

# THE CHARTER

DRAFT

## A COMPROMISE PROPOSAL BY THE HARMONIZATION COMMITTEE

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*Based on:*  
*The 1960 Constitution of The Somali Republic and Proposals of The Sub Groups of the  
Charter Committee of the Reconciliation Conference*

April, 2003

**THE CHARTER  
OF THE  
SOMALI REPUBLIC**

IN THE NAME OF GOD THE MERCIFUL  
AND BENEFICENT  
THE SOMALI PEOPLE

**PREAMBLE**

**CONSCIOUS** of the unprecedented hardships the Somali people suffered during the long civil war, including massive loss of human life, the destruction of communities and our social and economic capital, the displacement of our citizens from their homes, and the gross violation of human rights;

**FIRMLY BELIEVING** that peace and stability are essential preconditions for restoring our collective and individual dignity and that all hostilities, communal fighting, and mistrust should end immediately;

**DETERMINED** to co-operate with all good-willed people to reconsolidate our liberty and restore democracy to our land in order to ensure the well-being of our children and those of our neighbours in this small but precious planet;

**EMPLOYING** the fundamental values and obligations of the Act of Union and the Somali Constitution of 1960, on which this Somali Charter is rooted for continuity of the Somali Republic's sovereignty;

**COMMITTED** to maintain and consolidate the independence and unity of the Somali Nation in a democracy based on the people's sovereignty, their equality and duties of all citizens.

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**Note:**

**Somali Republic and Somalia are used interchangeably and refer to the old Somali Republic (1960-1991)**

## CHARTER

### PART I GENERAL PROVISIONS

#### **Art. 1. (*The Republic*)**

1. The Somali Republic is an independent and fully sovereign state. It is a representative Republic determined to re-establish democratic institutions and culture.
2. It shall adopt a federal system that shall be completed within a period of three years. The interim years shall be governed through a decentralized governance system to prepare the prerequisites for a full-fledged federal system to be established in the third year of the transition. It shall become a Federal Republic once the constitution is adopted and federal authorities are elected.
3. The official name of the State shall be Somali Republic until the future constitution chooses a different name.
4. Sovereignty belongs to the people who shall exercise it in the forms determined by the Charter and the laws. No part of the people nor any individual may claim sovereignty to or assume the right to exercise it.
5. Islam is the religion of the State.
6. The national flag shall be azure in colour, rectangular, and shall have a white star with five equal points emblazoned in its centre.
7. The emblem of the Somali Republic shall be composed of an azure escutcheon with a gold border and shall bear a silver five-pointed star. The escutcheon, surmounted by an embattlement with five points in Moorish style, the two lateral points halved, shall be borne by two leopards rampant in natural form facing each other, resting on two lances crossing under the point of the escutcheon, with two palm leaves in natural form interlaced with a white ribbon.
8. Mogadishu is the national capital. Its boundaries and administrative structure shall be established by law. The Interim Government may select another city/town in the country as its seat during the interim period for security reasons.

#### **Art. 2. (*The People*)**

1. The people consist of all the citizens.
2. The manner of acquiring and losing citizenship shall be established by law.
3. No person may be denied citizenship or deprived thereof for political reasons.

#### **Art. 3. (*Equality of the Citizens*)**

All citizens, without distinction of race, national origin, birth, language, religion, gender, economic or social status, opinion, or other discriminatory distinctions shall have equal rights and duties before the law.

#### **Art. 4. (*Official Language*)**

The official language shall be Somali (two main dialects). Arabic and English are second languages.

**Art. 5. (*Boundaries of the State*)**

1. The national territory is sacred and inviolable.
2. The territorial sovereignty shall extend to the continental territory, the islands, the exclusive economic zone, territorial waters, the subsoil and the air space above.
3. The Somali Republic is bound on the West by Ethiopia; Northwest by the Republic of Djibouti; North by the Gulf of Aden; East by the Indian Ocean and South and Southwest by the Republic of Kenya.
4. The law shall determine the parties of the territory and the properties which belong to the State and to public bodies, and establish the legal status thereof.

**Art. 6. (*Supremacy of the Law*)**

1. The organization of the State and the relationships between the State and other persons, public or private, shall be governed by law.
2. Administrative and legislative acts contrary to the law and the Charter may be invalidated on the initiative of the interested party in accordance with the provisions of the Charter.

**Art. 7. (*The Republic in the International Order*)**

1. The generally accepted rules of international law and international treaties duly concluded by the Republic and published in legislative acts, shall have the force of law.
2. The Republic repudiates war and violence as a means of settling regional and international disputes.
3. It accepts, on conditions of parity with other States, limitations on its sovereignty necessary for the establishment of a system to ensure peace among Nations.
4. The Somali Republic shall promote and encourage solidarity among the peoples of the world, in particular, among the Africans, the Arabs and the Islamic people. The Republic is a member, among others, of the African Union, Inter Governmental Authority for Development (IGAD), League of Arab States, Organization of Islamic Conference, Non-aligned Movement, and the United Nations.

**Art. 8. (*Human Rights*)**

1. The laws of the Somali Republic shall comply, in so far as applicable, with the principles of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10th December, 1948 as well as other international covenants pertaining to human rights to which the Republic is a party.
2. As stipulated in international conventions on human rights, certain rights such as right to life, freedom from torture, freedom from slavery, freedom of thought, conscience and religion cannot be suspended or restricted even during legitimate emergency.

## PART II FUNDAMENTAL RIGHTS AND DUTIES OF THE CITIZEN

**Art. 9. (*Right of Access to Public Office*)**

Every citizen who possesses the qualifications required by law shall be equally eligible for public office.

**Art. 10. (*Right of Petition*)**

1. Every citizen shall have the right to address written petitions to the Interim President of the Republic, Parliament and the Government.
2. Every petition which is not manifestly unfounded shall be examined.

**Art. 11. (*Right of Work and Residence*)**

1. Every citizen shall have the right to reside, work and travel freely in any part of the territory of the State and shall not be subjected to deportation.
2. Every citizen shall have the right to leave the territory of the State and to return thereto.

**Art. 12. (*Right of Political Association*)**

1. Every person shall have the right to associate in political parties, without previous authorization, for the purpose of co-operating democratically and peacefully in the shaping of national policy.
2. Political parties and associations which are secret, have an organization of a military character, or have a clan denomination shall be prohibited.
3. Registration of political parties shall be regulated by law.

**Art. 13. (*Right to Form Trade Unions*)**

1. Every citizen shall have the right to form trade unions or join them for the protection of economic interest.
2. Trade Unions organized according to democratic principles shall be considered juridical persons according to the law.
3. Trade Unions being juridical persons may negotiate collective labour contracts binding on their members.

**Art. 14. (*Right of Economic Initiative*)**

The law may control the exploitation of the economic resources of the territory of the State.

**Art. 15. (*Duty of Loyalty to the Homeland and the State*)**

1. Every citizen shall have the duty to loyally observe this Charter and the laws of the land.
2. It is the duty of every citizen to:
  - a) Preserve and protect public and private property,
  - b) Defend the country, maintain internal security, uphold the national unity and preserve State secrets.
3. Every person shall contribute to public expenditure according to capacity to pay.
4. A system of taxation based on principles of social justice shall be established by law.
5. Military service shall be governed by law.

## PART III FUNDAMENTAL HUMAN RIGHTS

### TITLE I RIGHT TO LIBERTY

**Art. 16.** (*Right to Life and to Personal Integrity*)

1. Every person shall have the right to life and to personal integrity.
2. Arbitrary limits to such rights may not be established.
3. The law may prescribe the death penalty only for the most serious crimes against human life or the personality of the State.

