



**The Federal Republic of Somalia**

**Provisional Constitution Review and Implementation Oversight Committee**

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**Report on Suggestions for the Constitutional Review**

**By the Provisional Constitution Review and Implementation Oversight Committee (OC)**

**OPTION 3**

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**Mogadishu, Somalia**

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### Option Three Introduction

*(Bicameral Federal Parliament with House of the People and House of Regional State Delegates, President as Head of State and Head of Government elected directly by the People, Separated Court System)*

Option No. 3 was perceived as the least practical and realistic one. Nevertheless, it was fully developed so as to provide for a full range of constitutional options for Somalis to consider. This option suggests to establish a bicameral Federal Parliament, but to have the second House be established on an ad-hoc basis as House of Regional State Delegates. This House of Regional State Delegates would only commence when actual need arises as per its constitutional mandate (e.g. for the amendment of the Constitution, for the impeachment of the President, the declaration of a State of Emergency, or the Appointment of judges or members of Independent Commissions), but would no be involved in the law making process of federal laws. For each sitting, delegates would be appointed by the Head of the Executive as approved by the Legislative Assembly of the Regional State they represent. Also under this option the concept is to provide for simplified law making procedures at the Federal Government level. Moreover, the concept is to empower the Regional State governments and thereby to improve representation of Regional State Governments’ interests in national decision-making processes.

With respect to the executive branch (Chapter 7 & 8), Option No. 3 suggests the establishment of a fully-fledged presidential system. Thus,

the President would act as Head of State and as Head of Government; and would be elected directly by the Somali people. Under this option it is suggested that the President together with a Deputy President as running mate would be elected by the people in a direct election (with 50 percent plus one and at least 25 percent of registered voters in a majority of Regional States in the first round or with simple majority in a second round organized as a run off between the two top candidatures). The President could only be impeached by a procedure involving the Constitutional Court and a 2/3 majority of both Houses of the Federal Parliament. The President would represent the country as Head of State and is the Head of the Federal Government, i.e. the President would head the Council of Ministers and appoint and dismiss its members on his own discretion. As the President would enjoy direct democratic legitimacy under this option the Council of Ministers would not be accountable to the House of the People, but only to the President himself. The main idea of this option thus is to resolve the complex power relationship between the two executive heads, i.e. between the President and the Prime Minister and to provide for clear political leadership and responsibility of one Head of the Executive with direct democratic legitimacy of the executive and strict separation of powers.

With respect to the judiciary (Chapter 9), Option No. 3 suggests the establishment of a dual (separated) court system with Federal Government courts adjudicating Federal laws and Regional State courts adjudicating Regional State laws only. The Federal Government would be responsible for the organization and administration of federal courts, the Regional States would be responsible for the organization and administration of Regional State courts only. The Higher Judicial Council would only advise on the administration of federal courts, and Regional State Judicial Councils would need to be established in each of the Regional States to advise on the administration of Regional State courts. Under this option there would be a Constitutional Court, a Federal Supreme Court, Regional State Supreme Courts, Federal Courts of Appeal, Regional State Courts of Appeal, Federal Regional Courts, Regional State Regional Courts, Federal District Courts, and Regional State District Courts. The main idea of this option is to provide for total independence of Regional States in developing and managing their own legal systems. The consequence would, however, also be the duplication of court systems all over the country on the district, regional and Regional State levels and thereby to multiply the number of courts, judges and personnel.

As also under Option No. 3 the suggestion is to establish a House of Regional State Delegates as second House of the Federal Parliament representing the Regional State governments, the same constitutional amendment procedure was provided for as under Option No. 2. Again it was considered unnecessary to involve the Regional State Legislative Assemblies in the constitutional amendment procedure. Instead a 2/3 majority of both Houses of the Federal Parliament was suggested to be required for the adoption of any amendment to the constitution in future. Similarly, under this option the Joint Inter-parliamentary Committee for Constitutional Harmonization was suggested to become a Joint Committee for Constitutional Harmonization, comprising of members of the House of the People and the House of Regional State Delegates.

| Provisional | Final Suggestions on | Basic Reasons for Review |
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| <b>Constitution</b>                                                                                                                                                                                                                                                                                                                             | <b>Constitutional Amendments</b>                                                                                                                                                                                                                                                                                                                                      | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| <b>CHAPTER 1:<br/><br/>DECLARATION OF THE FEDERAL<br/>REPUBLIC OF SOMALIA</b>                                                                                                                                                                                                                                                                   | <b>CHAPTER 1:<br/><br/>DECLARATION OF THE FEDERAL REPUBLIC OF<br/>SOMALIA</b>                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Article 1. The Federal Republic of<br/>Somalia</b>                                                                                                                                                                                                                                                                                           | <b>Article 1. The Federal Republic of Somalia</b>                                                                                                                                                                                                                                                                                                                     | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| (1) Somalia is a federal, sovereign,<br>and democratic republic founded on<br>inclusive representation of the<br>people, a multiparty system and<br>social justice.                                                                                                                                                                             | (1) Somalia is a free, independent, federal<br>republic, with full sovereignty.<br><br>(2) It is a Democratic Republic based on<br>inclusive representation of its people, a<br>multi-party political system and social<br>justice.                                                                                                                                   | It is suggested to divide this Paragraph and provide<br>for one Paragraph on the status of the Somali<br>Republic and one on its democratic and social<br>values.<br><br>The words “free and independent” are suggested to<br>be added to the first new Paragraph so as to<br>emphasise the freedom and the independence of<br>the country.<br><br>In the new Paragraph (2) it is suggested to add the<br>word “political” for reasons of clarification. |
| (2) After Allah the Almighty, all<br>power is vested in the people and<br>can only be exercised in accordance<br>with the Constitution and the law<br>and through the relevant<br>institutions. It is prohibited for a<br>person or a section of the public to<br>claim the sovereignty of the Federal<br>Republic of Somalia, or to use it for | (3) After Allah the Almighty, all power is<br>vested in the people and can only be<br>exercised in accordance with the Constitution<br>and the law and through the relevant<br>institutions. It is prohibited for a person or a<br>section of the public to seize the sovereignty<br>of the Federal Republic of Somalia, or to use it<br>for their personal interest. | In the English version, it is suggested to use of the<br>term “seize” instead of “claim” with the aim to<br>prevent any person or section of the public to take<br>over the sovereignty of the country, or to use it for<br>their own personal interest.<br><br>In the Somali version, in addition to the above, the<br>term “bulshada” which could mean (society) is<br>suggested to be changed to “shacbiga” which is                                  |

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| their personal interest.                                                                                |                                                                                                                                                                   | deemed to be the appropriate word for “public”.                                                                                                                                                                                                                                                                  |
| (3) The sovereignty and unity of the Federal Republic of Somalia is inviolable.                         | (4) The sovereignty, independence, national unity and borders of the Federal Republic of Somalia are inviolable.                                                  | It is suggested to add the terms “independence and “borders” with the aim of promoting the protection, preservation and strengthening the existence of the Federal Republic of Somalia within its current borders.                                                                                               |
| <b>Article 2. State and Religion</b>                                                                    | <b>Article 2. State and Religion</b>                                                                                                                              | <b>Suggestions</b>                                                                                                                                                                                                                                                                                               |
| (1) Islam is the religion of the State.                                                                 | (1) Islam is the religion of the State.                                                                                                                           | It is suggested to change the term “Dawladda” (State/Government), which implies that Islam is the religion of the government only, and instead use the term “Dalka” (country) with the underlying idea that Islam is not only the religion of the government but also the religion of the people in the country. |
| (2) No religion other than Islam can be propagated in the country.                                      | (2) No religion other than Islam can be propagated in the country.                                                                                                | No changes suggested.                                                                                                                                                                                                                                                                                            |
| (3) No law can be enacted that is not compliant with the general principles and objectives of Shari’ah. | (3) No law can be enacted that is not in compliance with the general principles of Shari’ah Law.                                                                  | It is suggested to delete the term “Maqaasiiddeeda” (objectives) as this word is deemed to be too vast to be understood objectively and would require extensive interpretations.                                                                                                                                 |
|                                                                                                         | (4) The Constitutional Court may invalidate any law, executive action or judicial decision that is not in compliance with the general principles of Shari’ah Law. | It is considered to be a problem that the current constitutional text provides for no clarity on who gets to determine whether a legislative act, executive action or judicial decision is in compliance with the general principles of Shari’ah Law or not. In                                                  |

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|                                                                                                                                                                                                                      |                                                                                                                                                                                                                       | order to provide for such clarity it is suggested to empower the Constitutional Court to make such decisions. Consequently, on the composition of the Constitutional Court, it is suggested to include Shari’ah expertise on the bench.                                                                                                                                                                   |
| <b>Article 3. Founding Principles</b>                                                                                                                                                                                | <b>Article 3. Founding Principles</b>                                                                                                                                                                                 | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                        |
| (1) The Constitution of the Federal Republic of Somalia is based on the foundations of the Holy Quran and the Sunna of our prophet Mohamed (PBUH) and protects the higher objectives of Shari’ah and social justice. | (1) The Constitution of the Federal Republic of Somalia is based on the foundations of the Holy Quran and the Sunna of our prophet Mohamed (PBUH) and protects the general principles of Shari’ah and social justice. | It is suggested to delete the term “Maqaasiiddeeda” (objectives) as this word is deemed to be too vast to be understood objectively and would require extensive interpretations.                                                                                                                                                                                                                          |
| (2) The Federal Republic of Somalia is a Muslim country which is a member of the African and Arab Nations.                                                                                                           | (2) The Federal Republic of Somalia is a Muslim country, which is a member of the African and Arab Nations.                                                                                                           | No changes suggested.                                                                                                                                                                                                                                                                                                                                                                                     |
| (3) The Federal Republic of Somalia is founded upon the fundamental principles of power sharing in a federal system.                                                                                                 | (3) The Federal Republic of Somalia is founded upon devolution of power, the principles of supremacy of law and social justice.                                                                                       | It is suggested to change the wording “fundamental principles of power sharing in a federal system” to “devolution of power”. The concern is, that “power sharing” could be misunderstood as an aim to maintain the current 4.5 system of power sharing among clans. This is deemed inappropriate for a federal system and politically incorrect. The term devolution of power is deemed to be describing |

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|                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>more clearly the intended decentralization of political power leading to sustainable self-governance.</p> <p>Also it is suggested to add “supremacy of law” and “social justice”, two fundamental principles deemed important to be included in the Founding Principles of the Constitution.</p>                                                                                                                                                                                                                                                                                                                                             |
|                                                                                                                                                                                                                                                                                                                                                                                                      | (4) State power can only be exercised by the competent institutions in accordance and to the extent granted by the Constitution and the laws of the Federal Republic of Somalia.                                                                                                                                                                                                                                           | This new paragraph is suggested to be introduced so as to emphasise that State institutions can only exercise their competences within the limits allowed by the Constitution and the laws of the country.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (4) The Constitution of the Federal Republic of Somalia promotes human rights, the rule of law, general standards of international law, justice, participatory consultative and inclusive government, and the separation of powers between the legislature, executive and an independent judiciary, in order to ensure accountability, efficiency and responsiveness to the interests of the people. | (5) The Constitution of the Federal Republic of Somalia protects human rights, the supremacy of law, justice, participatory consultative and inclusive government, and the separation of powers between the legislature, executive and an independent judiciary, in order to ensure accountability, transparency and responsiveness to the interests of the people, and to promote general standards of international law. | <p>It is suggested to change the term “promotes” to “protects” so as to constitute a responsibility of state institutions to protect and uphold human rights and not only to promote them.</p> <p>Likewise, it is suggested to change the term “rule of law” to “supremacy of law” so as to emphasise that the law not only governs the country, but also supersedes any other state action.</p> <p>In the Somali version only, it is suggested to change the wording “shuruudaha guud ee xeerarka caalamiga ah” which reads as “general conditions of international law” to “halbeegyada guud ee xeerarka dawliga ah” which means “general</p> |

