function, except the right to vote. Likewise, he shall not engage in any independent profession or commercial, financial or industrial activities nor shall he buy or rent state property nor shall he sell or lease his property to the state.

### **Article 79 (Election system)**

1. The president of the republic shall be nominated by the political parties and directly elected by the people. Any citizen who fulfills the conditions outlined in Article 78 may also nominate himself/herself to be elected to the office of the president.
2. The system and form of the election of the president shall be provided for in a special law.
3. The preparation of the election of the president of the republic shall commence 60 days before the end of the sitting president's term of office, and the election shall take place 20 days before the end of the term.
4. The candidate who gets majority of the valid votes cast in the election shall be the president. If no candidate gets that numbers, a new or runoff election shall be held for the two candidates who get the highest votes within 30 days,

starting from the day the election results were declared, and the candidate who gets the highest valid votes shall become the president.

**Article 80**  
**(Term of office and oath)**

1. The term of office of the president of the republic shall be six years, starting from the day he takes the oath of office, and may be re-elected only for one more term.
2. On assuming his function, the president of the republic shall take the oath mentioned in Article 66 before the National Assembly.

**Article 81**  
**(Emoluments)**

The emoluments or remunerations and state properties that the president uses shall be fixed by the law.

**Article 82**  
**(Disability to discharge duty)**

1. In case of death, resignation or permanent disability of the president of the republic, the election of a new president shall be held in the form outlined in Article 79, within 60 days.
2. Until the election provided for in the preceding paragraph has taken place and in the case of suspension of the powers of the president as provided for under Article 85, or whenever there is a temporary disability, the functions of the president of the republic, with the exception of those outlined in Paragraph 2 of Article 60, Sub-paragraph (e) of Article 83, Paragraph 3 and 4 of Article 87, Paragraph 2 of Article 88 and Paragraph 1 of Article 118, shall be temporarily exercised by the speaker of the National Assembly.
3. In case of resignation, the president of the republic shall give written notice thereof to the National Assembly.

**Article 83**  
**(Powers and functions of president)**

1. In addition to the exercise of powers and functions conferred upon him by the constitution and laws, the president of the republic shall:
  - a) protect and preserve the constitution and laws of the country;
  - b) authorize the government to present draft laws to the National Assembly;
  - c) ratify international treaties approved by the National Assembly;
  - d) ratify other international treaties that the state or its member are part thereto;
  - e) put important issues relating to crucial national interests of the country to the people for referendum;

- f) accredit and receive ambassadors and diplomatic envoys;
  - g) appoint, and relieve of their duties from, senior officials of the state when such is approved by the Council of Ministers;
  - h) grant pardon and commute sentences;
  - i) be the commander-in-chief of the armed forces;
  - j) declare a state of war after authorization by the National assembly, in accordance with Article 75;
  - k) confer medals and other state honours.
2. For the exercise of the powers provided for in the constitution, the president of the republic shall issue decrees.

#### **Article 84**

##### **(Extraordinary powers of president)**

1. In situations when the country is faced by matters that require to be tackled urgently, and are imminent danger to the nation, unity of the country, internal or external security or the functioning of constitutional authorities of the country, the president of the republic shall take appropriate steps to deal with such situations, in consultation with the speaker of the National Assembly and the prime minister.
2. The president of the republic shall inform the people and shall present the steps taken to the National Assembly within 30 days for approval.
3. The decisions of the president should have the objectives of ensuring, as soon as possible, that the constitutional authorities of the country perform their functions. In any case, the decisions may not be in force for more than six months. However, if the problem persists, the National assembly may extend the period.

#### **Article 85**

##### **(Responsibility)**

1. The responsibility of the decisions of the president of the republic shall rest with the prime minister and any minister who is in charge of the matter to which the decision relates, and they shall sign the decision along with the president.
2. The president of the republic shall be responsible for crimes of high treason and violation of the constitutional order of the country.
3. The motion to impeach the president of the republic for high treason or violation of the constitutional order of the country, may introduced by at least one third of the deputies, and the National Assembly shall approve the motion by a majority of two thirds of its members, and he shall be tried by the Supreme Court which shall constitute itself as the High Court of Justice.