**Art. 17.** (*Personal Liberty*)

1. Every person shall have the right to personal liberty.
2. Subjection to any form of slavery or servitude shall be punishable as a crime.
3. No person shall be liable to any form of detention or other restrictions of personal liberty except when apprehended in *flagrante delicto* or pursuant to an act of the competent judicial authority, stating the grounds thereof, in the cases and in the manner prescribed by law.
4. In cases of urgent necessity, expressly defined by law, the competent administrative authority may adopt provisional measures, which shall be communicated without delay to the competent judicial authority and confirmed by it within the time and in the manner prescribed by law, failing which such measures shall be deemed to have been revoked and shall be void.
5. In each case of detention or other restrictions of personal liberty, the reasons for the measure shall be communicated to the person concerned without delay.
6. No person shall be subjected to security measures except in the cases and in the manner prescribed by law and pursuant to an act of the competent authority, stating the grounds thereof.
7. No person shall be subjected to inspection or personal search except in the cases and under the provisions laid down in above paragraphs 3, 4 and 5, and in other cases as prescribed by law for judicial, sanitary or fiscal reasons, and in the manner prescribed thereof. In every case, the self-respect and moral dignity of the person concerned must be preserved.

**Art. 18.** (*Guarantees in Cases of Restriction of Personal Liberty*)

Any physical or moral violence against a person or restriction of personal liberty shall be punishable as a crime.

**Art. 19.** (*Extradition and Political Asylum*)

1. Extradition may be granted only in the cases and in the manner prescribed by law, subject to international convention.
2. No person may be subjected to extradition for political offences.
3. Any alien persecuted in his own country for political offences shall have the right to asylum in the territory of the State, in the cases and under the conditions provided by law.

**Art. 20.** (*Limits to Personal Service and Property Levy*)

No personal service or property levy may be imposed save in accordance with the law.

**Art. 21. (*Freedom of Domicile*)**

1. Every person shall have the right to the inviolability of his domicile.
2. No inspection, search or seizure shall be carried out in the domicile or in any other place reserved for personal use except in the cases and under the provisions laid down in paragraphs 3, 4 and 5 of Article 17 and in other cases as prescribed by law for judicial purposes and in the manner prescribed therefor.
3. Inspections for public health, safety or fiscal purposes shall not be carried out, except in the cases and in the manner prescribed by law.

**Art. 22. (*Freedom of Correspondence*)**

1. Every person shall have the right to freedom and secrecy of written correspondence and of any other means of communication.
2. Limitations thereon may be imposed only in the cases and under the provisions laid down in paragraphs 3, 4 and 5 of Article 17 and in other cases as prescribed by law for judicial purposes, and in the manner prescribed therefor.

**Art. 23. (*Social Equality*)**

All persons are equal in social dignity.

**Art. 24. (*Property*)**

1. The right to own property shall be guaranteed by law, which shall define the modes of acquisition and the limits to the enjoyment thereof for the purpose of ensuring its social function.
2. Property may be expropriated only for reasons of public interest and in the manner prescribed by law, in exchange for equivalent and timely compensation.

**Art. 25. (*Freedom of Assembly*)**

1. Every person shall have the right to assemble in a peaceful manner for a peaceful purpose.
2. The law may provide that notice of intended public meetings be given to the authorities. Meetings may be forbidden only for reasons of public health, safety, morality, order or security.

**Art. 26. (*Freedom of Association*)**

1. Every person shall have the right to freely form associations, without authorization.
2. No person may be compelled to join an association of any kind or to continue to belong to it.
3. Secret associations or those having an organization of military character shall be prohibited.

**Art. 27. (*Right to Strike and Picketing*)**

The right to strike and picketing is recognized and may be exercised within the limits prescribed by the law. Any act tending to discriminate against, or to restrict the free exercise of trade union rights shall be prohibited.

**Art. 28. (*Freedom of Opinion*)**

1. Every person shall have the right to freely express own opinion in any manner, subject to any limitations which may be prescribed by law for the purpose of safeguarding morals and public security.
2. Expression of opinion may not be subject to prior authorization or censorship.

**Art. 29. (*Freedom of Religion*)**

Every person shall have the right to freedom of conscience; and to freely profess own religion and to worship it subject to any limitations which may be prescribed by law for the purpose of safeguarding morals, public health or order. However, no religion other than Islam can be propagated in the country.

**Art. 30. (*Personal Status*)**

1. Every person shall have the right to a personal status in accordance with the laws or customs.
2. The personal status of Muslims is governed by the general principles of the Islamic Sharia.

**TITLE II SOCIAL RIGHTS**

**Art. 31. (*Protection of the Family*)**

1. The family based on marriage, as being the fundamental element of society, shall be protected by the State.
2. Parents shall provide for the support, education and instruction of their children, as required by law.
3. The law shall provide for the fulfillment of the obligations set out in the preceding paragraph in case of death of the parents and whenever, by reason of incapacity or otherwise, the parents do not perform them.
4. Children who are of full age shall be obliged to support their parents when the latter become unable to provide for themselves.
5. The State shall protect motherhood and childhood and encourage the institutions necessary for this purpose.
6. The State shall recognize the protection of children of unknown parents as its duty.
7. Women have the right to equal treatment with men, including the right to equal opportunities in political, economic and social activities, and they are entitled to be accorded the same dignity of person as men.
8. Society is to give children a special consideration and it is the duty of parents, society and the state to protect, nurture and educate them.
9. Elderly people have all the rights and freedoms provided in the Charter and are entitled to health care, protection and assistance of family, society and state.

**Art. 32. (*Welfare Institutions*)**

1. Persons with disabilities have the rights and freedoms provided in the Charter and the State shall, by legislation and policy measures, recognize their rights for respect and human dignity, and make financial provisions as much as possible.
2. The State shall promote and encourage the creation of welfare institutions for the physically handicapped persons and abandoned children for their protection, education and health.

**Art. 33. (*Protection of Public Health*)**

The State shall protect public health and promote free medical assistance for indigent persons.

**Art. 34. (*Safeguarding of Public Morality*)**

The State shall safeguard public morality in the manner prescribed by law.



**Art. 35. (Education)**

1. The State shall encourage education, as being a fundamental interest of the community, and provide for the creation of State schools open to all.
2. Primary education in public schools shall be free.
3. Freedom of teaching shall be guaranteed by law.
4. Organizations and individuals shall have the right to establish, in accordance with the law and without financial support from the State, schools and educational institutions.
5. Private schools and educational institutions may have a parity of status with State schools and institutions under the conditions laid down by law.
6. Teaching of Islam shall be compulsory for pupils of Islamic faith in primary and secondary State Schools and in schools having a parity of status. Teaching of the Holy Quran and Islamic religious education shall be a fundamental element in primary and secondary State schools for Muslims.
7. Institutes of higher education shall have their own autonomous organization, within the limits prescribed by law.
8. a) Somali language shall be the medium of instruction in elementary schools. Arabic and English shall be taught as languages.  
b) English shall be the medium of instruction in intermediate and secondary schools. Somali and Arabic shall be taught as mandatory languages.
9. The Interim Government shall undertake sustained and massive educational program (with international assistance) to undo the damage of the past decade.
10. The Interim Government shall re-establish Somali National University and plan to have future satellite campuses in the regions.

**Art. 36. (Protection of Labour)**

1. The State shall protect labour and encourage it in all its forms and applications.
2. Forced and compulsory labour of any kind shall be prohibited. The cases in which labour may be ordered for military or civil necessity or pursuant to a penal conviction shall be prescribed by law.
3. Every worker shall have the right to receive, without any discrimination, equal pay for equal work, so as to ensure an existence consistent with human dignity.
4. Every worker shall have the right to a weekly rest and an annual leave with pay; and shall not be compelled to renounce it.
5. The law shall establish the maximum working hours, weekly rest, annual leave and the minimum age for the various types of work; and shall ensure that minors and women work only under suitable conditions.
6. The State shall protect the physical and moral integrity of the workers.