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|                                                                                                                                                                                                                   |                                                                                                                                                                                                                             | standards of international law”, which seems the underlying idea of this Paragraph.                                                                                                                  |
|                                                                                                                                                                                                                   | (6) Land, sea, airspace and natural resources are national wealth that belongs to all Somali people.                                                                                                                        | This new Paragraph (6) is suggested to be moved from Chapter (3), Art. 43 (1) as it was seen as a fundamental principle that is best placed in this Article.                                         |
| (5) Women must be included, in an effective way, in all national institutions, in particular all elected and appointed positions across the three branches of government and in national independent commissions. | (7) Women must be included, in an effective way, in all national institutions, particularly in all elected and appointed positions across the three branches of the government and in the national independent commissions. | No changes suggested.                                                                                                                                                                                |
| <b>Article 4. Supremacy of the Constitution</b>                                                                                                                                                                   | <b>Article 4. Supremacy of the Constitution</b>                                                                                                                                                                             | <b>Suggestions</b>                                                                                                                                                                                   |
| (1) After the Shari’ah, the Constitution of the Federal Republic of Somalia is the supreme law of the country. It binds the government and guides policy initiatives and decisions in all sections of government. | (1) After the Shari’ah Law, the Constitution of the Federal Republic of Somalia is the supreme law of the country and binds all.                                                                                            | It is suggested to emphasise that the Constitution does not only bind the government, but everybody in the Somali Republic. Thus the suggestion change “binds the government” to “binds all”.        |
| (2) Any law, or administrative action that is contrary to the Constitution may be invalidated by the Constitutional Court, which has                                                                              | (2) Any law, executive action or judicial decision that is contrary to the Constitution may be invalidated in part or                                                                                                       | It is suggested to include also judicial decisions in the list of governmental actions that may be invalidated by the Constitutional Court in order to emphasise the supremacy of the Constitutional |

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| the authority to do so in accordance with this Constitution.                                                                 | all by the Constitutional Court.                                                                                                                | <p>Court decisions within the judicial structure.</p> <p>It is suggested to add the word “part” with the aim of emphasising that the Constitutional Court may invalidate such actions only to the extent that they are not in compliance with the Constitution.</p> <p>It is suggested to use the same terminologies across Articles, thus the suggestion to use this wording “laws, executive actions and judicial decisions”.</p> |
| <b>Article 5. Official Languages</b>                                                                                         | <b>Article 5. Official Languages</b>                                                                                                            | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| The official language of the Federal Republic of Somalia is Somali (Maay and Maxaa-tiri), and Arabic is the second language. | (1) The official languages of the Federal Republic of Somalia are Somali (Maay and Maxaa-tiri), and Arabic.                                     | No changes suggested.                                                                                                                                                                                                                                                                                                                                                                                                               |
|                                                                                                                              | (2) The Federal Republic of Somalia shall strive for the promotion, protection and development of the Somali language and the national culture. | It is suggested to add this new Paragraph (2) so as to provide for a constitutional duty for the State to develop a national policy to promote, protect and develop the national language and culture. This mainly due to fact, that the Somali written language is still a very young language, which needs to be advanced further.                                                                                                |

| Article 6. The Flag and National Symbols                                                                                                                                                                                                                                                                                                                                                                                                                                         | Article 6. The Flag and National Symbols                                                                                                                                                                                                                                                                                                                                                                             | Suggestions                                                                                                                                                                                                                               |
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| (1) The flag of the Federal Republic of Somalia, as shown in section A of Schedule One, is a light blue rectangle in the centre of which is a white star with five equal points.                                                                                                                                                                                                                                                                                                 | (1) The flag of the Federal Republic of Somalia, as shown in section A of Schedule One, is a light blue rectangle in the centre of which is a white star with five equal points.                                                                                                                                                                                                                                     | No changes suggested.                                                                                                                                                                                                                     |
| (2) The emblem of the Federal Republic of Somalia, as shown in section B of Schedule One, is a blue shield with a gold frame, in the centre of which is a silver-coated, five-pointed star. The shield is surmounted by a decorated emblem with five golden heads, with two lateral ones halved. The shield is borne from the sides by two leopards facing each other under the lower point of the shield, along with two palm leaves, which are interlaced with a white ribbon. | (2) The emblem of the Somalia is a blue shield with a gold frame, in the centre of which is a silver-coated, five-pointed star. The shield is surmounted by a decorated emblem with five golden heads, with two lateral ones halved. The shield is borne from the sides by two leopards facing each other under the lower point of the shield, along with two palm leaves, which are interlaced with a white ribbon. | No substantial changes suggested for this Paragraph. Only linguistic changes are suggested in order to make the Article more comprehensible.                                                                                              |
| (3) Somalia has a national anthem which is “Qolobaa Calankeed”                                                                                                                                                                                                                                                                                                                                                                                                                   | (3) “Soomaaliyeey toosoo” is the national anthem to be used for official purposes at the Federal Government level as well as the Regional State level.                                                                                                                                                                                                                                                               | It is suggested to change the national anthem “Qoloba Calankeed” back to the historic anthem of “Soomaaliyeey toosoo” so as to emphasise the continuity of the Somali Republic.<br><br>It is also suggested to clarify that this national |

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|                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                         | anthem should be used by all levels of government on the Federal Republic of Somalia so as to avoid a situation where each Regional State develops its anthem and quasie-national identity.                                                                                                                                                                                                                                                                                                             |
| (4) The Federal Member States of the Federal Republic of Somalia shall have their own flags and national symbols in accordance with the federal system.                                                                                                  | (4) The Regional States of the Federal Republic of Somalia may have their own flags and national symbols, but they cannot have state anthems of their own.                                                                                                                                                                              | <p>Generally, it is suggested to replace the term “Federal Member States” with “Regional States”. Without questioning the state-character of the member states, this terminology is deemed to be more appropriate as it emphasizes the regional character of the states in a federated Somali Republic rather than suggesting independent state character.</p> <p>For clarification reasons, it is suggested to add also in this Paragraph, that Regional States should not have their own anthems.</p> |
| <b>Article 7. The Territory of the Federal Republic of Somalia</b>                                                                                                                                                                                       | <b>Article 7. The Territory of the Federal Republic of Somalia</b>                                                                                                                                                                                                                                                                      | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (1) The sovereignty of the Federal Republic of Somalia extends over all the territory of the Federal Republic of Somalia, which includes the land, territorial sea, the islands, the subsoil, the air space, and the continental shelf, and any land and | (1) The sovereignty of the Federal Republic of Somalia extends over all the territory of the Federal Republic of Somalia, which includes the land, territorial sea, the islands, the subsoil, the air space, and the continental shelf, and any land and waters that join the Federal Republic of Somalia in accordance with a law that | It is suggested to change the term “Dhulka” (land) to “Geyiga” (Territory), both in the title and in the content of this Article (only in the Somali version). The reason being that territory covers much more than land, i.e. land, sea, air space, etc and thus is deemed the appropriate term.                                                                                                                                                                                                      |

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| waters that join the Federal Republic of Somalia in accordance with a law that shall be passed by the Federal Parliament.                                                                                                                                      | shall be passed by the House of the People.                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                  |
| (2) The territory of the Federal Republic of Somalia is inviolable and indivisible.                                                                                                                                                                            | (2) The territory of the Federal Republic of Somalia is inviolable and indivisible.                                                                                                                                                                                   | No changes suggested.                                                                                                                                                                                                                            |
| (3) Any international boundary dispute over the territory of the Federal Republic of Somalia shall be resolved in a peaceful and cooperative manner that is in accordance with the laws of the land and international law.                                     |                                                                                                                                                                                                                                                                       | It is suggested to delete this Paragraph. The reason being, that the current wording is perceived prone to create confusion on the borders of the Federal Republic of Somalia and may in fact create border disputes instead of preventing them. |
| (4) The boundaries of the Federal Republic of Somalia shall be those described in the 1960.                                                                                                                                                                    |                                                                                                                                                                                                                                                                       | It is suggested to delete this provision . Reason being that the current wording refers to the borders described in the 1960 Constitution of Somalia, which, however, did not specify the borders of the Somali Republic at that time.           |
| <p>(5) The boundaries of the Federal Republic of Somalia are:</p> <p>(a) To the north: The Gulf of Aden;</p> <p>(b) To the north west: Djibouti; (c) To the west: Ethiopia;</p> <p>(d) To the south west: Kenya;</p> <p>(e) To the east: the Indian Ocean.</p> | <p>(3) The boundaries of the Federal Republic of Somalia are:</p> <p>(a) To the north: The Gulf of Aden;</p> <p>(b) To the north west: Djibouti;</p> <p>(c) To the west: Ethiopia;</p> <p>(d) To the south west: Kenya;</p> <p>(e) To the east: the Indian Ocean.</p> | No changes suggested.                                                                                                                                                                                                                            |

| Article 8. The People and the Citizenship                                                                                                                                                        | Article 8. The People and the Citizenship                                                                                                               | Suggestions                                                                                                                                                                                                                                                                                                                                                                           |
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| (1) The people of the Federal Republic of Somalia are one, indivisible and comprise all the citizens.                                                                                            | (1) The people of the Federal Republic of Somalia is one, indivisible and comprise all the citizens.                                                    | No changes suggested.                                                                                                                                                                                                                                                                                                                                                                 |
| (2) There shall be only one Somali citizenship, and the House of the People of the Federal Parliament of Somalia shall enact a special law that shall define how to obtain, suspend, or lose it. | (2) There shall be only one Somali citizenship, and House of the People shall enact a special law that shall define how to obtain, suspend, or lose it. | No substantial changes suggested.                                                                                                                                                                                                                                                                                                                                                     |
| (3) A person who is a Somali citizen cannot be deprived of Somali citizenship, even if they become a citizen of another country.                                                                 | (3) A citizen of Federal Republic of Somalia who acquires a citizenship of another country shall not lose his or her Somali citizenship.                | No substantial changes suggested. Only linguistic changes are suggested in order to make the provision more comprehensible.                                                                                                                                                                                                                                                           |
|                                                                                                                                                                                                  | (4) Every child born to a father or a mother with Somali citizenship has a right to Somali citizenship.                                                 | This Paragraph is suggested to be added so as to provide that contrary to the Somali Citizenship Law of 1962, not only a child born to a father but also a child born to a mother with Somali citizenship has the right to Somali citizenship. The reason being that it is perceived discriminatory if Somali women would not be allowed to pass their citizenship to their children. |
| (4) Denial, suspension, or deprivation of Somali citizenship may not be based on political                                                                                                       |                                                                                                                                                         | It is suggested to delete this Paragraphn as its current wording is partly contradictory to Paragraph (3) and the law requested to be enacted in terms of                                                                                                                                                                                                                             |

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| grounds.                                                                                                                                                                                                                                                                        |                                                                       | Paragraph (2) of this Article is expected to provide for any such further details on citizenship needed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Article 9. The Capital City of the Nation</b>                                                                                                                                                                                                                                | <b>Article 9. The Capital City of Federal Republic of Somalia</b>     | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| The capital city of the Federal Republic of Somalia is Mogadishu. The status of the capital city of Somalia shall be determined in the constitutional review process, and the two houses of the Somali Federal Parliament shall enact a special law with regards to this issue. | (1) The capital city of the Federal Republic of Somalia is Mogadishu. | It is suggested to divide this Article into five (5 ) paragraphs so as to make it more accessible and comprehensible.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                                                                                                                                                                                                                                 | (2) The capital city shall become a Regional State.                   | <p>It is suggested to provide for clarity on the status of Mogadishu as capital city. The following three options were considered:</p> <ol style="list-style-type: none"> <li>1. A capital District under Federal Government.</li> <li>2. A capital which is a Regional State; and</li> <li>3. A capital, which is in a Regional State.</li> </ol> <p>However, it was understood that under the current dynamics, Benadir cannot be expected to merge with any other region to form a joint Regional State. Given Benadir's population, an even bigger and more populated Regional State was also not perceived viable anymore. Also, the model of a capital District under direct Federal Government</p> |