4. Except in the cases outlined in the preceding paragraph, the president of the republic may not be tried for crime, unless the National Assembly gives authorization approved by two thirds of its members.
5. The approval of impeachment or trial of the president shall entail the suspension of his duties.

## **CHAPTER THREE THE GOVERNMENT**

### **SECTION ONE ORGANIZATION OF THE GOVERNMENT**

#### **Article 86**

##### **(Executive power)**

The executive power shall be vested in the president of the republic, and the government and they shall exercise it in accordance with the constitution.

#### **Article 87**

##### **(Formation of the government)**

1. The government shall be the highest executive authority of the state, and shall be composed of the prime minister and the ministers.
2. The joint meeting of the prime minister and the ministers shall constitute the Council of Ministers.
3. The prime minister shall be appointed, and dismissed by the president of the republic.
4. The ministers shall be appointed, and dismissed by the president of the republic on the proposal of the prime minister.
5. Each minister shall be personally responsible for the functions of his ministry.
6. Members of the government shall be collectively responsible for the functions of the Council of Ministers.
7. The resignation of the prime minister shall result in the collapse of the government.

#### **Article 88**

##### **(Deputy Ministers)**

1. The ministers shall be assisted in their duties by deputy ministers, who shall perform the tasks assigned to them.
2. The deputy ministers shall be appointed and dismissed by the president of the republic, on the proposal of the prime minister.

## **Article 89**

### **(Qualifications of members of the government)**

1. The person who is appointed a minister or deputy minister shall be a citizen who is not less than 30 years of age, and possess the qualifications required for election as a deputy.
2. Ministers and deputy ministers shall not exercise, during their term in office, any other public function, except the exercise of the right to vote and the functions as deputies in the National Assembly. They also shall not engage in any independent profession or commercial, financial or industrial activities nor shall they buy or rent state property nor shall they sell or lease their property to the state.

## **Article 90**

### **(Oath of office)**

Before assuming their duties, ministers and deputy ministers shall take, before the president of the republic, the oath mentioned in Article 66.

## **Article 91**

### **(Confidence of the National Assembly)**

1. Following the appointment of the government, the prime minister shall present to National Assembly the government's programme.
2. The government shall, within 30 days, request the confidence of the National Assembly, which shall express its confidence or no-confidence in a motion approved by a simple majority in an open vote.
3. A motion of no-confidence in the government may be proposed by 20 deputies, stating the grounds thereof, and shall be examined and debated not earlier than five days after their presentation. The assembly shall approve the no-confidence motion by a simple majority of its members in an open vote.
4. The loss of the confidence of the National Assembly shall result in the collapse or resignation of the government.
5. The resigning government shall continue the functions of routine administration until the formation of another government.

## **SECTION TWO**

### **ACTIVITIES OF THE GOVERNMENT AND SUBORDINATE ORGANS**

## **Article 92**

### **(Functions of the Council of Ministers)**

The Council of Ministers shall have the following authorities:



- a) to assist the president of the republic in laying down the general policy of the government, which they shall jointly ensure its implementation.
- b) to approve administrative and executive laws in accordance with the law.
- c) to prepare draft laws and present them to the National Assembly.
- d) to prepare the annual budget and accounts.
- e) to formulate the general plan for the development of the country.
- f) to follow up the implementation of laws, beef up security in the country and protect the interests of the state.
- g) to approve the appointment and dismissal of senior officials of the state.
- h) to exercise other powers conferred on them in the constitution and laws.

### **Article 93**

#### **(Functions of the prime minister)**

1. The prime minister shall be responsible for directing the general policy of the government, and shall maintain the harmony of the government policy by coordinating and inspecting the functions of the ministries.
2. The prime minister shall sign decisions together with the minister responsible for their implementation.

### **Article 94**

#### **(System of the government)**

1. The powers and functions of the prime minister and the Council of Ministers that are not determined in the constitution, and the functions and number of the ministries, shall be explained in a special law.
2. The structure of the office of the prime minister, the ministries and other subordinate offices shall be outlined in a presidential decree.