**Art. 37. (Social Security and Assistance)**

1. The State shall promote social security in accordance with the law.
2. The State shall guarantee to its civil and military employees the right to pension; it also shall guarantee, in accordance with the law, assistance in case of accident, illness or incapacity for work.
3. Rights of non-state employees shall be protected in a law to be established.

**TITLE III JUDICIAL GUARANTEES**

**Art. 38. (*Right to Institute Legal Proceedings*)**

Every person shall have the right to institute legal proceedings under conditions of full equality before a lawfully constituted Court.

**Art. 39. (*Protection Against Acts of the Public Administration*)**

Judicial protection against acts of the Public Administration shall be allowed in all cases, in the manner and with the effects prescribed by law.

**Art. 40. (*Civil Liability of the State for the Acts of its Officials and Employees*)**

1. Whoever suffers damages from acts or omissions in violation of his rights by officials or employees of the State or public bodies in the performance of their duties, shall have the right to obtain compensation from the State or the public bodies concerned.
2. The penal, civil and administrative liability of officials and employees for the acts or omissions referred to in the preceding paragraph shall be governed by law.

**Art. 41. (*Right of Defence*)**

1. The right of defence shall be allowed at every stage of legal proceedings.
2. The State shall guarantee, under the conditions and in the manner prescribed by law, free legal aid to the poor. In case of capital punishment, free legal aid shall be provided for all.

**Art. 42. (*Non-Retroactive Nature of Penal Law*)**

No person may be convicted for an act which was not punishable as an offence under the law in force at the time when it was committed; nor may a heavier punishment be imposed than the one applicable at that time.

**Art. 43. (*Penal Liability*)**

1. Penal liability shall be personal. Any kind of collective punishment shall be forbidden.
2. The accused shall be presumed innocent until proven guilty.

**Art. 44. (*Social Purpose of Punishment*)**

Punishment that restricts personal liberty shall not consist of treatment contrary to feelings of humanity or be such as to obstruct the moral rehabilitation of the convicted person.

**Art. 45. (*Enforcement of Punishment*)**

Supervision over the enforcement of punishment and security measures shall be exercised by the competent Court in accordance with the law.

**Art. 46. (*Redress of Judicial Errors*)**

The conditions and procedures for the redress of judicial errors shall be prescribed by law.

## PART IV ORGANIZATION OF THE STATE

### TITLE I THE INTERIM PARLIAMENT

#### *Section I: Definition of the Interim Parliament*

**Art. 47.** (*Legislative Powers*)

The legislative power shall be vested in the Interim Parliament.

**Art. 48.** (*The Doctrine of Islam in the Legislation*)

The doctrine of Islam shall be the main source of the laws of the State.

#### *Section II: Organization*

**Art. 49.** (*Interim Parliament*)

1. The Interim Parliament shall consist of Deputies nominated by the various communities (political/traditional) at the Reconciliation Conference's reconstituted third phase plenary. The nominees need not be members of the plenary of the conference and shall be based on an equitable community and regional balance.
2. The number of Deputies shall be 171 members, of which *at least* 25 of them shall be women, in order to move towards equity. The women members shall be named by the women's groups at the Conference on equitable community basis.
3. Every citizen who has the right to vote and attained 25 years of age shall be eligible to be a Deputy.
4. Deputies should not be eligible for cabinet positions.

**Art. 50.** (*Term of Office and Elections*)

1. The term of office of the Interim Parliament shall be for a period of three years starting from the date of the signing of the final reconciliation agreement. This term shall not be extended or reduced.
2. At its first meeting, the Interim Parliament shall elect, from among the Deputies, a President, one Vice-President and the other Members of the office of the Presidency.
3. Every Deputy represents the people and shall exercise functions without being bound by any mandate.

**Art. 51.** (*Dissolution of the Interim Parliament*)

The Interim Parliament shall not be dissolved before the end of its term.

#### *Section III: Powers and Functions*

**Art. 52.** (*Sessions of the Interim Parliament*)

1. The Interim Parliament shall hold two annual sessions.
2. The Interim Parliament may be convened in extraordinary session by its President, or on the request of the President of the Republic, or of the Government, or of one fourth of the Deputies.

**Art. 53. (*Amnesty and Indult*)**

1. The power of granting amnesty and indult may be delegated to the President of the Republic by a law approved by two-thirds majority of the Deputies in the Interim Parliament, upon the proposal of the Council of Ministers.
2. Amnesty and indult may not be granted in respect of offences committed after the presentation of the draft law on the delegation of powers.

**Art. 54. (*Taxation and Expenditure*)**

The imposition, modification and abolition of taxes shall be effected only by law.

1. Laws involving new or larger State expenditure shall specify the means for meeting such expenditure.
2. In the case of an expenditure to continue for more than one year, the means to meet it may be limited to the budget for the current year.

**Art. 55. (*Budget and Annual Accounts*)**

1. The Parliament shall approve the estimated budget each year, which shall be presented by the Government at least two months before the new financial year.
2. The law approving the budget may not establish new fiscal charges and new expenditures.
3. Provisional application of the budget may be authorized by law for periods not exceeding three months *in toto*.
4. Within the first six months of each financial year, the Government shall present to the Parliament, for approval, the annual accounts relating to the previous financial year.

**Art. 56. (*International Treaties*)**

The Interim Parliament shall authorize by law the ratification of political, military or commercial international treaties or of treaties which involve a modification of the law or financial commitments not included in the budget.

**Art. 57. (*State of War*)**

The Interim Parliament shall authorize the declaration of a state of war in the event of an external aggression and confer on the Government the necessary powers.

**Art. 58. (*Power of Investigation of the Interim Parliament*)**

1. Each Deputy shall have the right to put questions or to submit interpellations to the Government and to propose motions to the Parliament. The Government shall reply within twenty days.
2. The Parliament may order investigations through Committees consisting of Deputies from all parliamentary groups, in order to investigate occurrences or situations of public interest. When it decides to order such an investigation the Parliament shall establish, within the limits of the Charter, the powers of the Committee; it may also appoint experts to co-operate with the Committees.

*Section IV: Procedures*

**Art. 59.** (*Organization*)

1. Except as otherwise provided by the Charter, the conduct of business in the Parliament shall be governed by rules of procedure approved by the Interim Parliament on the proposal of its President or of at least five Deputies.
2. At its first meeting, the Parliament shall elect, from among the Deputies, a President, a Vice-President and the other Members of the office of the Presidency.
3. The orderly conduct of the Interim Parliament shall be maintained by the Interim Parliament itself through its President or through whoever acts on behalf of the President in accordance with rules of procedure.
4. The meetings of the Parliament shall be public. In exceptional cases, the Parliament may decide to meet in closed session on the motion of its President, or at the request of the President of the Republic, or of the Government, or of not less than thirty Deputies.
5. The sitting of the Parliament shall not be valid unless there is an absolute majority of the Deputies present.
6. All decisions shall be taken by a vote of the majority of those present, except when a special majority is required unless stated by the Charter or law.
7. No proposal rejected by the Parliament may be re-introduced until six months have elapsed after the rejection.

**Art. 60.** (*Participation of the Ministers, Vice-Ministers*)

1. Ministers and Vice-Ministers shall have the right to attend the meetings of the Parliament and of the Committees and to take part in the discussions in the exercise of their ministerial functions. Officials and experts, at the request of Ministers, may also attend such meetings and be heard.
2. Ministers and Vice-Ministers shall be present at the meetings if requested by the Parliament.

**Art. 61.** (*Oath*)

1. Before assuming his functions, each deputy shall take the following oath of office before the Parliament: "In the name of God, I swear that I will discharge faithfully all my duties in the interest of the people and will abide by the Charter and the laws."
2. Deputies in office shall be entitled to the emoluments and daily sitting allowances fixed by law.