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|  |                                                                                                                                                                                                                                                                                                   | administration was perceived not to adequately reflect the need for self-government and representation of the large percentage of Somali people actually residing in Benadir. Therefore, the second option of a capital which is a Regional State by itself was preferred so as to guarantee the political rights of its local population.                                                                                                                                                                                     |
|  | (3) The capital city shall not merge to any other region and shall not be part of another Regional State by expanding its territory.                                                                                                                                                              | The Paragraph is suggested to be added so as to clarify the status of the capital – please see the above.                                                                                                                                                                                                                                                                                                                                                                                                                      |
|  | (4) The administrative council of the federal capital city and the Federal Government must comply with the principle of cooperation as provided in this Constitution.                                                                                                                             | This Paragraph is suggested to be added so as to emphasise the underlying aim to ensure respect for the general principles of cooperation in the federal system.                                                                                                                                                                                                                                                                                                                                                               |
|  | (5) In particular, the Federal Government and the administrative council of the capital city has to negotiate on matters relating to taxation and other laws that regulate the land and the buildings belonging to or resided by the federal government that are located within the capital city. | This Paragraph is suggested to be added so as to put in place negotiated and agreed upon guidelines for taxation as well as Federal Government lands and buildings located within the capital city. The reason being to appreciate and highlight the fact that the Federal Government would be residing in a Regional State of Benadir and thus naturally both would need to have a close relationship and adequate mechanisms for cooperation in place in order to avoid disputes over jurisdictions, powers and competences. |
|  | (6) The House of the People shall enact a special law on the status of Mogadishu.                                                                                                                                                                                                                 | This Paragraph is part of the Paragraph 1 of this Article in the Provisional Constitution but suggested                                                                                                                                                                                                                                                                                                                                                                                                                        |

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|                                                                                                     |                                                                                                                            | to be put last in the newly arranged sequence of Paragraphs.                                                                                                                                                                      |
| <b>CHAPTER 2:<br/>FUNDAMENTAL RIGHTS AND THE<br/>DUTIES OF THE CITIZEN</b>                          | <b>CHAPTER 2:<br/>FUNDAMENTAL RIGHTS AND THE DUTIES OF THE<br/>CITIZEN</b>                                                 |                                                                                                                                                                                                                                   |
| <b>Title One: General Principles Of<br/>Human Rights</b>                                            | <b>Title One: Fundamental Rights and Duties</b>                                                                            |                                                                                                                                                                                                                                   |
| <b>Article 10. Human Dignity</b>                                                                    | <b>Article 10. Human Dignity</b>                                                                                           | <b>Suggestions</b>                                                                                                                                                                                                                |
| (1) Human dignity is given by God to every human being, and this is the basis for all human rights. | (1) Human dignity is given by Allah, the Almighty, to every human being, and this is the basis for all fundamental rights. | No changes suggested.                                                                                                                                                                                                             |
| (2) Human dignity is inviolable and must be protected by all.                                       | (2) Human dignity is inviolable and must be protected by all.                                                              | No changes suggested.                                                                                                                                                                                                             |
| (3) State power must not be exercised in a manner that violates human dignity.                      | (3) State power must not be exercised in a manner that violates human dignity.                                             | Only a minor change in the Somali version suggested, i.e. to replace the term “meel-uga dhicid” with “xadgudub” which is deemed more appropriate.                                                                                 |
|                                                                                                     | (4) No person may be subjected to slavery, servitude, trafficking, or forced labour for any purpose.                       | It is suggested to move this regulation from Article 14 of the Provisional Constitution and add this regulation on the Article on Human Dignity. As these prohibitions are related to Human Dignity, this seems more appropriate. |

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|                                                                                                                                                                                                              | (5) No person may be subjected to torture or inhuman treatment for any purpose.                                                                                                                                                          | It is suggested to move this regulation from Article 15 (2) of the Provisional Constitution and add this regulation on the Article on Human Dignity. As these prohibitions are related to Human Dignity, this seems more appropriate. |
| <b>Article 11. Equality</b>                                                                                                                                                                                  | <b>Article 11. Equality</b>                                                                                                                                                                                                              | <b>Suggestions</b>                                                                                                                                                                                                                    |
| (1) All citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth or dialect shall have equal rights and duties before the law.               | (1) All citizens, regardless of sex (male and female), religion, colour, social or economic status, political opinion, clan, disability, occupation, birth, ethnicity, age or dialect shall have equal rights and duties before the law. | It is suggested to add further grounds of discriminations, i.e. “ colour, ethnicity and age”. The intention is to prevent discrimination of the citizens on such grounds and to strengthen the right to equality.                     |
| (2) Discrimination is deemed to occur if the effect of an action impairs or restricts a person’s rights, even if the actor did not intend this effect.                                                       |                                                                                                                                                                                                                                          | It is suggested to delete this Paragraph as its content is perceived to be adequately addressed by the suggested revised Paragraph (2).                                                                                               |
| (3) The State must not discriminate against any person on the basis of age, race, colour, tribe, ethnicity, culture, dialect, gender, birth, disability, religion, political opinion, occupation, or wealth. | (2) It is prohibited to discriminate against any person on the basis of age, race, colour, tribe, ethnicity, culture, dialect, gender, birth, disability, religion, political opinion, occupation, wealth or on any other reasons.       | It is suggested to delete the term “State” as it is not only the State that is prohibited to discriminate persons on these grounds but this is a general rule applicable to everyone.                                                 |
| (4) All State programs, such as laws, or political and administrative actions that are designed to achieve                                                                                                   |                                                                                                                                                                                                                                          | It is suggested to delete this Paragraph. The reason being that it is suggested to provide for a general limitation clause of fundamental rights, which is                                                                            |

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| full equality for individuals or groups who are disadvantaged, or who have suffered from discrimination in the past, shall be deemed to be not discriminatory.                                                                                                                                                             |                                                                                                                                                                                | expected to adequately address this issue. This is also an attempt to prevent any kind of excuses to commit an act of discrimination that goes against equality of citizens of the Federal Republic of Somalia. |
| <b>Article 12. Application of the Fundamental Rights</b>                                                                                                                                                                                                                                                                   | <b>Article 37. Application of Fundamental Rights</b><br><b>Note: "Title was: Application, Interpretation and Limitation of Fundamental Rights"</b>                             | <b>It is suggested that Article 12 becomes Article 37: Application, Interpretation and Limitation of Fundamental Rights of this Chapter</b>                                                                     |
| (1) The fundamental rights and freedoms recognized in this Chapter shall always be respected in the making and application of the law. Likewise, they must be respected by all individuals and private organisations, as well as by every state institution and state official as they carry out their official functions. | (1) The fundamental rights and freedoms provided in this Chapter bind the State and State organs at all levels of government as well as individuals and private organisations. | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                       |
| (2) It is the responsibility of the state not only to ensure it does not violate rights through its actions, but also to take reasonable steps to protect the rights of the people from abuse by others.                                                                                                                   | (2) At all time, the State and state organs at all levels of government must adhere to, protect, promote and guarantee these fundamental rights and duties.                    | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                       |

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| (3) The rights recognized in this Chapter may be limited only by a law as provided for in Article 38. |                                                                                                                                                            | It is suggested to delete this Paragraph as it only states the obvious. One will find the regulation on limitations of rights when reading the constitution holistically as generally is the rule. Thus such cross-reference is perceived repetitive and thus unnecessary.  |
| <b>Title Two: Rights, Basic Personal Liberties and Limitations</b>                                    | <b>To delete this break here and provide for Title Two on Application, Interpretation and Limitation of Fundamental Rights and Duties after Article 38</b> | <b>It is suggested to delete the Title</b>                                                                                                                                                                                                                                  |
| <b>Article 13. Right to Life</b>                                                                      | <b>Article 12. Right to Life and Physical Integrity</b>                                                                                                    | <b>Note: the term “physical integrity” is suggested to be added to the title of the Article.</b>                                                                                                                                                                            |
| Everyone has the right to life.                                                                       | (1) Every person has the right to life and physical integrity.                                                                                             | It is suggested to add the term "physical integrity" to this Paragraph. Often the right to life and physical integrity are combined in human rights catalogues as both rights are related. For reasons of coherence and logic it is suggested to combine these rights here. |
|                                                                                                       | (2) Life is God given and a natural right of every human being. No person shall be deprived from this right unless for reasons specified by law.           | It is suggested to add this paragraph to reflect that traditionally the Right to Life has a limit in Somalia, i.e. when a person commits a crime that carries the death penalty as punishment. The suggested                                                                |

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|                                                                                                                                                                                                                    |                                                                                                                                 | wording is an attempt to reflect current regulations of the penal code.                                                                                                                                                            |
|                                                                                                                                                                                                                    | (3) Abortion is contrary to Shari'ah and is prohibited except in cases of necessity, especially to save the life of the mother. | It is suggested to move this regulation from Article 15 (5) of the Provisional Constitution because of the obvious relation to the right to life. For reasons of coherence and logic it is suggested to combine these rights here. |
| <b>Article 14. Slavery, Servitude and Forced Labour</b>                                                                                                                                                            |                                                                                                                                 | <b>Suggestions</b>                                                                                                                                                                                                                 |
| A person may not be subjected to slavery, servitude, trafficking, or forced labour for any purpose.                                                                                                                |                                                                                                                                 | It is suggested to delete this Article and move its content to Article 10 (4). See above.                                                                                                                                          |
| <b>Article 15. Liberty and Security of the Person</b>                                                                                                                                                              |                                                                                                                                 | <b>Suggestions</b>                                                                                                                                                                                                                 |
| (1) Every person has the right to personal liberty and security.                                                                                                                                                   |                                                                                                                                 | It is suggested to delete this Article and move its contents to Article 10 and Article 12 of this Chapter.                                                                                                                         |
| (2) Every person has the right to personal security, and this includes: the prohibition of illegal detention, all forms of violence, including any form of violence against women, torture, or inhumane treatment. |                                                                                                                                 |                                                                                                                                                                                                                                    |
| (3) Every person has the right to                                                                                                                                                                                  |                                                                                                                                 |                                                                                                                                                                                                                                    |

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| physical integrity, which cannot be violated. No one may be subjected to medical or scientific experiments without their consent or, if a person lacks the legal capacity to consent, the consent of a near relative and the support of expert medical opinion.                                                               |                                                                                                                                                                                |                                                                                                                                                      |
| (4) Female circumcision is a cruel and degrading customary practice, and is tantamount to torture. The circumcision of girls is prohibited.                                                                                                                                                                                   |                                                                                                                                                                                |                                                                                                                                                      |
| (5) Abortion is contrary to Shari'ah and is prohibited except in cases of necessity, especially to save the life of the mother.                                                                                                                                                                                               |                                                                                                                                                                                |                                                                                                                                                      |
| <b>Article 16. Freedom of Association</b>                                                                                                                                                                                                                                                                                     | <b>Article 13. Freedom of Association</b>                                                                                                                                      | <b>Suggestions</b>                                                                                                                                   |
| Every person has the right to associate with other individuals and groups. This includes the right to form and belong to organizations, including trade unions and political parties. It also includes the right not to associate with others, and a person cannot be forced to associate with any other individual or group. | (1) Every person has the right to organise, form and associate with organisations such as political organizations, civil society organisations and other social organisations. | This Article is divided into two paragraphs . The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible. |

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|                                                                                                                                              | (2) No person may be forced to associate with organisations.                              | The reason to have a separate paragraph is to emphasise the protection of the wish of a person not to join a union.                                                                                            |
|                                                                                                                                              | (3) These rights may only be limited by a law enacted by the House of the People.         | This new Paragraph is suggested to be added so as to clarify where a law enacted by the House of the People may restrict or infringe on a right.                                                               |
| <b>Article 17. Freedom of Religion and Belief</b>                                                                                            | <b>Article 14. Freedom of Belief and Religion</b>                                         | <b>Suggestions</b>                                                                                                                                                                                             |
| (1) Every person is free to practice his or her religion.                                                                                    | (1) Every person is free to have his or her own religion.                                 | Only linguistic changes suggested. The suggested wording is an attempt to provide for a more general and broader regulation that everybody is allowed to have his or her religion and not only to practice. it |
| (2) No religion other than Islam can be propagated in the Federal Republic of Somalia.                                                       | (2) No religion other than Islam can be propagated in the Federal Republic of Somalia.    | No changes suggested.                                                                                                                                                                                          |
|                                                                                                                                              | (3) These rights may only be limited by a law passed by the House of the People.          | This new Paragraph is suggested so as to clarify where a law enacted by House of the People may restrict or infringe on a right.                                                                               |
| <b>Article 18. Freedom of Expression and Opinions</b>                                                                                        | <b>Article 15. Freedom of Expression and Opinions</b>                                     | <b>Suggestions</b>                                                                                                                                                                                             |
| (1) Every person has the right to have and express their opinions and to receive and impart their opinion, information and ideas in any way. | (1) Every person has the right to have, seek and freely express their opinions and ideas. | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                      |