### **Article 95**

#### **(Criminal liability of ministers)**

1. The prime minister and ministers shall be liable for their offences related to the performance of their functions.
2. In respect of the offences pointed out in the preceding paragraph of this article, the prime minister and ministers may be impeached by the decision of the National Assembly taken on a motion of one fifth of the deputies and approved by the assembly a majority of two thirds of the its members, and they shall be tried by the Supreme Court constituted as the High Court of Justice.
3. Except the situations provided in the above paragraph, no criminal proceedings shall be instituted against the prime minister and the ministers, unless an authorization, is obtained from the National Assembly, approved by a majority of two thirds of its members.

4. The government member whose trial is referred to the High Court of Justice shall be stopped from exercising his functions.
5. For the purpose of liability, the provisions of this article, as outlined above, shall apply to deputy ministers.

#### **Article 96**

##### **(Power to issue regulations)**

1. Regulations shall be issued by presidential decree, on the approval of the Council of Ministers.
2. The power to issue regulations dealing with specific matters may be given by law to state organs and other public bodies.

#### **Article 97**

##### **(Civil servants and state employees)**

1. Civil servants and state employees shall exercise their duties in accordance with the law and solely in the public interest.
2. Civil servants and state employees may not become leaders of political parties.
3. The law shall determine the categories of state employees who may not be members of political parties, and who may not engage in activities incompatible with their duties.
4. The legal status of state employees shall be regulated by the law.
5. Appointment to permanent employment in the state may only be obtained through open competition, except when the law provides otherwise.

#### **Article 98**

##### **(Civil Service Commission)**

1. The law shall regulate the Civil Service Commission, its structure and authority.
2. The law establishing the commission shall guarantee its independence to perform its functions.

### **SECTION THREE**

#### **ARMED FORCES AND NATIONAL DEFENCE COMMITTEE**

#### **Article 99**

##### **(Armed forces)**

1. Only the state shall establish the armed forces, and no other agency shall create an organization with military or quasi-military nature.

2. The armed forces shall be responsible for the protection of freedom and independence of the republic, unity and security of the country.
3. The establishment and formation/structure of the armed forces shall be provided for in a special law.

#### **Article 100**

##### **(National Defense Committee)**

1. There shall be established a committee named the National Defense Committee, chaired by the president of the republic, which shall be charged with the responsibility of assessing matters related to the defense and security of the country.
2. The law shall determine other powers of the committee and its members

### **SECTION FOUR**

#### **EXPANSION OF THE COUNTRY'S ADMINISTRATIVE POWER DECENTRALIZATION**

#### **Article 101**

##### **(Expansion of the administration)**

1. State administrative functions shall be expanded or decentralized, whenever possible, to be performed by local bodies and public bodies.
2. Local bodies of the republic shall be regions and districts.
3. The law may create local bodies other than those mentioned above.

#### **Article 102**

##### **(Authority of local bodies)**

1. The authority of local bodies and their administration shall be part of the central authority of the state.
2. Local bodies shall have legal personality and independence with regard to matters related to the administration of their areas.
3. The law shall regulate the authority of local bodies, basing them on a democratic system.

#### **Article 103**

##### **(Local councils)**

1. There shall be local councils, the member of which shall be elected by the people in an independent, direct and secret ballot.
2. The structure, election system, term of office, functions, economic resources, guarantees of the members and legislative authority at the local level of local

bodies, shall be regulated by a special law, with the aim of transferring state administrative authority to local councils, as much as they could handle, taking into account the political, economic and social development of the area.

**Article 104**  
**(Auditor General)**

1. The office of the auditor general shall be an agency responsible for the pre-audit of the legality of government decisions involving financial obligations and for the post-audit of how state budget has been administered.
2. The auditor general shall participate, in the manner prescribed by law, in investigating the financial administration of bodies that regularly or irregularly receive significant state assistance.
3. The auditor general shall submit the result of his investigation to the president and the national Assembly.
4. The law regulating the structure of the auditor general shall give the agency independence in performing its functions and shall guarantee those being audited the right of defense.

**Article 105**  
**(National Economic and Labour Council)**

1. The National Economic and Labour Council shall be an agency that advises the National Assembly and the government on the economic and labour issues in the country, in accordance with the law.
2. The council shall be composed of experts and representatives of different producers, taking into account their importance in quantity and quality.