**Art. 62.** (*Presentation and Discussion of Draft Laws*)

1. Each deputy and the Government shall have the right to present draft laws to the Parliament.
2. Prior to the Parliamentary debate, every draft law shall be examined by the relevant Parliamentary Committee which shall present one or more reports thereof to the Parliament.
3. The Parliament shall discuss each draft law in accordance with the rules of procedure. It shall vote on it Article by Article, and in the end it shall vote on the draft law as a whole.

**Art. 63. (Promulgation and Publication)**

1. Every law approved by the Parliament shall be promulgated by the President of the Republic within sixty days of its approval.
2. Where the Parliament declares by an absolute majority of its Members, that there is an urgent need, a law shall be promulgated within the time-limit fixed by the Parliament, provided that such time-limit shall not be less than five days.
3. Within the period fixed for promulgation, the President of the Republic may transmit to the Parliament a message, stating the grounds thereof, requesting that the law be reconsidered.
4. Where the Parliament approves such law again by a two-third majority, the President of the Republic shall promulgate it within thirty days of the approval.
5. Every law approved by the Parliament and promulgated by the Head of State shall be published in the Official Bulletin and shall come into force on the fifteenth day following its publication, unless the law provides otherwise.

**Art. 64. (Delegation of Legislative Powers)**

1. The Parliament may delegate to the Government the power to issue, on specified subjects or matters and for a limited period, provisions having the force of law. In delegating authority, the Parliament may establish the policy and issue directives.
2. Provisions made under a delegated power shall be issued by decree of the President of the Republic on the proposal of the Council of Ministers.

**Art. 65. (Decree-Laws)**

1. In case of urgent necessity, the Government may issue temporary provisions having the force of law. Such provisions shall be issued by decree of the President of the Republic, on the proposal of the Council of Ministers, and shall, within five days from the date of their publication, be submitted to the Parliament for conversion into law.
2. If in session, the Parliament shall decide on their conversion into law within thirty days of the date of presentation; if not in session, it shall decide within thirty days of its first subsequent meeting.
3. Provisions which are not converted into law shall cease to have effect *ab initio*; the Parliament may, however, decide that such effect shall cease on a different date and may regulate the legal consequences arising from the non-conversion of such provisions.

**Section V: Immunity**

**Art. 66. (Immunity)**

1. Deputies shall not be prosecuted for facts mentioned, opinions expressed or votes cast in the exercise of their functions in Parliament.
2. Without the authorization of the Parliament, no criminal proceedings shall be instituted against a Deputy, nor shall a Deputy be arrested or otherwise deprived of personal liberty nor shall his person or domicile be subjected to search, except in case of *flagrante delicto*, for a crime in respect of which a warrant or order of arrest is mandatory.
3. In cases other than those involving criminal proceedings, an action may be taken against a Deputy in accordance with the law, without authorization of the Parliament.

**TITLE II THE INTERIM PRESIDENT OF THE REPUBLIC**

**Art. 67. (Election)**

1. The Interim President of the Somali Republic shall be the Head of the State and represents the unity of the Nation.
2. The Interim President of the Republic shall be elected by secret ballot by the Interim Parliament with a majority of two-thirds of its members on the first and second ballots, or by an absolute majority of its members in subsequent ballots.
3. Before assuming his/her functions, the Interim President of the Republic shall take the following oath of office before the Parliament: "In the name of God I swear that I will discharge faithfully all my duties as the Interim President of the Republic and defend the Charter, and laws of the land with all my strength in the interest of the Country and the people."

**Art. 68. (Qualifications for Eligibility)**

1. Any Muslim citizen whose father and mother are both Somali citizens, and who has the right to vote and is not less than forty five years of age, shall be eligible to become the Interim President of the Republic. The President must not have committed crimes and engaged in human rights violations.
2. The spouse of the Republic's Interim President shall be a Somali national.
3. The Interim President of the Republic shall not, during his term of office, exercise any other public function, except the right to vote, nor shall he/she engage in any professional, commercial, industrial or financial activities.

**Art. 69. (Term of Office)**

The term of office of the Interim President of the Republic shall be three years from the date of his/her taking the oath. Any modification of this period shall not apply to the Interim President in office.

**Art. 70. (Emoluments and Establishment of the Interim President of the Republic)**

The emoluments of the Interim President of the Republic and the amount required for his establishment shall be fixed by law.

**Art. 71. (Disability, Resignation, Death)**

1. In case of death, resignation, or permanent disability of the Interim President of the Republic, the Parliament shall meet within thirty days to elect a new President of the Republic.
2. Until the election provided for in the preceding paragraph has taken place and in cases when the powers of the President in office have been suspended under Article 73(3), as well as in all cases of temporary disability, the functions of the President shall be temporarily exercised with full legal effect by the President of the Parliament, or, in his/her absence, by the Deputy President of the Parliament.
3. In case of resignation, the President of the Republic shall give written notice thereof to the Parliament.

**Art. 72. (Powers and Duties)**

The Interim President of the Republic shall exercise the functions conferred upon him by the Charter and by law, in the legislative, executive and judicial fields. In addition, she/he shall:

- a) Authorize the presentation to the Interim Parliament of draft legislation originating from the Government;
- b) Address messages to the Interim Parliament;
- c) Grant pardon and commute sentences;
- d) Accredite and receive diplomatic agents;
- e) Ratify international treaties, after previous authorization from the Parliament, where required;
- f) Be the commander-in-chief of the Armed Forces;
- g) Declare a state of war after authorization from the Parliament in accordance with Article 57;
- h) Confer State honours.

**Art. 73. (Responsibility)**

1. The Interim President of the Republic shall not be responsible for acts performed in the exercise of his functions, except for crimes of high treason or attempts against the constitutional order, as provided by law.
2. The responsibility for acts of the President shall rest with the Prime Minister and the competent Ministers who subscribe to them.
3. In case of high treason or attempts against the constitutional order, the President of the Republic shall be impeached by a decision of the Parliament taken on the motion of at least one-fifth of its Members and approved by secret ballot by a majority of two-thirds of the Deputies. The President shall then be tried by the Supreme Court constituted as the High Court of Justice.
4. Except in the cases mentioned in the preceding paragraph, the President of the Republic shall not be tried for any penal offence except when the Parliament gives its authorization approved by secret ballot by a majority of two thirds of the Deputies.
5. An approval of impeachment for high treason or for an attempt against the constitutional order or an authorization to institute criminal proceedings for any other crime shall entail the automatic suspension of the powers of the President.



### TITLE III THE INTERIM GOVERNMENT

#### Section I: Organization of the Government

**Art. 74.** (*Executive Power*)

The executive power shall be vested in the Interim Government, headed by the Prime Minister.

**Art. 75.** (*The Interim Government*)

1. The Interim Government shall be composed of the Prime Minister, the Deputy Prime Minister and the Ministers.
2. The meeting of the Prime Minister and the Ministers shall constitute the Council of Ministers. During the absence of a Minister, the Prime Minister shall delegate the responsibilities of this Ministry to a colleague of the cabinet.
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. Before assuming their functions, the Prime Minister and the Ministers shall take the oath of office before the President of the Republic as specified in Article 61(1)

**Art. 76.** (*Vice-Ministers*)

1. The Ministers may be assisted by Vice-Ministers who shall be appointed and dismissed by the President of the Republic, on the proposal of the Prime Minister, having heard the Council of Ministers.
2. The Vice-Ministers shall assist the Ministers and exercise the functions delegated to them.
3. Before assuming their functions, the Vice-Ministers shall take the oath of office before the Prime Minister as specified in Article 61(1)

**Art. 77.** (*Qualifications for Appointment of Ministers and Vice-Ministers*)

1. The Prime Minister, the Deputy Prime Minister, the Ministers and Vice-Ministers shall be appointed from outside the members of the Parliament.
2. Ministers and Vice-Ministers shall have degrees from recognized Universities, or its equivalent, wide management experience, proven ability and high integrity.
3. A Minister or Vice Minister, during his period in office, shall not exercise any other public functions nor shall he engage in professional, commercial, industrial or financial activities. He shall not directly or indirectly obtain the lease of, or purchase property belonging to the State or to public bodies, except for public premises to be used as his personal residence during his term of office. He shall not, furthermore, sell or lease his own property to the State or to public bodies, or participate in a personal capacity in State enterprises or in enterprises controlled by the State.