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| (2) Freedom of expression includes freedom of speech, and freedom of the media, including all forms of electronic and web-based media.                                  | (2) Every person has the freedom of expression whether in oral, written, artistic or in the form of media.                                                                        | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.             |
| (3) Every person has the right to freely express their artistic creativity, knowledge, and information gathered through research.                                       | (3) Every person has the right to freely express their acquired knowledge or creativity.                                                                                          | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.             |
|                                                                                                                                                                         | (4) These rights may only be limited by a law passed by the House of the People.                                                                                                  | This new Paragraph is suggested to be added so as to clarify where a law enacted by the House of the People may restrict or infringe on a right.      |
| <b>Article 19. Inviolability of Home</b>                                                                                                                                | <b>Article 17. Inviolability of Home</b>                                                                                                                                          | <b>Suggestions</b>                                                                                                                                    |
| (1) The home and other dwellings of the person shall be inviolable, and their entry, search or surveillance shall not be allowed without a reasoned order from a judge. | (1) The home and other dwellings of the person shall be inviolable, and their entry, search or surveillance shall not be allowed without a reasoned order from a competent judge. | It is suggested to clarify that only a “competent” judge may issue an order of entry, search or surveillance.                                         |
| (2) Any such order must be read properly to the occupier of the dwelling before entry, and the inspecting authority is prohibited to violate the law.                   |                                                                                                                                                                                   | It is suggested to delete this Article as it only states the obvious, i.e. that the inspecting authority is prohibited to violate the law.            |
|                                                                                                                                                                         | (2) In special circumstances, designated security authorities are permitted to carry out their duties and enter or search a home or                                               | This new Paragraph is suggested to be added so as to allow the House of the People to enact security laws empowering security agencies to act without |

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|                                                                                                                                                                         | other dwelling on the basis of a law enacted by the House of the People.                                                                                                                              | prior authorization by a judge.                                                                                                                                            |
| <b>Article 20. Freedom of Assembly, Demonstration, Protest, and Petition</b>                                                                                            | <b>Article 18. Freedom of Assembly, Demonstration, Protest, and Petition</b>                                                                                                                          | <b>Suggestions</b>                                                                                                                                                         |
| (1) Every person has the right to organize and participate in meetings, and to demonstrate and protest peacefully, without requiring prior authorization.               | (1) Every person has the right to organize and participate in meetings, and to demonstrate peacefully.                                                                                                | The term "without requiring prior authorisation" is suggested to be deleted so as to provide for such details to be regulated by a law enacted by the House of the People. |
| (2) Every person has the right to present petitions to State Institutions.                                                                                              | (2) Every person has the right to present petitions to the competent state Institutions.                                                                                                              | It is suggested to clarify that petitions may only be presented to the competent state institutions and not just any state institutions.                                   |
|                                                                                                                                                                         | (3) These rights may only be limited by a law enacted by the House of the People .                                                                                                                    | This new Paragraph is suggested to be added so as to clarify where a law enacted by the House of the People may restrict or infringe on a right.                           |
| <b>Article 21. Freedom of Movement and Residence</b>                                                                                                                    | <b>Article 19. Freedom of Movement and Residence</b>                                                                                                                                                  | <b>Suggestions</b>                                                                                                                                                         |
| (1) Every person lawfully residing within the territory of the Federal Republic of Somalia has the right to freedom of movement, freedom to choose their residence, and | (1) Every person lawfully residing within the territory of the Federal Republic of Somalia has the right to freely choose their residence, the freedom of movement, and freedom to leave the country. | No changes suggested.                                                                                                                                                      |

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| freedom to leave the country.                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                |                                                                                                                                                  |
| (2) Every citizen has the right to enter and to remain in the country, and has the right to a passport.                                                                                                                                                                                 | (2) Every citizen has the right to enter and to remain in the country, and has the right to a passport.                                                                                                                                                        | No changes suggested.                                                                                                                            |
|                                                                                                                                                                                                                                                                                         | (3) These rights may only be limited by a law enacted by the House of the People .                                                                                                                                                                             | This new Paragraph is suggested to be added so as to clarify where a law enacted by the House of the People may restrict or infringe on a right. |
| <b>Article 22. Right of Political Participation</b>                                                                                                                                                                                                                                     | <b>Article 20. Right of Political Participation</b>                                                                                                                                                                                                            | <b>Suggestions</b>                                                                                                                               |
| <p>(1) Every citizen has the right to take part in public affairs. This right includes:</p> <p>(a) The right to form political parties and to participate in the activities of political parties; and</p> <p>(b) The right to be elected for any position within a political party.</p> | <p>(1) Every citizen has the right to take part in the country's political affairs, and the right to form and join political party, and to participate in the activities thereof, and the right to be elected for any position within the political party.</p> | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.        |
| (2) Every citizen who fulfils the criteria stated in the law has the right to elect and to be elected.                                                                                                                                                                                  | (2) Every citizen has the right to elect and to be elected.                                                                                                                                                                                                    | No changes suggested.                                                                                                                            |
| (4) The rights stated in Paragraph (1) and (2) shall be exercised in accordance with this Constitution and a law enacted by the Federal Parliament.                                                                                                                                     | (3) The rights mentioned in Paragraphs (1) and (2) of this Article shall be exercised in accordance with the Constitution and a law enacted by the House of the People                                                                                         | No changes suggested.                                                                                                                            |

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| <b>Article 23. Freedom of Trade, Occupation, and Profession</b>                                                      | <b>Article 21. Freedom of Trade, Occupation, and Profession</b>                                                                                                                                                | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                    |
| Every citizen has the right to choose their profession or occupation freely.                                         | (1) Every citizen has the right to choose their profession, occupation or trade freely.                                                                                                                        | No changes suggested.                                                                                                                                                                                                                                                                                                 |
|                                                                                                                      | (2) These rights may only be limited by a law enacted by the House of the People .                                                                                                                             | This new Pargraph is suggested to be added so as to clarify where a law enacted by Parliament may restrict or infringe on a right.                                                                                                                                                                                    |
| <b>Article 24. Labour Relations</b>                                                                                  | <b>Article 22. Fair Labour Relations</b>                                                                                                                                                                       | <b>NB: The Term “Fair” is suggested to be added to the title.</b>                                                                                                                                                                                                                                                     |
| (1) Every person has the right to fair labour relations.                                                             | (1) Every person has the right to fair labour relations.                                                                                                                                                       | No changes suggested.                                                                                                                                                                                                                                                                                                 |
| (2) Every worker has the right to form and join a trade union and to participate in the activities of a trade union. | (2) Every employed person has the right to form and join a trade union and to participate in the activities of the trade union.                                                                                | No changes suggested.                                                                                                                                                                                                                                                                                                 |
| (3) Every worker has the right to strike.                                                                            | (3) Every employed person has the right to strike as long this right does not interfere with the public interest and the continued provision of basic needs and functions and the maintenance of public order. | It is suggested to avoid the open-ended nature of the right to strike and to provide a more restrictive clause instead, which stipulates that this right may be exercised “as long this right does not interfere with public interest in the continued provision of certain basic needs and functions and maintenance |

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|                                                                                                                                                                                                                                 |                                                                                                                                                                                                                      | of public order”.                                                                                                                                                                                                    |
| (4) Every trade union or employers’ organization or employer has the right to engage in collective bargaining regarding labour-related issues.                                                                                  | (4) Every trade union or employers’ organization has the right to engage in collective bargaining regarding labour-related issues.                                                                                   | No changes suggested                                                                                                                                                                                                 |
| (5) All workers, particularly women, have a special right of protection from sexual abuse, segregation and discrimination in the work place. Every labour law and practice shall comply with gender equality in the work place. | (5) Labour laws enacted in terms of Paragraph (7) shall pay special attention to the protection from sexual abuse, segregation and discrimination and aim to provide for male and female equality at the work place. | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                            |
|                                                                                                                                                                                                                                 | (6) Full equality at the work place shall be provided to the disabled people, and every means that facilitates in doing their work shall be allocated to them.                                                       | This new Paragraph is suggested to be added so as to provide for full equality to the disabled people including the requirement to provide for every additional means that may facilitate their performance at work. |
|                                                                                                                                                                                                                                 | (7) These rights may only be limited by a law enacted by the House of the People .                                                                                                                                   | This new Paragraph is suggested to be added so as to clarify where a law enacted by House of the People may restrict or infringe on a right.                                                                         |
| <b>Article 25. Environment</b>                                                                                                                                                                                                  | <b>Article 23. Clean Environment and Habitat</b>                                                                                                                                                                     | <b>NB: Article 25 is suggested to be amended to become “Clean Environment and Habitat”</b>                                                                                                                           |
| (1) Every person has the right to an environment that is not harmful to their health and well-being, and to                                                                                                                     | (1) Every person has the right to a clean environment and habitat that is protected from pollution and harmful materials to living                                                                                   | It is suggested to include the term “habitat” and “living things” so as to clarify that not only the environment, but also the people’s livestock needs                                                              |

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| be protected from pollution and harmful materials.                                                                                                                                  | things.                                                                                                                                                                      | to be protected from harmful materials and pollution.                                                                                                                                        |
| (2) Every person has the right to have a share of the natural resources of the country, whilst being protected from excessive and damaging exploitation of these natural resources. | (2) Every person has the right of access to the natural resources of the country, whilst having the duty to protecting it from anything that can have damaging effect to it. | It is suggested to clarify that every person has only the right of access to the natural resources "whilst having the duty protecting it from anything that can have damaging effect to it". |
|                                                                                                                                                                                     | (3) These rights may only be limited by a law enacted by the House of the People .                                                                                           | This new Pargraph is suggested to be added so as to clarify where a law enacted by the House of the People may restrict or infringe on a right.                                              |
| <b>Article 26. Property</b>                                                                                                                                                         | <b>Article 24. Private Property</b>                                                                                                                                          | <b>NB: the term "private" is suggested to be added to the Title of the Article so as to clarify that this deals only with private property</b>                                               |
| (1) Every person has the right to own, use, enjoy, sell, and transfer                                                                                                               | (1) Every person has the right to own, use,                                                                                                                                  | It is suggested to change the Somali wording "ku naalloodo" (enjoy) to "ka faa'iideysto" (get benefit                                                                                        |

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| property.                                                                                                                                                                                                                                                                    | enjoy, sell, or transfer private property.                                                                                                                         | from), which is broader in meaning and may include (enjoy, exploit, lease, let, etc.) and “iska wareejiyo” (transfer) to “hibeeyo” (donate), which is perceived to be more adequate in the Somali context.                                                                                                                                                                                |
|                                                                                                                                                                                                                                                                              | (2) These rights may only be limited by a law enacted by the House of the People .                                                                                 | This new Paragraph is suggested to be added so as to clarify where a law enacted by the House of the People may restrict or infringe on a right.                                                                                                                                                                                                                                          |
| (2) The state may compulsorily acquire property only if doing so is in the public interest. Any person whose property has been acquired in the name of the public interest has the right to just compensation from the State as agreed by the parties or decided by a court. | (3) Laws enacted in terms of Paragraph (2) may only allow for the acquisition of private property by state authorities for justifiable reasons of public interest. | It is suggested to provide for the contents of the original Paragraph (2) in two separated Paragraphs, namely, Paragraph (3), allowing for the acquisition of private property only for “justifiable reasons of public interest”, and Paragraph (4) giving the right to an “agreed and just compensation” to the owner whose private property has been appropriated by State authorities. |
|                                                                                                                                                                                                                                                                              | (4) The owner whose private property has been appropriated has the right to an agreed and just compensation.                                                       |                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Article 27. Economic and Social Rights</b>                                                                                                                                                                                                                                | <b>Article 25. Economic and Social Rights</b>                                                                                                                      | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                        |
| (1) Every person has the right to clean potable water.                                                                                                                                                                                                                       | (1) Every person has the right to clean and potable water.                                                                                                         | No changes suggested.                                                                                                                                                                                                                                                                                                                                                                     |