**CHAPTER FOUR**  
**THE JUDICIARY**

**Article 106**  
**(Powers and independence of Judiciary)**

1. The judicial powers shall be vested in the Judiciary.
2. The Judiciary shall be independent of the legislative and executive powers.
3. The dignity of the Judiciary and the fairness of the judges shall be the basic guarantee for the freedom of the people and justice.

**Article 107**  
**(Functions of the Judiciary)**

1. The Judiciary shall protect the state system, the constitution and laws of the country.

2. The Judiciary shall guarantee, and affirms in accordance with law, personal liberty and rights of the citizens and individual.

**Article 108**  
**(Supreme Court)**

1. The Supreme Court shall be the highest judicial organ of the republic. It shall have jurisdiction over the whole territory of the state in civil, criminal, administrative and accounting cases, and in any other case specified in the constitution and laws.
2. The organization of the Supreme Court shall be determined by the law.
3. The law shall also determine other judicial organs and courts and their organization, their types, levels and jurisdiction.

**Article 109**  
**(Unity of the Judiciary)**

1. The Judiciary of the republic shall be unified.
2. No extraordinary or special judicial organ may be established.
3. There may be established, within the ordinary judiciary, specialized sections for specific subjects.
4. The people shall participate, in the manner prescribed the law, in criminal cases for serious crimes.
5. The jurisdiction of military tribunals in time of peace and war shall be established by law. In time of peace, they shall have jurisdiction only over offences committed by members of the armed forces.

**Article 110**  
**(Guarantees of the judges)**

1. In exercising their judicial functions, judges shall be subject only to law.
2. Judges may not be transferred or removed except in situations specified by law.
3. Conditions, system of appointment, promotion, transfer, retirement and the legal status of the judges, in general, shall be established by law.
4. Judges shall not hold offices, perform services or engage in activities incompatible with their functions.
5. Administrative and disciplinary measures relating to judges shall be adopted by decree of the president of the republic, on the proposal of the minister of justice and recommendations of the High Judicial Council.
6. Impeachment of judges for offences relating to the performance of their duties shall be authorized by the president of the republic, on the recommendations of the High Judicial Council.

7. The High Judicial Council shall be in charge of matters of judicial organs, and shall be the body that guarantees judges the right to independently perform their duties. The law shall determine the formation, authority and functions of the council.

**Article 111**  
**(Judicial procedure)**

1. Judicial proceedings shall be, in principle, oral and public except in extraordinary situations specified by law.
2. No judicial decision may be taken unless all the parties thereto have been given an opportunity to present their pleadings or defence.
3. Judicial decisions and measures concerning personal liberty or otherwise shall state the grounds therefore, and shall be subject to appeal in accordance with the law.
4. In performance of their duties, judicial authorities shall directly use the services of security forces.
5. Judicial rulings shall be issued in the name of the Somali people.

**Article 112**  
**(General prosecution)**

The General Prosecution shall be a unified judicial organ, and the law shall establish its authority and functions.

**PART FIVE**  
**CONSTITUTIONAL GUARANTEES**

**CHAPTER ONE**  
**CONSTITUTIONALITY OF LAWS**

**Article 113**  
**(Basis of government powers)**

1. The law shall be the basis of state authority
2. The laws and rules having the force of law shall be conform with the constitution and general Islamic principles.
3. The structure of state agencies and the relations between the state and public and private personalities shall be regulated by the law.
4. Administrative decisions that are unconstitutional, incompatible with or contravene the constitution, laws and provisions having the force of law may be objected to through legal means by any concerned person.

**Article 114**  
**(Constitutional Court)**

1. Cases of unconstitutionality of laws and provisions having the force of law shall be decided by the Supreme Court constituted as the Constitutional Court, with the addition two members appointed by the president of the republic and two members elected by the National Assembly by a simple majority, all of whom are not members of the National Assembly.
2. The functions of the Constitutional Court, the qualifications of the additional members and their term of office shall be determined by the law.

**Article 115**  
**(Decisions of the Constitutional Court)**

1. The ruling of the Constitutional Court declaring the unconstitutionality of laws or decisions having the force of law shall be referred to the president of the republic, the speaker of National Assembly and the prime minister, and shall be published in the official bulletin.
2. The ruling of the Constitutional Court stated in the preceding paragraph shall have legal authority.