**Art. 78.** (*Presidency of the Council of Ministers and Ministries*)

1. The functions of the Presidency of the Council of Ministers as well as the number and the functions of the Ministries shall be established by law.
2. Considering the need for a lean Interim Government during the transition period, resource scarcity and as there shall be regional governments, the Interim Cabinet shall not exceed *13 members*. There shall be no more than 6 Vice-Ministers
3. The organization of the Presidency, the Council of Ministers, the Ministries and the subordinate offices shall be laid down in regulations issued by decree of the President of the Republic

**Art. 79.** (*Confidence of the Interim Parliament*)

1. The Interim Government shall obtain the confidence of the Interim Parliament within thirty days of its formation. The Interim Government shall present itself and its programme to the Interim Parliament and request its confidence. Subsequently, the Interim Government may ask the Interim Parliament to express its confidence at any other time.
2. The Parliament shall express its confidence or no-confidence by means of a motion, stating the grounds thereof, approved by a simple majority in an open vote.
3. A motion of no-confidence, stating the grounds thereof, may also be proposed at any time, by at least thirty Deputies, and shall be examined not earlier than five days after its presentation. In order to be carried, it shall require an absolute majority in open vote.
4. Upon a vote of no-confidence by the Parliament, all the Members of the Government shall resign.
5. The resigning Government shall continue in office for the purpose of carrying out routine duties until the appointment of the new Government.

*Section II: Activities of the Interim Government and Subordinate Organs*

**Art. 80.** (*Powers and Functions of the Interim Government*)

The functions of the Interim Government will be:

- Reconciliation, demobilization, disarmament, and reintegration
- Foreign and International Co-operation
- Justice and Religion
- Defence and Security
- Finance, economy, and Development Planning
- Natural Resources and Environment
- Transport, Posts and Telecommunication
- Social Affairs
- Reconstruction and Public Works
- Foreign Trade
- National Reconciliation
- Science and Technology

**Art. 81.** (*Powers and Responsibilities of the Interim Prime Minister and the Ministers*)

1. The Prime Minister shall direct the general policy of the Interim Government and shall be responsible thereof. The Prime Minister shall maintain the unity of the Government's policy by coordinating and promoting the activities of the Ministries.
2. The Ministers shall direct the affairs within the competence of their respective Ministries and shall be individually responsible therefor.
3. The Prime Minister and the Ministers shall be jointly responsible for the acts of the Council of Ministers.

**Art. 82. (Penal Responsibility of the Interim Prime Minister and the Ministers)**

1. The Prime Minister and the Ministers are responsible for offences committed in the exercise of their functions.
2. In respect of such offences, the Prime Minister and the Ministers shall be impeached on a decision of the Parliament taken on the motion of at least one-fifth of its Members and approved by secret ballot by a majority of two-thirds of the Deputies; they shall be tried by the Supreme Court constituted as the High Court of Justice.
3. Except as provided in the preceding paragraph, no criminal proceedings shall be instituted against the Prime Minister or the Ministers except by authorization of the Parliament, approved by secret ballot by a majority of two-thirds of the Deputies.
4. The Prime Minister or a Minister committed for trial before the High Court of Justice shall be automatically suspended from exercising his functions.

**Art. 83. (Power to Issue Regulations)**

Regulations shall be issued by decree of the Interim President of the Republic on proposals approved by the Council of Ministers. The power to issue regulations on specific matters may be given by law to other organs of the State and to public bodies.

**Art. 84. (Administrative Decentralization)**

Whenever possible, administrative functions shall be decentralized and performed by the local organs of the State and by public bodies.

**Art. 85. (Law Enforcement)**

1. In order to safeguard national security, the police force shall be re-established under the already applicable existing laws, rules and regulations.
2. The policing system shall be decentralized, whereby the self-governing entities, autonomous Regions and their component units (Districts, etc.), shall have their own Police units with respective command structures.
3. The Interim Government shall retain the following police functions under a Central Police Command (CPC) responsible to the Council of Ministers:
  - a) Protection of State institutions, VIPs and other entities;
  - b) Centralized Bureau of Investigation (CBI) for the prevention and investigation of crimes against the state and cases with international repercussions;
  - c) Frontier Control (mobile force, etc), including territorial waters;
  - d) Interpol affairs and liaison with International police organizations;
  - e) Responsibilities for uniformity of Police functions throughout the country, and in Particular:
    - i) Co-ordination and inspection of regional police units.
    - ii) Incorporation of Police Archives, care and custody of fingerprint collections and other criminal records; statistical police data including identification of habitual criminals and their individual modus operandi—collation and dissemination of Police Gazettes, etc.
    - iii) Police Training and management of training schools.
    - iv) Logistics catering for the Police throughout the country.

**Art. 86. (Appointment of High Officials)**

High officials and Commanders of the Police and Armed Forces specified by law shall be appointed by the Interim President of the Republic, on the proposal of the relevant Minister and approved by the Council of Ministers.

**Art. 87. (National Commissions)**

1. The Interim Government shall within ninety (90) days of receiving the confidence of Parliament nominate the following national commissions in consultation with the Regional authorities and/or communities:
  - a) Federal Constitution Commission
    - i) A Federal Constitution Commission shall be established by law which shall provide for its composition and powers.
    - ii) The law establishing to provide the Constitution Commission shall guarantee the independence of its functions.
    - iii) The Constitutional Commission shall undertake the following tasks:
      - Hold consultations with SGAs, autonomous regions, civil society and the public in general on issues concerning the drafting of the federal constitution;
      - Draft a federal constitution during the Interim period;
      - Organize a national conference on the draft constitution which should approve the final draft.
  - b) Land and Property Commission, which shall *inter alia* ascertain the following tasks:
    - i) Identify property and assets illegally acquired
    - ii) By whom such property(ies) have been acquired
    - iii) Whereabouts of the acquisition
    - iv) Restore or recommend the ways and means of restoration of such acquisition to rightful owners
    - v) To determine ways and means of compensating where the acquisition is no longer available in kind.
  - c) Conflict Resolution and Reconciliation Commission, to:
    - i) Enhance reconciliatory endeavours at all levels of society to end the hostilities;
    - ii) Bridge the gap of mistrust among the various communities and confidence through dialogue
    - iii) Create appropriate regional and national networks for peace management, early warning and early response to conflict situations.
  - d) Civil Service Commission
    - i) Shall be established by law which shall provide for its composition and powers.
    - ii) The law establishing the civil Service Commission shall guarantee the independence of its functions.

The nominations of the above National Commissions shall be subject to Parliamentary approval and appointment by decree of the President of the Republic. Each Commission shall have clearly specified terms of reference and a time frame of its mandate.

**Art. 88.** (*Civil Servants and Public Employees*)

1. Civil servants and public employees shall exercise their functions in accordance with the law and solely in the public interest.
2. Civil servants and public employees may not be leaders of political parties.
3. The categories of civil servants and public employees who shall not belong to political parties or engage in other activities incompatible with their functions shall be established by law.
4. Any civil servant or public employee who is on leave for any reason shall not be promoted except on grounds of seniority.
5. The status of civil servants shall be established by law.
6. Appointments to the permanent establishment of the civil service shall be made only after a public competitive examination, except in the cases provided by law.