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| (2) Every person has the right to healthcare, and no one may be denied emergency healthcare for any reason, including lack of economic capability.                                                              | (2) Every person has the right to healthcare, and no one may be denied emergency healthcare for any reason, including lack of economic capability.                                                                                          | No changes suggested.                                                                                                                                                                                                                   |
| (3) Every person has the right to full social security.                                                                                                                                                         | (3) Every person has the right to full social security.                                                                                                                                                                                     | No changes suggested.                                                                                                                                                                                                                   |
| (4) Every person has the right to protect, pursue, and achieve the fulfilment of the rights recognised in this Article, in accordance with the law, and without interference from the state or any other party. | (4) State authorities of the Federal Republic of Somalia shall strive for the full realization of these rights for all, paying special attention to women, the aged, the disabled, minorities or any other disadvantaged persons or groups. | It is suggested to clarify that it is the responsibility of the State to realise these rights and whilst doing so to pay “special attention to women, the aged, the disabled, minorities or any other disadvantaged persons or groups”. |
| (5) It shall be ensured that women, the aged, the disabled and minorities who have long suffered discrimination get the necessary support to realize their socio-economic rights.                               |                                                                                                                                                                                                                                             | This Paragraph is suggested to be deleted and its contents to be merged with Paragraph (4) above.                                                                                                                                       |
| <b>Article 28. Family Care</b>                                                                                                                                                                                  | <b>Article 26. Family Care</b>                                                                                                                                                                                                              | <b>Suggestions</b>                                                                                                                                                                                                                      |
| (1) Marriage is the basis of the family, which is the foundation of society. Its protection is a legal duty of the State.                                                                                       | (1) Family is the basis and the foundation of society and its protection is a legal duty of the State.                                                                                                                                      | It is suggested to delete the word "marriage" and only to provide for the term "family" as basis for society. The reason being that marriage is perceived as a natural precondition for having a family.                                |

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| (2) Mother and child care is a legal duty of the State.                                                                                                                                                                                                                                                                                       | (2) Mother and child care is a duty of the State.                                                                                                                                                                                                                                                                      | No changes suggested.                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| (3) Every child has the right to care from their parents, including education and instruction. In instances where this care is not available from the family, it must be provided by others. This right applies to street children and children of unknown parents, the rights of whom the state has a particular duty to fulfil and protect. | (3) Every child has the right to care from their parents, including education and proper instruction. If this care is not provided by his family and relatives, the State shall be the guardian of such right. Neglected children shall also enjoy such a right; the State has a particular duty to fulfil their care. | <p>It is suggested to insert the word “proper” so as to underline that instructions from parents to the child should always be appropriate.</p> <p>It is also suggested to clarify that the provision of protection and care for children is a legal duty of the State and the State shall be the guardian of such rights”.</p> <p>It is also suggested to replace the term “street children” to “neglected children” so as to encompass all those children in need.</p> |
| (4) Adults have a duty to support their parents if the parents are unable to care for themselves.                                                                                                                                                                                                                                             | (4) Adults have a duty to support their parents if the parents are unable to care for themselves.                                                                                                                                                                                                                      | No changes suggested.                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| (5) A marriage shall not be legal without the free consent of both the man and the woman, or if either party has not reached the age of maturity.                                                                                                                                                                                             | (5) A law enacted by the House of the People shall regulate family affairs.                                                                                                                                                                                                                                            | This Paragraph is suggested to be added to this Article so as to allow for further details to be regulated by ordinary laws.                                                                                                                                                                                                                                                                                                                                             |
| <b>Article 29. Children</b>                                                                                                                                                                                                                                                                                                                   | <b>Article 27. Children Rights</b>                                                                                                                                                                                                                                                                                     | <b>NB: The Title is suggested to be changed to Children “rights”.</b>                                                                                                                                                                                                                                                                                                                                                                                                    |
| (1) Every child has the right to a good and righteous name and a nationality from birth.                                                                                                                                                                                                                                                      | (1) Upon birth a child has the right to have a good name and official registration.                                                                                                                                                                                                                                    | It is suggested to leave out the child’s right to a nationality from birth and replace it with the right of official registration. In the end this is what the State can guarantee for. The determination of                                                                                                                                                                                                                                                             |

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|                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                           | nationality may be outside of the control of the State.                                                                                                                                                         |
|                                                                                                                                                                                                                                                                                                      | (2) A person who has not reached 18 years of age shall be considered as a child and entitled to the special rights for children.                                                                                                                                                                          | This Paragraph is suggested to be moved from the current Paragraph (8) of the Provisional Constitution so as to define right at the beginning of the Article who is considered a “child”.                       |
| (2) Every child has the right to be protected from mistreatment, neglect, abuse, or degradation.                                                                                                                                                                                                     | (3) Every child has the right to be protected from mistreatment, neglect, abuse, or degradation.                                                                                                                                                                                                          | No change suggested.                                                                                                                                                                                            |
| (3) No child may perform work or provide services that are not suitable for the child’s age or create a risk to the child’s health or development in any way.                                                                                                                                        | (4) No child may perform work or provide services that are not suitable for the child’s age or create a risk to the child’s health or development in any way.                                                                                                                                             | No change suggested.                                                                                                                                                                                            |
| (4) Every child may be detained only as a last resort, for a limited time, in appropriate conditions, and must be detained separately from adults with the exception of the child’s immediate family. The child’s immediate family must be informed of the child’s detention as soon as practicable. | (5) A child may be detained only as a last resort, for a limited time, and must not be detained with adults with the exception of the child’s immediate family and must be held in appropriate conditions. The child’s immediate family must be informed of the child’s detention as soon as practicable. | No change suggested.                                                                                                                                                                                            |
| (5) Every child shall have the right to legal aid paid for by the State if the child might otherwise suffer injustice.                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                           | This Paragraph is suggested to be deleted due to the fact that the right to legal aid is provided not only for children but to all those who might not be able to afford or make available legal aid. Therefore |

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|                                                                                                          |                                                                                                                               | it is suggested to regulate this right comprehensively in Article 32 of the suggested review.                                                                                                            |
| (6) Every child has the right to be protected from armed conflict, and not to be used in armed conflict. | (6) Every child has the right to be protected from armed conflict, and not to be used in armed conflict.                      | No change suggested.                                                                                                                                                                                     |
| (7) In every matter concerning a child, the child's best interests are of paramount importance.          | (7) In every matter concerning a child, the child's best interests are of paramount importance.                               | No change suggested.                                                                                                                                                                                     |
| (8) In this Article, the word "child" means a person less than 18 years of age.                          |                                                                                                                               | This Paragraph is suggested to be moved to Paragraph (2), see above.                                                                                                                                     |
| <b>Article 30. Education</b>                                                                             | <b>Article 28. Education</b>                                                                                                  | <b>Suggestions</b>                                                                                                                                                                                       |
| (1) Education is a basic right for all Somali citizens.                                                  | (1) Education is a basic right for all Somali citizens.                                                                       | No changes suggested.                                                                                                                                                                                    |
| (2) Every citizen shall have the right to free education up to secondary school.                         | (2) Every citizen shall have the right to free education up to secondary school.                                              | No changes suggested.                                                                                                                                                                                    |
|                                                                                                          | (3) Primary school education is compulsory.                                                                                   | It is suggested to make primary school education compulsory. The goal is to freeing large parts of the society from illiteracy.                                                                          |
| (3) The State shall give priority to the development, expansion and extension of public education.       | (4) The competent state authorities at all levels of government shall have the duty to work on the development, expansion and | In order to make it clear that it is not only the Federal Government that has the duty to promote education and guarantee this right to every citizen, it is suggested to use the wording "The competent |

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|                                                                                                                                                                                                                              | extension of public education.                                                                                                                                        | state authorities at all levels of government instead of “the State”.                                                                                                                                                                                         |
| (4) Private schools, institutes and universities shall be established according to law and in line with the educational program and academic curricula of the country.                                                       | (5) In accordance with the law, the State shall adopt a standardized curriculum that applies to all private schools and institutes of the country.                    | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                                                                     |
| (5) The State shall encourage the promotion of research, creativity, and arts, and the advancement of cultural and traditional dances and sports and shall promote the positive customs and traditions of the Somali people. | (6) The competent state authorities at all levels of government shall promote research, creative arts, cultural and traditional folklore and sports.                  | In order to make it clear that it is not only the Federal Government that has this duty to promote research, arts, culture and sport, it is suggested to use the wording “The competent state authorities at all levels of government instead of “the State”. |
| (6) The State shall adopt a standardized curriculum across all schools of the country, and shall ensure its implementation.                                                                                                  | (7) The competent authorities of the Federal Government shall adopt a standardized curriculum across all schools of the country, and shall ensure its implementation. | In order to make it clear that it is only the Federal Government that has the duty to develop a standardized curriculum, it is suggested to clarify this and use the wording “Federal Government” instead of “the State”..                                    |
| (7) The State shall promote higher education, technical institutes, and technology and research institutions.                                                                                                                | (8) The competent state authorities at all levels of government shall promote higher education, technical institutes, and technology and research institutions.       | In order to make it clear that it is not only the Federal Government that has this duty to higher education and technologies, it is suggested to use the wording “The competent state authorities at all levels of government instead of “the State”.         |
| (8) The teaching of Islam shall be compulsory for pupils in both public and private schools. Schools owned by non-Muslims shall be exempted                                                                                  | (9) The teaching of Islam shall be compulsory for pupils in public schools and private schools owned by Muslims.                                                      | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                                                                     |

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| from these measures.                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                             |
| <b>Article 31. Language and Culture</b>                                                                                                                                                                                                                   | <b>Article 29. Language and Culture</b>                                                                                                                                                                                                                                                                           | <b>Suggestions</b>                                                                                                                                                                                                                          |
| (1) The state shall promote the positive traditions and cultural practices of the Somali people, whilst striving to eliminate from the community customs and emerging practices which negatively impact the unity, civilization and wellbeing of society. | (1) State authorities at all levels of government shall promote the language, positive traditions and cultural practices of the Somali people, whilst striving to eliminate from the community customs and emerging practices which negatively impact the religion, unity, civilization and wellbeing of society. | The term “State” is suggested to be replaced with “State authorities at all levels of government” so as to underline the sharing of the obligation to promote and protect the <b>language</b> and <b>culture</b> of the Somali people.      |
| (2) The state shall collect, protect and preserve the country’s historic objects and sites, whilst developing the know-how and technology that shall enable the fulfilment of such an obligation.                                                         | (2) State authorities at all levels of government shall collect, protect and preserve the country’s historic objects and sites, whilst developing the know-how and technology that shall enable the fulfilment of such an obligation                                                                              | As above, it is suggested to replace the term “State” with “State authorities at all levels of government”.                                                                                                                                 |
| (3) The state shall promote the cultural practices and local dialects of minorities.                                                                                                                                                                      | (3) State authorities at all levels of government shall protect the positive cultural practices and local dialects of minorities.                                                                                                                                                                                 | As above, it is suggested to replace the term “State” with “State authorities at all levels of government”.<br><br>The term “positive” is suggested to be included so as to underline that only good cultural practices shall be protected. |
| (4) The rights mentioned in this Article shall be implemented in accordance with the fundamental rights recognized in this                                                                                                                                |                                                                                                                                                                                                                                                                                                                   | This Paragraph is perceived to only state the obvious and thus being redundant. It is suggested to be deleted.                                                                                                                              |