**CHAPTER TWO**  
**IMPEACHMENT OF THE PRESIDENT AND MEMBERS OF THE GOVERNMENT**

**Article 116**  
**(Impeachment)**

1. The decision to impeach the president of the republic and members of the government that was approved by the National Assembly in accordance with Article 85 and 95 shall state the offence and if there are accomplices.
2. The National Assembly shall appoint one or three members who shall act as the prosecutor of the people before the Supreme Court constituted as the High Court of Justice.

**Article 117**  
**(The High Court of Justice)**

1. The Supreme Court Constituted as the High Court of Justice shall conduct trials, supported by six additional members, chosen by lot by the chief justice of the Supreme Court at a public meeting from a list of 18 citizens qualified to be elected as deputies. The 18 citizens shall be selected by the National Assembly at the beginning of each legislative session and all of them shall not be members of the National Assembly.
2. The functions and procedures of the court shall be laid down by the law.

**CHAPTER THREE**  
**AMENDMENT TO THE CONSTITUTION**

**Article 118**  
**(Amendment and addition))**

1. A proposal to amend or add to the constitution may be submitted by the president of the republic, the government or one third of the deputies of the National Assembly or ten thousand citizens with the right to vote.
2. Amendment or addition to the constitution shall be decided by the National Assembly and shall be voted on in two ballots held at an interval of not less than three months. The first ballot shall be approved by absolute majority of the members of the National Assembly and the second one shall be approved by a two third majority.

**Article 119**  
**(Limits of amendment)**

Amendment to the constitution under the preceding article shall not affect the following:

- a) The republican system of the country.
- b) Territorial unity or integrity.
- c) The basic rights and freedoms of the citizen and individual.

**TRANSITIONAL PROVISIONS**

**I**

**Provisional coming into force**

This constitution shall provisionally come into force on the 12th October 1990, and be submitted to a popular referendum within one year from that date, if the circumstances allow so.

All the voters shall participate in the referendum. Each voter shall have the right to approve or reject the constitution, by casting a free, secret, direct and personal vote, which is open to all, in accordance with the referendum law.

The constitution shall be confirmed by the Supreme Court, which shall announce its decision thereon within 30 days from the close of the voting. The Supreme Court shall also decide, within that period, on complaints or appeals relating to the referendum process and such decision shall be final. The confirmation decision shall also declare the results of the referendum.

In case of no-confirmation of the referendum, a new referendum shall be held within three months from the date of the decision of the Supreme Court.



## II

### **The results of the referendum**

1. If the results of the referendum show that the people have rejected the constitution, the National Assembly shall begin drafting a new constitution which shall also be submitted to a referendum within six months from the date of declaration of the results. This constitution shall provisionally continue to be in force until the National Assembly approves the new constitution.
2. If the results of the referendum show approval, the constitution shall become permanent in nature.

## III

### **Election of new councils**

The elections of the new National Assembly and local councils shall take place within one year from the date the constitution came into force, provided that the circumstances allow so.

The current National Assembly, acting in full form, shall continue to exercise legislative functions in the country until the new National Assembly is elected.

Likewise, local councils shall do the same.

The permanent committee of the National Assembly shall constitute itself as the office of the speaker of the National Assembly.

## IV

### **Incumbent president**

The term of office of the current president shall end after seven years from the date he was sworn in.

The limit of the number of re-election terms as stated in Article 80 shall affect the president elected after the coming into force of this constitution.

## V

### **Publication of the constitution**

1. The articles of the constitution shall be published through state media, so that every citizen becomes acquainted with the gist of the constitution.
2. The constitution shall be issued in the official gazette of the republic.
3. All state organs, citizens and every other person living under the sovereignty of the republic shall have the duty to faithfully observe this constitution as the fundamental law of the Somali state.

*Mogadishu, 12/10/1990*

**The president, SDR**

(Mohamed Siyad Barre)

*The prime minister*  
(Mohamed Hawadle Madar)

*Deputy prime minister*  
*The minister for internal affairs*  
(Abdiqasim Salad Hassan)

*The minister for justice and religious affairs*  
(Abdullahi Osoble Siyad)