**Section III: Auxiliary Organs**

**Art. 89.** (*Magistrate of Accounts*)

1. The Magistrate of Accounts shall exercise a prior control over the legality of Government acts involving financial obligations and a post-audit on the State budget.
2. The Magistrate of Accounts shall participate, in the manner specified by law, in the control over the financial management of agencies to which the State makes a regular contribution, and of agencies to which the State makes a substantial contribution as an extraordinary measure.
3. S/He shall report to the Parliament on the results of his/her audit.
4. The law shall regulate the organization of this organ and guarantee the independence of its functions; it shall ensure that the organs and agencies subject to audit have the right to be heard in any judicial proceedings connected therewith.

**Art. 90.** (*National Economic and Labour Council*)

1. The National Economic and Labour Council shall be composed in the manner prescribed by law, of experts and representatives of categories of producers of national wealth in proportion to their numerical strength and economic importance.
2. It shall be an Advisory Organ to the Interim Parliament and to the Government, in respect of matters and functions assigned to it by law.

**Art. 91.** (*Disarmament Bureau*)

1. There shall be established a Bureau for disarmament, demobilization and rehabilitation and reintegration of militia groups.
2. The Bureau shall be staffed by a number of technocrats with both civilian and military background, who shall work under the supervision of an autonomous Board of Directors to be established by law.
3. The Bureau shall have its head office at the seat of government, but may have sub-offices in all parts of the country; and shall be accommodated in existing public building.
4. The mission of the Bureau is the disarmament of all militia groups in the country as soon as possible, in collaboration with the regional authorities.
5. The disarmament shall primarily be conducted *inter alia* through the voluntary surrendering of weapons and through a number of incentives.
6. Any weapons so surrendered shall not be stored, but shall be immediately destroyed, as far as possible in the presence of the surrendering volunteers, as a confidence building measure that such weapons shall not pass to third parties, least of all, their rivals.

7. Corporates and other private entities who employ armed militia may have their fire arms registered with the Disarmament Bureau and to be licensed for their security and their property, against the payment of fees to be prescribed by law. The Corporates or private entities shall be fully responsible for such fire arms registered and licensed under their names.
8. The firearms mentioned in the preceding sub-paragraph may be withdrawn when the country's security is re-established.
9. Both the Board of Directors and the Bureau shall be answerable to the Council of Ministers.

**Art. 92. (Commercial Court)**

1. To create conducive business environment and improve the resolution of trade and commercial conflicts, there shall be established a Commercial Court.
2. The legal status and the appointment of members of the court shall be established by law.

**Art. 93. (Central Bank)**

1. There is established a Central Bank for the Republic. The Central Bank shall be the only authority to issue the currency of the country.
2. The Central Bank shall vest in a Board which shall consist of a Governor, a Deputy Governor and a member for each state which will represent the state in the Board of the authority.
3. The Governor, the Deputy Governor and all other members of the Board shall be appointed by the President of the Republic with the approval of the Interim Parliament and hold the office for a term of five years.
4. A person shall not be qualified as a Governor unless such person has knowledge and experience in matters relating to development, finance or accounting.

**Art. 94. (Functions of the Central Bank)**

- The Central Bank shall be headed by a Governor and governed by an appointed Board.
1. The Central Bank of the Somalia Republic shall:
    - a) Promote and maintain the stability of the value of the national currency;
    - b) Issue notes and coins;
    - c) Act as a Banker and Financial Advisor of the Interim Government;
    - d) Conduct the monetary policy of the Government in a manner consistent with the relevant provision of the law;
    - e) Regulate the currency system in the interest of balanced and sustainable economic growth of Somalia.
  2. In performing its functions, the Central Bank shall conform to the Charter and shall not be subject to the direction or control of any person or authority except the government.

**Art. 95. (Somali Revenue Authority (SRA))**

1. To avoid mistrust amongst the Interim Government and the constituent parts of the Republic and to ensure efficient and effective generation of revenue for the purposes of promoting and safeguarding the well-being of the people of Somalia.
2. To enhance the participation of people, communities and civil society organizations in public finance.
3. To ensure that the budget and budgetary process promote transparency, accountability and effective financial management, it is established a Somali Revenue Authority (SRA), which shall be the only authority in charge of collecting all kind of revenue in the country. The Head of SRA, his deputy and all other members of the Board shall be nominated by the Cabinet and appointed by the President of the Republic and shall remain in office for a term of five years.
4. In performing its functions, the SRA shall conform to the Charter and shall remain responsible to the Government.

**Art. 96. (The Ordinary Fund)**

All revenue or other monies raised or received locally on behalf of, or in trust for, the Government shall be paid into the ordinary Fund.

**Art. 97. (Withdrawals from the Ordinary Fund)**

1. No money shall be withdrawn from the Consolidated Fund except:
  - a) To meet expenditure charged on the Fund by the Charter or by an Act of Parliament.
  - b) Where the issue of those moneys has been authorized by an Appropriation Act, or a Supplementary Appropriation Act.
2. No money shall be withdrawn from any public fund other than the Consolidated Fund, unless the issue of those moneys has been authorized by law.
3. No money shall be withdrawn from the Consolidated Fund unless the withdrawal has been approved by the Controller of Budget in the manner prescribed by Parliament.

**Art. 98. (Consolidated Fund)**

1. All monies donated by the international community for the purpose of reconstruction and development shall be paid into a special fund called Consolidated Fund for Reconstruction.
2. The Fund shall accept international participation and involvement in:
  - a) Fundraising, including holding of donor conference for the Somali Republic;
  - b) In providing technical assistance for managing and monitoring of the fund.

**Art. 99. (Appropriation Bill)**

1. The heads of expenditure contained in the estimates, other than expenditure charged on the Consolidated Fund by the Charter or any Act of Parliament, shall be included in a Bill to be known as an Appropriation Bill which shall be introduced into Parliament to provide for the issue from the Consolidated Fund of the sums necessary to meet that expenditure, and the appropriation of those sums for the purposes specified in the Bill.
2. If in respect of any financial year it is found:
  - That the amount appropriated for any purpose under the Appropriation Act is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or
  - That any moneys have been expended for any purpose or for a purpose for which no amount has been appropriated by that Act, a supplementary estimate showing the sums required or spent shall be laid down before Parliament and in the case of excess expenditure, within four months after the first drawing on the money is made: provided that the sum required or spent in a supplementary shall not in total exceed ten percent of the sums appropriated by Parliament for the respective purposes during that financial year.

**Art. 100. (Controller of the Budget)**

1. There shall be a Controller of Budget shall nominated by Cabinet, and approved by Parliament. He/she shall be appointed by the President of the Republic. This shall be a constitutional office.
2. A person shall not be appointed Controller of Budget unless that person:
  - a) Is a fully qualified accountant, and finance and budget expert;
  - b) Is a person of high moral character and proven integrity.
3. The Controller of Budget shall oversee the implementation of the Budget as Parliament approved it by:
  - a) Ensuring that the money is spent as Parliament intended;
  - b) Providing accounts of actual as opposed to budgeted expenditure;
  - c) Providing technical advice to Parliamentary finance committees;
  - d) Working closely with the Ministry of Finance and Development Planning and other ministries.
4. The Controller of Budget shall submit annual reports to the Parliament.
5. Parliament shall, within three months after the submission of the report in clause (4) of this article, debate and consider the report and take appropriate action.
6. In performing his/her functions, the Controller of Budget shall not be under the direction or control of any person except that of Parliament.
7. Subject to the law the Controller of Budget may be removed from office by the President only for:
  - a) Inability to perform the functions of his/her office arising from infirmity of body or mind
  - b) Misconduct
  - c) Incompetence