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| Constitution.                                                                                                                                                        |                                                                                                                                                                                        |                                                                                                                                                                    |
| <b>Article 32. Right of Access to Information</b>                                                                                                                    | <b>Article 16. Right to Access to Information</b>                                                                                                                                      | <b>Suggestions</b>                                                                                                                                                 |
| (1) Every person has the right of access to information held by the state.                                                                                           | (1) Every person has the right of access to information held by state authorities at any level of government, with the exception of the information that affect the national security. | It is suggested to provide for a more restrictive clause that excludes the exercise of such right of access to information when it affects the national security.  |
| (2) Every person has the right of access to any information that is held by another person which is required for the exercise or protection of any other just right. |                                                                                                                                                                                        | It is suggested to delete this Paragraph as this right of access to information held by others obviously violates someone else's right not to reveal information.. |
|                                                                                                                                                                      | (2) No person or authority may be compelled to provide information unless ordered to do so by a court.                                                                                 | This Paragraph is suggested to be added so as to clarify that no one “may be compelled to provide information unless ordered to do so by a court”.                 |
| (3) Federal Parliament shall enact a law to ensure the right of access to information.                                                                               | (3) This right may only be limited by a law enacted by the House of the People.                                                                                                        | This new Paragraph is suggested to be added so as to clarify where a law enacted by the House of the People may restrict or infringe on a right.                   |
| <b>Article 33. Just Administrative Decisions</b>                                                                                                                     | <b>Article 30. Just Administrative Decisions</b>                                                                                                                                       | <b>Suggestions</b>                                                                                                                                                 |
| Every person has the right to                                                                                                                                        | (1) Every person has the right to                                                                                                                                                      | Only linguistic changes suggested. The suggested                                                                                                                   |

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| administrative decisions that are lawful, reasonable and conducted in a procedurally fair manner.                                                                                                                                                     | administrative decisions by state authorities at any level of government that are based on law and following a just administrative procedure.                                          | wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                                                                                  |
|                                                                                                                                                                                                                                                       | (2) Every person has the right to have recourse against administrative decisions before a competent court after exhausting all remedies of the different levels of the administration. | This new Paragraph is suggested to be added so as to indicate that any person who wants to appeal and administrative decision has the right to do so before the relevant authorities, including the courts.               |
| <b>Article 34. Access to Courts and Legal Defence</b>                                                                                                                                                                                                 | <b>Article 31. Access to Courts and Legal Defence</b>                                                                                                                                  |                                                                                                                                                                                                                           |
| (1) Every person is entitled to file a legal case before a competent court.                                                                                                                                                                           | (1) Every person is entitled to file a legal case before a competent court.                                                                                                            | No changes suggested.                                                                                                                                                                                                     |
| (2) Every person has the right to a fair public hearing by an independent and impartial court or tribunal, to be held within a reasonable time, and to determine:<br>(a) Any question of civil rights and obligations; or<br>(b) Any criminal charge. | (2) Every person has the right to a fair public hearing by an independent and impartial court or tribunal, to be held within the time prescribed by the laws.                          | Letters (a) (b) are suggested to be deleted as they are deemed superfluous.<br><br>Also it is suggested to change the “reasonable time” within which a hearing is to be held to “within the time prescribed by the laws”. |
| (3) Every person is entitled to                                                                                                                                                                                                                       |                                                                                                                                                                                        | This Paragraph is suggested to be deleted and its                                                                                                                                                                         |

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| defend him or herself from the case he or she is party to, whatever the level or stage of the proceedings may be.              |                                                                                                                                                                                                                          | content merged with Paragraph (2) above.                                                                                                                      |
| (4) The state shall provide free legal defence to the people who do not have the means of doing so themselves.                 | (3) The State shall provide free legal aid for those who cannot afford the charges for a court proceeding. Likewise, the State shall provide the charges of legal counsel if the case is pursued in the public interest. | Paragraphs (4) and (5) are suggested to be merged together and to become a new Paragraph (3).                                                                 |
| (5) The state shall provide free legal defence to individuals or communities if they are legally pursuing the public interest. |                                                                                                                                                                                                                          | This Paragraph is suggested to be deleted and its content merged with Paragraph (3), see above.                                                               |
|                                                                                                                                | (4) These rights may only be limited by a law enacted by the House of the People .                                                                                                                                       | This new Paragraph is suggested to be added so as to clarify where a law enacted by the House of the People may restrict or infringe on a right.              |
| <b>Article 35. The Rights of the Accused</b>                                                                                   | <b>Article 32. The Rights of the Accused</b>                                                                                                                                                                             | <b>Suggestions</b>                                                                                                                                            |
| (1) The accused is presumed innocent until proven guilty in a final                                                            | (1) The accused is presumed innocent until proven guilty by a final conviction of a court of                                                                                                                             | The original Article of the Provisional Constitution provides for two different rights, i.e. the rights of the accused and the rights of the detained person. |

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| manner by a court of law.                                                                                                                                          | law.                                                                                                                             | Therefore, it is suggested to separate these two rights and provide them in two different Articles.<br><br>For reasons of logic and coherence, it is suggested to provide for a slightly amended sequencing of Paragraphs. Sometimes also language is suggested to be adjusted so as to provide for regulations that are more clear and comprehensible. |
| (2) Every person arrested or detained has the right to be informed promptly of the reason for their arrest or detention in a language that the person understands. | This paragraph is moved to Article 33 that regulates the rights of the detained person.                                          | Please see comment on Paragraph (1).                                                                                                                                                                                                                                                                                                                    |
|                                                                                                                                                                    | (2) The accused has the right to a fair trial before an impartial and independent court.                                         | Please see comment on Paragraph (1).                                                                                                                                                                                                                                                                                                                    |
| (3) Every person arrested or detained shall have the right for his or her family and relatives to be informed of his or her situation.                             | This paragraph is moved to Article 33 that regulates the rights of the detained person.                                          | Please see comment on Paragraph (1).                                                                                                                                                                                                                                                                                                                    |
| (4) A person may not be compelled to self-incriminate, and a verdict may not be based on evidence acquired by means of coercion.                                   | (3) A person may not be compelled to self-incriminate, and a verdict may not be based on evidence acquired by means of coercion. | No changes suggested.                                                                                                                                                                                                                                                                                                                                   |
|                                                                                                                                                                    | (4) The accused has the right to challenge,                                                                                      | Please see comment on Paragraph (1).                                                                                                                                                                                                                                                                                                                    |

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|                                                                                                                                                                                                                | before a competent court, the evidence presented against him or her, and present his or her evidence to counter the allegations presented against him or her. |                                                                                                                                                     |
| (5) Every person who is arrested has the right to be brought before a competent court within 48 hours of the arrest.                                                                                           |                                                                                                                                                               | Please see comment on Paragraph (1).                                                                                                                |
|                                                                                                                                                                                                                | (5) The accused has the right to be present at his or her trial.                                                                                              | Please see comment on Paragraph (1).                                                                                                                |
| (6) Every person who is arrested or detained has the right to choose and to consult with, a legal practitioner and if he or she cannot afford one, the State must appoint a legal practitioner for him or her. |                                                                                                                                                               | Please see comment on Paragraph (1).                                                                                                                |
|                                                                                                                                                                                                                | 6) The accused has the right for an interpreter if he or she does not understand the language used by the court.                                              | Please see comment on Paragraph (1).                                                                                                                |
| (7) Every person brought before a court of law for an alleged criminal offence is entitled to a fair trial.                                                                                                    |                                                                                                                                                               | Please see comment on Paragraph (1).                                                                                                                |
|                                                                                                                                                                                                                | (7) No person may be tried again for an offence he or she has been finally convicted or acquitted for in accordance with the law.                             | This Paragraph is suggested to be added so as to provide for the general principle of the penal law "that no one can be punished twice for the same |

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|                                                                                                                                    |                                                                                                                                                                           | crime”.                                                                                                         |
| (8) The accused has the right to be present at their trial.                                                                        |                                                                                                                                                                           | Please see comment on Paragraph (1).                                                                            |
|                                                                                                                                    | (8) No person may be convicted of a criminal offence for an act committed by another person.                                                                              | Please see comment on Paragraph (1).                                                                            |
| (9) The accused has the right to challenge the evidence presented against him or her.                                              |                                                                                                                                                                           | Please see comment on Paragraph (1).                                                                            |
|                                                                                                                                    | (9) No person may be convicted for committing an act that was not an offence at the time it was committed, unless it is a crime against humanity under international law. | Please see comment on Paragraph (1).                                                                            |
| (10) The accused has the right to an interpreter if the accused person does not understand the language being used in the court.   |                                                                                                                                                                           | Please see comment on Paragraph (1).                                                                            |
|                                                                                                                                    | (10) The accused has the right to appeal to a higher court after conviction, if not satisfied with the court decision.                                                    | This Paragraph is suggested to be added so as to provide for the right to appeal to courts of different levels. |
| (11) The accused cannot be kept in an illegal detention centre, and must be granted visits by his or her family, doctor or lawyer. |                                                                                                                                                                           | Please see comment on Paragraph (1).                                                                            |
| (12) Criminal liability is a personal                                                                                              |                                                                                                                                                                           | Please see comment on Paragraph (1).                                                                            |

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| matter and no person may be convicted of a criminal offence for an act committed by another person.                                                                                   |                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| (13) No person may be convicted of a crime for committing an act that was not an offence at the time it was committed, unless it is a crime against humanity under international law. |                                                                                                                           | Please see comment on Paragraph (1).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                                                                                                                                                                       | <b>Article 33. The Rights of the Detained</b>                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                                                                                       | (1) No person shall be detained or arrested for any reason not prescribed by law.                                         | <p>The original Article of the Provisional Constitution provides for two different rights, i.e. the rights of the accused and the rights of the detained person. Therefore, it is suggested to separate these two rights and provide them in two different Articles.</p> <p>For reasons of logic and coherence, it is suggested to provide for a slightly amended sequencing of Paragraphs. Sometimes also language is suggested to be adjusted so as to provide for regulations that are more clear and comprehensible.</p> <p>This Paragraph (1) is suggested to be added so as to adequately reflect the right of freedom of the person.</p> |
|                                                                                                                                                                                       | (2) No person shall be detained or arrested without warrant by a competent court of law, unless caught in flagrant crime. | This Paragraph is suggested to be added so as to provide that a person cannot be arrested without court order, except when caught committing a crime.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

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|                                       | (3) The detained has the right to challenge the detention before a competent court of law.                                                                                         | This Paragraph is suggested to be added so as to provide that a person who is deprived of his or her liberty has the right to be defended. |
|                                       | (4) No person shall be detained in a place which is not determined by the law, has the right to be informed his relatives, medical doctor and his lawyer.                          | Please see comment on Paragraph (1).                                                                                                       |
|                                       | (5) The detained has the right to be informed promptly of the reasons for the detention                                                                                            | Please see comment on Paragraph (1).                                                                                                       |
|                                       | (6) The detained has the right to be brought before a competent court within 48 hours of the detention.                                                                            | Please see comment on Paragraph (1).                                                                                                       |
|                                       | (7) The detained has the right to consult with a legal councilor of his choice. If he cannot afford one, the State must avail legal council for the detained as prescribed by law. | This Paragraph is suggested to be added so as to provide that a person has the right of access to legal aid.                               |
|                                       | (8) The detained has the right to be released on bail as prescribed by the law.                                                                                                    | This Paragraph is suggested to be added so as to provide that a person can be released on bail.                                            |
|                                       | (9) Any person who has been unlawfully detained shall have a right to compensation.                                                                                                | This Paragraph is suggested to be added so as to provide limitation on the violation of the rights of the person.                          |
| <b>Article 36. Extradition of the</b> | <b>Article 34. Extradition of the Accused and</b>                                                                                                                                  | <b>Suggestions</b>                                                                                                                         |

| <b>Accused and Criminals</b>                                                                                                                                                                                                                                                                             | <b>Criminals</b>                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                      |
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| (1) Any person who has been accused or convicted may be extradited only in a manner prescribed by law and on the basis of an international treaty or convention which the Federal Republic of Somalia is party to, and which obliges the Federal State of Somalia to extradite the accused or convicted. | Any person who has been accused or convicted may be extradited only in a manner prescribed by law and on the basis of an international treaty which the Federal Republic of Somalia is party to, or convention which obliges the Federal Republic of Somalia to extradite the accused or convicted. | No changes suggested.                                                                                                                                                                                                                                                                                                                                                |
| (2) Any accused or convicted person shall be extradited only in accordance with international law and practice, and on the basis of legislation governing extradition, which has been passed by the Federal Parliament.                                                                                  |                                                                                                                                                                                                                                                                                                     | It is suggested to delete Paragraph (2) of the original Article of the Provisional Constitution as it is considered to be redundant.                                                                                                                                                                                                                                 |
| <b>Article 37. Refugees and Asylum</b>                                                                                                                                                                                                                                                                   | <b>Article 35. Refugees and Asylum</b>                                                                                                                                                                                                                                                              | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                   |
| (1) Every person who has sought refuge in the Federal Republic of Somalia has the right not to be returned or taken to any country in which that person has a well-founded fear of persecution.                                                                                                          | (1) Every person who has sought refuge in the Federal Republic of Somalia has the right not to be returned or taken to any country in which that person has a well-founded fear of facing a serious harm.                                                                                           | It is suggested to replace the Somali word “ciqaab” which was used for “persecution” in the original text of the Provisional Constitution, which is misleading as it means “punishment”, thus creating confusion. It is suggested to use the term “dhibaato culus” instead, which means, “grave harm” as it is considered nearest to the English term “persecution”. |