## TITLE IV THE ORGANIZATION OF THE INTERIM SELF-GOVERNING ADMINISTRATIONS AND AUTONOMOUS REGIONS OF THE REPUBLIC

### *Section I: Constituent Parts and their Powers*

#### **Art. 101.** *(Decentralized Governance)*

1. The Somali Republic shall have a decentralized governance system during the Interim period. The constituent parts shall be Self-Governing Administrations and Autonomous Regions. The Federal (Post-Interim) Units shall be defined by the Constitution.
2. The powers and functions of the Self-Governing Administrations and Autonomous Regions include Education; Health; Water Supplies; Local Electricity Supply; Agriculture; Public Works; Local Police; Local Business regulation; Welfare; and Regional Development Planning.
3. Powers and functions to be shared between the Interim Government on the one hand, and Self-Governing Administrations and the Autonomous Regions on the other, shall include Natural Resources, Security, Trade, Transport, Telecommunications, Taxation, Infrastructure, Ports and Airports, Development Planning, Reconstruction and Public Works. In Economic Affairs the formula recommended by the economic committee shall apply.
4. The Government shall assist the Self-Governing Administrations and Autonomous Regions in the transition to become viable entities as shall be defined in the future federal constitution. The total number of the constituent units of the Federal Republic shall be determined by the Constitutional Commission during the transitional period through consultations with the Government, Self-Governing Administrations, the Autonomous Regions and the general public.
5. All mandates not specified shall belong to the Interim National Government which can devolve some of them to the regional authorities.

### *Section II: Interim Self-Governing Administrations*

#### **Art. 102.** *(Governance Structures)*

1. Interim Self-Governing Administrations are two or more regions that have joined together to form common governance structures and shall relate to the national government as one entity. These entities have the following characteristics:
  - Geographical territory/contiguity
  - At least 2 or more regions united
  - Governance structure accepted by people of the regions concerned
  - Economic viability.
2. In the framework of the unity and indivisibility of the Somali State, the Interim Government and current Interim Self-Governing Administrations and Autonomous Regions shall enter into dialogue concerning matters not covered in the Charter, including unspecified powers and functions.
3. The Government shall assist the Interim Self-Governing Administrations in the further development of their governance structures.

### Section III: Interim Autonomous Regions

#### Art. 103. (Regions)

1. In the framework of the unity and indivisibility of the Somali Republic the regions and the districts shall be autonomous entities with powers and functions of their own to be established by law.
2. The autonomous regions are those individual regions that have maintained the 1990 regional status and do not have the Self-Governing Administration traits at the beginning of the interim period.
3. There shall be established autonomous Interim Regional Councils.
  - a) A regional council is composed of members nominated by the Districts of there-gion. Each district nominates five persons including a District chairperson and a woman to serve in the Regional council.
  - b) Regional councils elect their chairpersons and their Vice-Chairperson(s) from among their own respective members by simple majority. An elected chairper-son of a regional council becomes the ex-officio Regional Governor; and also represents the central Government in the region.
  - c) The Regional Governor and the District chairpersons shall form the executive body of the region.
4. Each regional council shall exercise the following functions:
  - a) Maintain regional security
  - b) Enhance the capacity of the district councils
  - c) Assist districts to develop their capacity to discharge their functions
  - d) Formulate plans and policies for the exploitation of the regional resources and development of regional infrastructure
  - e) Formulate plans and policies for education and health in the region.
  - f) Manage regional institutions
  - g) Any other functions delegated by the national government.
5. Each Regional Council establishes its own rules of procedure and enacts by-laws, as it deems necessary.
6. The life span of the Interim Regional Councils shall be within the third year of the interim period and before completion of the Federal structural process.
7. A regional council may be dissolved by the national Government for incompetence or exceeding its powers. A new council shall in that case be constituted within one month. The dissolved regional council can petition the Supreme Court against the decision of the National Government.

### Section IV: Districts

#### Art. 104. (Regional Component Units)

1. Districts are the component units of the Regions.
2. Each District shall have its own district council and its members shall be selected by their own respective communities. A district shall be self-supporting in terms of resources, to meet its administrative expenditures.
3. The District Administrator is an appointed public servant.
4. Districts consist of the following categories which determine the number of the members of each district council:
  - a) Category "A" with 21 members
  - b) Category "B" with 17 members
  - c) Category "C" with 13 members

5. The District Chairperson, Vice-Chairperson and the district administrator shall in each District, form the executive body.
6. The District Council shall, among other things prescribed by the existing laws, also have competences over the following functions:
  - a) Establish, maintain, and manage primary and secondary education.
  - b) Establish, maintain and manage district hospitals and clinics.
  - c) Implement national land tenure policies
  - d) Establish Public works, Water and Electricity supplies, and maintain local bridges and of roads.
  - e) Implement national Agriculture policies.
  - f) Establish and maintain local Police and Prisons
  - g) Regulate local commerce and Industrial enterprises
  - h) Manage local ports and airports.
  - i) Establish District statistics and planning.
  - j) Develop and manage local sports
7. District Councils adopt their rules of procedures and elect their chairpersons and vice-chair persons.
8. An elected Chairperson of the District Council becomes the ex-officio District Commissioner and shall be responsible to the regional Governor for administrative and security matters of the District. For all the district affairs, the Chairperson is answerable to the District Council.
9. A District Council may be dissolved by the regional council for incompetence or dereliction of duty by a simple majority vote stating the reasons thereof. New District Council members shall be selected by the community, within two weeks.

## TITLE V THE JUDICIARY

### **Art. 105.** *(Judicial Powers)*

The Judicial powers shall be vested in the Judiciary.

### **Art. 106.** *(Independence of the Judiciary)*

The judiciary shall be independent of the executive and legislative powers.

### **Art. 107.** *(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 matters and in any other matter specified by the Charter and the law.
2. The organization of the Supreme Court and of the other judicial organs shall be established by law.

### **Art. 108.** *(Unity of the Judiciary)*

1. No extraordinary or special Courts shall be established.
2. There may only be established, as part of the ordinary Courts, specialized sections for specific matters, with the participation where necessary, of citizens who are experts, from outside the Judiciary.
3. The jurisdiction of Military Tribunals in time of war shall be established by law. In time of peace, they shall have jurisdiction only in respect of military offences committed by members of the Armed Forces.
4. The people shall participate directly in assize proceedings, in the manner prescribed by law.

**Art. 109. (Judicial Guarantees)**

1. In the exercise of their judicial functions, the Members of the Judiciary shall be subject only to law.
2. The rules concerning the legal status and the appointments of Members of the Judiciary shall be established by law.
3. Members of the Judiciary shall not be removed or transferred except in the cases specified by law.
4. Members of the Judiciary shall not hold offices, perform services or engage in activities incompatible with their functions.
5. Administrative and disciplinary measures, relating to Members of the Judiciary shall be adopted, as provided by law, by decree of the President of the Republic, on the proposal of the Council of Ministers, having heard the Higher Judicial Council.

**Art. 110. (Judicial Procedure)**

1. Judicial proceedings shall be public; the Court may decide, however, for reasons of morals, hygiene or public order, that the proceedings be held in *camera*.
2. No judicial decision shall be taken unless all the parties have had the opportunity of presenting their case.
3. All judicial decisions and all measures concerning personal liberty shall state the grounds therefor, and shall be subject to appeal in accordance with the law.
4. The Police and other Armed Forces shall be directly available to the judicial organs for the performance of acts pertaining to their functions.

## PART V CONSTITUTIONAL GUARANTEES

### TITLE I REVIEW OF THE CONSTITUTIONALITY OF LAWS

**Art. 111. (Constitutionality of Laws)**

1. Laws and provisions having the force of law shall conform to the Charter and to the general principles of Islam.
2. In the course of a judicial proceeding, the question of the constitutionality of a law or a provision having the force of law may be raised, as to the form or substance, by means of a petition of the party concerned or of the Office of the Attorney General, or by the
3. Court on its own motion, where the decision depends, even though partially on the application of the law or provision being challenged.
4. Where a petition is presented by the party concerned or by the Office of the Attorney General while the case is pending before a Court of first or second instance, the Court, where it finds the petition not manifestly unfounded, shall suspend judgment and refer the matter to the Supreme Court for a decision, which shall be binding upon the former Court.
5. Where a petition is presented while the case is pending before the Supreme Court, the Supreme Court, where it finds the petition not manifestly unfounded, shall suspend judgment and proceed according to Article 111.
6. The same procedure shall apply where the question of constitutionality is raised by a Court of first or second instance, or by the Supreme Court, on their own motion.

**Art. 112. (Constitutional Court)**

1. A question of constitutionality shall be decided by the Supreme Court constituted as the Constitutional Court, with the addition of two Members appointed for a period of three years by the President of the Republic, on the proposal of the Council of Ministers, and two Members elected for the same period by the Parliament by an absolute majority.
2. The qualifications of the additional Members shall be prescribed by law.

**Art. 113. (Judgment)**

A decision of the Constitutional Court declaring that a law or a provision having the force of law is unconstitutional shall be communicated by the Court to the President of the Republic, the President of the Parliament and the Prime Minister, and shall be published in the manner prescribed for the publication of laws.

**TITLE II CRIMINAL PROCEEDINGS AGAINST THE INTERIM  
PRESIDENT OF THE REPUBLIC AND THE MEMBERS OF THE  
INTERIM GOVERNMENT**

**Art. 114. (Impeachment)**

1. The Articles of impeachment approved by the Parliament under Article 73 or Article 82, shall specify the acts alleged to have been committed by the President of the Republic or any Member of the Government and their accomplices if any.
2. The Parliament shall appoint, from among its Members, or from outside, one or three Prosecuting Commissioners who shall act as Public Prosecutor in proceedings before the Supreme Court constituted as the High Court of Justice.

**Art. 115. (High Court of Justice)**

The Supreme Court constituted as the High Court of Justice shall conduct the trials with six additional Members, drawn by lot by the President of the Court at a public hearing from a special list of twelve citizens qualified for election as Deputies. The twelve citizens shall be elected by the Parliament at the beginning of each term from among persons who are not Members of the Interim Parliament.

**Art. 116. (Organization)**

1. The provisions governing proceedings before the Supreme Court constituted as the High Court of Justice shall be laid down by law.
2. The Court shall establish its own rules of Court for the hearings.

### TITLE III AMENDMENTS TO THE CHARTER

**Art. 117.** (*Amendments and Additions to the Charter*)

Amendments or additions to the provisions of the Charter shall be decided by the Parliament on the proposal of at least one-fifth of its Members, or the Government, by two successive ballots held at an interval of not less than three months, approval thereof requiring an absolute majority of the Deputies on the first ballot and a two-third majority on the second ballot.

**Art. 118.** (*Limits on Amendments to the Charter*)

The Charter shall not be amended under the terms of the preceding Article for the purpose of modifying the republican and democratic form of government or for restricting the fundamental rights and freedoms of the citizen and of people guaranteed by the Charter.

## PART VI TRANSITIONAL AND FINAL PROVISIONS

- I. The specific mandates of the interim national institutions for the interim period include:
  - a) The Interim Government shall on the outset of taking office appeal for the stationing of an international force to assist it in the initial program of disarmament and demobilization.
  - b) Restore law and order in the country, in collaboration with Self-Governing administration and autonomous regions.
  - c) Shall ensure national unity, reconciliation and peace-building
  - d) Assist the Self-Governing administrations to enhance and complete the governance structures where necessary.
  - e) Assist in establishing viable administrations in autonomous regions.
  - f) Establish special national commissions including Constitutional and all other commissions should be listed. Electoral Commissions, Land and Property Rights Commissions, reconciliation and conflict resolution, etc., within three months of taking office.
  - g) Establish a pro-active programme to attract Somali professionals from abroad.
  - h) Establish a joint regional security system with other countries, in association with the AU and UN.
  - i) Actively promote regional security by taking preventive measures in combating all types of terrorisms.
  - j) Establish, in close collaboration with the international community a support system that shall work in tandem with the Interim Government to establish viable public institutions and help restore peace and stability.
- II. Land and Property Rights  
As policy and principle, all public and private land, property and assets illegally seized, occupied or acquired during and before the civil war should be returned unconditionally to their rightful owners through the appointment of a National Commission for Land and Property whose duties shall include the following:
  - a) To receive, investigate and address community and individual complaints and claims on land, property and asset, taking into consideration destruction and replacement of property, falsification and/or loss of documents;
  - b) To design a framework that people whose properties were illegally occupied or rented out shall be entitled to compensation paid by the illegal occupiers/tenants.
  - c) That all public property, land and assets disused or privately held should revert to state ownership regardless of its present state, occupation or ownership;
  - d) To recover and register all public property, land and assets, including vehicles, ships, aircrafts, industries, artifacts, treasure, valuables, funds inside and outside the country;
  - e) To launch a campaign at national, state/regional and district levels, appealing to Somalis and foreigners for the voluntary return of national assets, treasures and monuments stolen or misappropriated during the last 12 years of civil war in Somalia;
  - f) To establish special courts to deal with land and property rights and make land tenure law;
  - g) To mobilize resources for implementation of land and property conflicts resolution;

- III. The Government shall devote maximum effort to restore peace and security, free movement of people, goods and services; disarmament and collection of illegal weapons that are in the hands of members of the general public; the rehabilitation and reintegration of all militia groups in co-operation with the regional administrations, traditional leaders and the international community.
- IV. The Government shall take adequate measures to facilitate resettlement of internally displaced persons and voluntary repatriation of Somali refugees.
- V. Any ongoing projects in parts of the country may continue, provided they do not infringe on the sovereignty of the state or impair the environment.
- VI. All factions and their militia groups shall be dissolved and cease to exist within three months of the establishment of the Interim National Government.
- VII. All armed groups inside the Somali Republic shall turn in their weapons to the authorities.
- VIII. The tasks of the Interim Government in the last year of the transition (year 3) shall consist of the following:
  - a) Provide the necessary support and resources to the constitutional commission to organize the referendum on the Federal Constitution;
  - b) Enact Electoral and political parties' laws.
  - c) Facilitate the completion of the process of identification and demarcation of constituent states of the Federal Republic to be outlined in the Federal Constitution.
  - d) Provide the necessary resources to the Electoral Commission to organize federal elections.
- IX. The final status of the Somali Republic shall emerge after the successful completion of the following processes:
  - a) Elections for States and Federal Legislatures;
  - b) Formation of the States constituting the Federal State and their governance institutions;
  - c) Adoption of the Federal Constitution in a Referendum
- X. The date for the elections of the future Parliament under the Federal Constitution shall be fixed by the Interim President, and the elections shall take place at least ninety days before the expiry of the transitional period.
- XI. The Interim Parliament shall retain its powers in all cases until the production of the electoral results for the new Federal Parliament.
- XII. The future elected Parliament shall meet for its first session within thirty days from the production of the electoral results.
- XIII. The text of this Charter shall be disseminated through broadcasting and printed media.
- XIV. In order to implement the provisions of the Charter, it is necessary for the following existing laws to be reviewed by a Commission of legal experts in the light of the current situation:
  - Law on government organization;
  - Law on Regional and Local Administrations;
  - Law on State Accounting;
  - Law on Public Order;
  - Law on citizenship;
- XV. Provisions of the 1960s Constitution of the Somali Republic and other existing laws, and rules and regulations, which do not contravene this National Charter, shall remain in force.



- XVI. The Interim Government shall establish an autonomous National Resource Center (Think tank) that researches major issues facing the nation, and that would conduct non-partisan public debates.
- XVII. This Charter shall provisionally come into force the date of the signing of the final agreements of the Reconciliation Conference and shall remain valid until a Federal Constitution shall be adopted in a popular Referendum.