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| (2) The Federal Parliament shall enact legislation in compliance with international law, regulating refugees and asylum seekers.                                                                     | (2) This right may only be limited by a law enacted by the House of the People .                                                                                                                                                                                         | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                           |
| <b>Article 38. Limitation of Rights</b>                                                                                                                                                              | <b>Article 38. Limitation of Fundamental Rights</b>                                                                                                                                                                                                                      | <b>Suggestions</b>                                                                                                                                                                  |
| (1) The rights set out in this Chapter may be limited by law, provided that the law is not targeted at any particular individuals or groups.                                                         | (1) The fundamental rights set out in this Chapter may only be limited by law in such cases where this is explicitly provided for by this Constitution.                                                                                                                  | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                           |
| (2) A right may be limited by law, or by specific exceptions in this Chapter, only if that limitation is demonstrably reasonable and justified according to the values underlying this Constitution. | (2) A law in terms of Paragraph (1) above must not be targeted at any particular individuals or groups.                                                                                                                                                                  | Also the sequence of Paragraphs is suggested to be slightly adjusted so as to provide for a more logic and comprehensible structure of the Article.                                 |
| (3) In deciding whether a limitation is reasonable and justifiable, all relevant factors must be taken into account.                                                                                 | (3) The limitation is only possible when it is absolutely necessary for ensuring the rights of others, public order, defence of the country, public health and good morality, and given consideration to the proportionality of the limitation and the reason behind it. | It is suggested to merge the original Paragraphs (3) and (4) as both address conditions to be considered when determining the restrictions of the rights set forth in this Chapter. |
| (4) The relevant factors in terms of Clause 3 include the nature and importance of the right limited, the importance of the purpose to be                                                            |                                                                                                                                                                                                                                                                          | It is suggested to merge the original Paragraphs (3) and (4) as both address conditions to be considered when determining the restrictions of the rights set forth in this Chapter. |

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| achieved by the limitation, whether the limitation is suitable for achieving the purpose, and whether the same purpose could be achieved while being less restrictive of the rights limited. |                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                         |
|                                                                                                                                                                                              | (4) Judicial organs shall grantee the non-violability of the rights and freedoms as well as the upholding of the underlying values of the Constitution.                                                                | This Paragraph is suggested to be added so as to impose on judicial organs the duty to guarantee the protection of the rights, freedoms and the underlying values of this of the Constitution.                                                          |
| (5) Possible restriction of fundamental rights during a state of emergency is dealt with in Chapter 14, Article 131 of this Constitution.                                                    |                                                                                                                                                                                                                        | This Paragraph is suggested to be deleted as possible restrictions of fundamental rights during a state of emergency are dealt with in the Chapter on Security.                                                                                         |
| <b>Article 39. Redress of Violations of Human Rights</b>                                                                                                                                     | <b>Article 39. Redress of Violations of Fundamental Rights</b>                                                                                                                                                         | <b>NB: The Somali version of the title of the Article is suggested to be translated in the correct way as “Xaqsoorka La Xiriira Xadgudubyada Xuquuqda Aadanaha”</b>                                                                                     |
| (1) The law shall provide for adequate procedures for redress of violations of human rights.                                                                                                 | (1) Every person has the right to ask for redress of violations of fundamental rights, which have been occurred, are occurring or are likely to occur before the competent courts, which he or she can readily access. | This Paragraph is suggested to be redrafted so as to provide for redress for any right which “has been, is being, or is likely to be” violated. This is deemed necessary in order to capture all instances of fundamental rights violations and thus to |

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|                                                                                                                                                                              |                                                                                                                                                                                                                              | adequately provide for the necessary protection thereof.                                                                                                                   |
| (2) Redress of violations of human rights must be available in courts that the people can readily access.                                                                    |                                                                                                                                                                                                                              | This Paragraph is suggested to be deleted and merged with Paragraph (1), see above.                                                                                        |
| (3) A person or organization may go to court to protect the rights of others who are unable to do so for themselves.                                                         | (2) A person or organisation may go to court to protect the fundamental rights of others who are unable to do so for themselves.                                                                                             | No substantial change suggested. Only, the term “fundamental” is suggested to be added.                                                                                    |
|                                                                                                                                                                              | (3) The redress of violations of fundamental rights shall be regulated by a law passed by the House of the People .                                                                                                          | This new Paragraph is suggested to be added so as to indicate that a law passed by the House of the People shall regulate the redress of violations of fundamental rights. |
| <b>Article 40. Interpretation of the Fundamental Rights</b>                                                                                                                  | <b>Article 40. Interpretation of Fundamental Rights</b>                                                                                                                                                                      | <b>Suggestions</b>                                                                                                                                                         |
| (1) When interpreting the rights set out in this Chapter, a court shall take an approach that seeks to achieve the purposes of the rights and the values that underlie them. | (1) When interpreting the fundamental rights set out in this Chapter, the competent court shall take an approach that seeks to achieve the purposes of these fundamental rights and the values underlying this Constitution. | No substantial change suggested. Only the terms “competent” and “fundamental” are suggested to be added.                                                                   |
| (2) In interpreting these rights, the court may consider the Shari’ah, international law, and decisions of                                                                   | (2) In interpreting these rights, the competent court may consult the Shari’ah, international law, and decisions of courts in other countries,                                                                               | The Paragraph is suggested to be redrafted so as to establish that in the event of a contradiction, the Somali constitution should take precedence over                    |

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| courts in other countries, though it is not bound to follow these decisions.                                                                                                                                                                                                          | as long as such interpretation does not contradict this Constitution and its underlying values.                                                                                                                                                                                                 | international law.                                                                                                                        |
| (3) When interpreting and applying the law generally, a court or any tribunal shall consider the relevance of the provisions of this Chapter, and make its decisions compatible with these provisions, as far as is possible.                                                         |                                                                                                                                                                                                                                                                                                 | This Paragraph is suggested to be deleted and its contents merged with Paragraph (1), see above.                                          |
| (4) The recognition of the fundamental rights set out in this Chapter does not deny the existence of any other rights that are recognized or conferred by Shari'ah, or by customary law or legislation to the extent that they are consistent with the Shari'ah and the Constitution. | (3) The recognition of the fundamental rights set out in this Chapter does not deny the existence of any other rights that are recognized or conferred by Shari'ah, or by customary law or legislation to the extent that they are consistent with this Constitution and its underlying values. | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible. |
| <b>Article 41. Human Rights Commission</b>                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                 |                                                                                                                                           |
| (1) The Federal Parliament shall establish a Human Rights Commission that is independent of State control, and has adequate resources to carry out its functions effectively.                                                                                                         |                                                                                                                                                                                                                                                                                                 | This Article is suggested to be moved to the Chapter on Independent Commissions.                                                          |

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| (2) The functions of the Human Rights Commission shall include the promotion of knowledge of human rights, and specifically Shari’ah, setting implementation standards and parameters for the fulfilment of human rights obligations, monitoring human rights within the country, and investigating allegations of human rights violations. |                                                                                                                                                                                                                                                                                                                  | This Article is suggested to be moved to the Chapter on Independent Commissions.                                                                                              |
| <b>Title 3: Duties of Citizens</b>                                                                                                                                                                                                                                                                                                          | <b>To delete this Title as there is only one Article.</b>                                                                                                                                                                                                                                                        |                                                                                                                                                                               |
| <b>Article 42. Duties of the Citizens</b>                                                                                                                                                                                                                                                                                                   | <b>Article 36. Duties of the Citizens see above.</b>                                                                                                                                                                                                                                                             | <b>Suggestions</b>                                                                                                                                                            |
| (1) In Islam, justice requires a balance of rights and duties.                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                  | It is suggested to delete this Paragraph as it considered to be only a statement and not a legal provision..                                                                  |
| (2) The exercise of equality, freedoms, and other rights is inseparable from duties. Accordingly, it is the duty of each citizen:<br>(a) To be patriotic and loyal to the country and to promote its development and well-being;<br>(b) To engage in useful work for the                                                                    | (1) Every citizen shall have the following duties towards the Federal Republic of Somalia:<br><br>(a) To be patriotic and loyal to the country and to promote its development and well-being;<br>(b) To defend the territory of the Federal Republic of Somalia;<br>(c) To foster national unity in harmony with | It is suggested to redraft some of the Paragraphs and to reorder them.<br><br>Paragraph 2 (c) of the original Article is suggested to be moved to the Article on Family Care. |

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| <p>good of the citizen, the family, and the common good, and to contribute to national development and to the well-being of the community where the citizen lives;</p> <p>(c) To promote responsible parenthood;</p> <p>(d) To foster national unity in harmony with others;</p> <p>(e) To promote accountability and the rule of law;</p> <p>(f) To become acquainted with the provisions of the Constitution and to uphold and defend the Constitution and the law of the country;</p> <p>(g) To strive to vote in elections;</p> <p>(h) To become a good tax-payer in order to contribute to the public expenditure according to the law and the citizen's capacity to pay; and</p> <p>(i) To defend the territory of the Federal Republic of Somalia.</p> | <p>others;</p> <p>(d) To fully respect, uphold and defend the Constitution;</p> <p>(e) To promote accountability and the rule of law;</p> <p>(f) To pay due taxes;</p> <p>(g) To contribute to national development and the well-being;</p> <p>(h) To protect the environment against unnecessary pollution and harm; and</p> <p>(i) To vote in elections.</p> |  |
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|                                                                                                         | (2) None of these duties shall be interpreted and a way that limits any of the fundamental rights provided in this Chapter.                           | This new Paragraph is suggested to be added so as to indicate that the interpretation of these duties shall not limit the rights recognised in this Chapter.                        |
| <b>CHAPTER 3:<br/>LAND, PROPERTY AND<br/>ENVIRONMENT</b>                                                | <b>CHAPTER 3:<br/>LAND, PROPERTY AND ENVIRONMENT</b>                                                                                                  |                                                                                                                                                                                     |
| <b>Article 43. Land</b>                                                                                 | <b>Article 41. Land</b>                                                                                                                               | <b>Suggestions</b>                                                                                                                                                                  |
| (1) Land is Somalia's primary resource and the basis of the people's livelihood.                        |                                                                                                                                                       | It is suggested to move this regulation to the Article on General Principles, please see Chapter 1, revised Article 3 (6)..                                                         |
| (2) Land shall be held, used and managed in an equitable, efficient, productive and sustainable manner. | (1) Land can be acquired in accordance with the law and in an equitable manner, and shall be managed and used in conformity with the public interest. | It is suggested to replace the wording "can be held" with "acquired in accordance with the law", and to make clear that land should be used and managed in conformity with the law. |
| (3) The Federal Government shall                                                                        | (2) The competent State authorities within                                                                                                            | In order to make it clear that it is not only the                                                                                                                                   |

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| <p>develop a national land policy, which shall be subject to constant review. That policy shall ensure:</p> <p>(a) Equity in land allocation and the use of its resources;</p> <p>(b) The guarantee of land ownership and registration;</p> <p>(c) That land is utilised without causing harm to the land;</p> <p>(d) That any land and property dispute is resolved promptly and satisfactorily for all;</p> <p>(e) That the amount of land that a person or a company can own is specified;</p> <p>(f) That the land and property market is regulated in a manner that prevents violations of the rights of small land owners; and</p> <p>(g) That the Federal Member States may formulate land policies at their level.</p> | <p>the Federal Republic of Somalia shall develop a national land policy, which shall ensure the following:</p> <p>(a) Equity in land allocation and the use of its resources;</p> <p>(b) The guarantee of land ownership and registration;</p> <p>(c) That land is utilised whilst preserving the environment;</p> <p>(d) That the amount of lands that a person or a company can own is limited whilst protecting the public interest and the interests of small farmers.</p> | <p>Federal Government that has the duty to promote education and guarantee this right for every citizen, it is suggested to use the wording “the competent state authorities at all levels of government instead of “Federal Government”.</p> <p>Also, it is suggested to consolidate some of the sub-paragraphs so as to provide for a more coherent an logic regulation.</p> |
| <p>(4) No permit may be granted regarding the permanent use of any portion of the land, sea or air of the territory of the Federal Republic of Somalia. The Federal Parliament shall enact a law regulating the size,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>(3) The House of the People shall enact a law regulating the size, timeline and conditions of permits of land use in the Federal Republic of Somalia.</p>                                                                                                                                                                                                                                                                                                                   | <p>Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.</p>                                                                                                                                                                                                                               |

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| timeline and conditions of permits of land use.                                                                                                                                                                   |                                                                                                                                                                                                     |                                                                                                                                                                                                                                                         |
| (5) The Federal Government, in consultation with the Federal Member States and other stakeholders, shall regulate land policy, and land control and use measures.                                                 |                                                                                                                                                                                                     | This paragraph is considered redundant and therefore is suggested to be deleted.                                                                                                                                                                        |
| <b>Article 44. Natural Resources</b>                                                                                                                                                                              | <b>Article 42. Natural Resources</b>                                                                                                                                                                | <b>Suggestions</b>                                                                                                                                                                                                                                      |
| The allocation of the natural resources of the Federal Republic of Somalia shall be negotiated by, and agreed upon, by the Federal Government and the Federal Member States in accordance with this Constitution. | (1) Natural resources of the Federal Republic of Somalia shall be national property and used in a sustainable way and for the benefit of all.                                                       | It is suggested to slightly adjust this Paragraph and to unequivocally determine that natural resources are national property and can only be used in a sustainable manner and for the benefit of all.                                                  |
|                                                                                                                                                                                                                   | (2) The competent state authorities within the Federal Republic of Somalia shall ensure that natural resources are shared fairly among Federal Government, Regional States, and Local Governments.  | This Paragraph is suggested to be added so as to provide that all the competent authorities within the Federal Republic shall work on the fair sharing of natural resources among Federal Government, Regional State governments and Local Governments. |
|                                                                                                                                                                                                                   | (3) The House of the People shall enact a law providing for the necessary measures ensuring the sharing process of the use of natural resources based on sustainability and in the public interest. | This Paragraph is suggested to be added so as to affirm that the House of the People will enact a law that ensures the sharing process of the natural resource of the country.                                                                          |

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| <b>Article 45. Environment</b>                                                                                                                                                                                                          | <b>Article 43. Environment</b>                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                              |
| (1) The Federal Government shall give priority to the protection, conservation, and preservation of the environment against anything that may cause harm to natural biodiversity and the ecosystem.                                     | (1) State authorities at all levels of government and the people have the duty to protect, conserve and preserve the environment against deforestation, pollution and anything that may cause harm to the natural biodiversity and the ecosystem.                          | It is suggested to replace the term “Federal Government” with “State authorities at all levels of government and the people”, in order to make clear that the protection of the environment is a responsibility of all levels of the government and also of the people.                                                                      |
| (2) All people in the Federal Republic of Somalia have a duty to safeguard and enhance the environment and participate in the development, execution, management, conservation and protection of the natural resources and environment. |                                                                                                                                                                                                                                                                            | This Paragraph is suggested to be deleted and its contents merged with Paragraph (1) above.                                                                                                                                                                                                                                                  |
| (3) The Federal Government and the governments of the Federal Member States affected by environmental damage shall:<br><br>(a) Take urgent measures to clean up hazardous waste dumped on the land or in the waters of the Federal      | (2) Regional States affected by environmental damage shall, in cooperation with Federal Government, undertake the following measures:<br><br>(a) To clean up hazardous waste and other harmful substances on the land or in the waters of the Federal Republic of Somalia; | Generally, it is suggested to replace the term “Federal Member States” with “Regional States”. Without questioning the state-character of the member states, this terminology is deemed to be more appropriate as it emphasizes the regional character of the states in a federated Somali Republic rather than suggesting independent state |

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| <p>Republic of Somalia;</p> <p>(b) Enact legislation and adopt urgent necessary measures to prevent the future dumping of waste in breach of international law and the sovereignty of the Federal Republic of Somalia;</p> <p>(c) Take necessary measures to obtain compensation from those responsible for any dumping of waste, whether they are in the Federal Republic of Somalia or elsewhere;</p> <p>(d) Take necessary measures to reverse desertification, deforestation and environmental degradation, and to conserve the environment and prevent activities that damage the natural resources and the environment of the nation.</p> | <p>(b) To undertake the necessary steps to prevent future dumping of waste or other harmful substances on the land or the waters of the Federal Republic of Somalia;</p> <p>(c) To undertake appropriate legal measures against those who are responsible for the dumping of waste or other harmful substances on the land or the waters of the Federal Republic of Somalia;</p> <p>(d) To undertake the necessary steps to reverse desertification and deforestation whilst promoting and protecting the environment and preventing activities that damage the natural resources and the environment of the country.</p> | <p>character.</p> <p>Also, the word” compensation” is suggested to be changed to “undertake appropriate legal measures” so as to to ensure tough punishments resulting out of damaging of the environment.</p>                                                                                                                                         |
| <p>(4) In consultation with the Federal Member States, the Federal Government shall adopt general environmental policies for the Federal Republic of Somalia.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>(3) The House of the People shall enact a law providing for the general principles and standards for the protection, conversation and preservation of the environment.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>It is suggested to make legislation concerning the environment and its protection a competence of the Federal Government and to allow the House of the People to enact a law providing for the general principles and standards for the protection of the environment so as to guarantee unified standards of protection all over the Republic.</p> |

| <b>CHAPTER 4:<br/>REPRESENTATION OF THE PEOPLE</b>                                                                                                                              | <b>CHAPTER 4:<br/>REPRESENTATION OF THE PEOPLE</b>                                                                                                                                                                              |                                                                                                                                                                                                                                                |
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| <b>Title One: General Principles of Representation of the People</b>                                                                                                            | <b>To delete this Title as it only contains one Article.</b>                                                                                                                                                                    | <b>The Title is suggested to be deleted since it contains only one Article</b>                                                                                                                                                                 |
| <b>Article 46. The Power of the People</b>                                                                                                                                      | <b>Article 44. The Power of the People</b>                                                                                                                                                                                      | <b>Suggestions</b>                                                                                                                                                                                                                             |
| (1) The power of self-governance begins and ends with the people, who have the power, where necessary, to hold public institutions and public servants accountable.             | (1) The power of self-governance begins and ends with the people of the Federal Republic of Somalia, who have the power to hold accountable public institutions and public servants at all levels of government.                | This Paragraph is suggested to be slightly adjusted so as to make public institutions at all levels of government accountable to the Somali people.                                                                                            |
| (2) The public representation system shall be open and shall give everyone the opportunity to participate. Its procedures and rules shall be simple and understandable.         | (2) Public representation at all levels of government in the Federal Republic of Somalia must be open for and inclusive of all communities and give every citizen the opportunity to participate either directly or indirectly. | The Paragraph is suggested to be slightly adjusted so as to make public representation at all the different levels of government open and inclusive and allow the citizens to participate directly and indirectly at all levels of government. |
| (3) The people's representation system shall be able to satisfactorily and reasonably prevent any crises that may arise as a result of political contests and election results. |                                                                                                                                                                                                                                 | This Paragraph is suggested to be deleted and its contents merged with the Article on Elections, see below.                                                                                                                                    |
|                                                                                                                                                                                 | (3) The Federal Government must ensure that each Regional State has to have democratic government.                                                                                                                              | This Paragraph is suggested to be added so as to require compliance with the principles of the representation of the people at all the different levels of government in the Federal Republic of                                               |

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| <b>Title Two: Elections</b>                                                                                                                                                                                                                                            | <b>Title Two: Elections is suggested to be deleted</b>                                                                                                                                                                |                                                                                                                                                                                                                                                                                         |
| <b>Article 47. Electoral System and Political Parties</b>                                                                                                                                                                                                              | <b>Article 45. Electoral System and Political Parties</b>                                                                                                                                                             | <b>Suggestions</b>                                                                                                                                                                                                                                                                      |
| The regulations concerning political parties, their registration, elections at the Federal Government level and the National Independent Electoral Commission shall be defined in special laws enacted by the House of the People of the Federal Parliament of Somalia | (1) The electoral system shall provide for free, fair, equal, personal, secret and free from fraud as well as periodic elections at all levels of government in the Federal Republic of Somalia.                      | The Paragraph is suggested to be extended so as to provide for basic principles of electoral law, which are international standard.                                                                                                                                                     |
|                                                                                                                                                                                                                                                                        | (2) The National Independent Electoral Commission shall ensure the independent and neutral management of elections at all levels of government in the Federal Republic of Somalia.                                    | This Paragraph is suggested to be added so as to establish the National Independent Electoral Commission as independent institution responsible for guaranteeing fair and neutral management of elections at all the different levels of government in the Federal Republic of Somalia. |
|                                                                                                                                                                                                                                                                        | (3) The House of the People shall pass a law providing for the details of the electoral system, including the determination of electoral constituencies, the registration of voters and candidates, the management of | This Paragraph: is suggested to be added so as to provide that the general electoral framework shall be provided by a federal law.                                                                                                                                                      |

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|  | the voting procedures and the independent and neutral settlement of election disputes by a competent court.                                                               | .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|  | <b>Article 46. Political Parties</b>                                                                                                                                      | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|  | (1) For the purpose of participating in elections and the nomination of candidates, the Somali people may form political parties.                                         | <p>This Article is suggested to be added so as to provide for greater constitutional guidance on the minimum standards for the establishment of political parties. This is deemed necessary giving the expected political role and function political parties are expected to play in the future. So as to avoid a situation where only ordinary laws provide for such standards, it is suggested to provide for some minimum constitutional standards here.</p> <p>Also it is suggested that the House of the People will have the power to provide for further details on the registration of political parties so as to ensure national standards applicable to political parties in all Regional States of Somalia.</p> |
|  | (2) Political parties must abide by this Constitution and its underlying values, the Shariah and the laws of the country.                                                 | Please see comment on Paragraph (1).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|  | (3) Political parties may not be formed on the basis of religion, clan, region or other exclusory bases, and shall neither have a military character nor a military wing. | Please see comment on Paragraph (1).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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|  | (4) Rule of Procedures of every political party must conform to and based upon the general principles of democracy.                                                                                           | Please see comment on Paragraph (1). |
|  | (5) Political parties must give due consideration to the male and female proportionality, both in the rank and file as well as in the leadership.                                                             | Please see comment on Paragraph (1). |
|  | (6) Political parties must operate under full disclosure of their financial sources and resources.                                                                                                            | Please see comment on Paragraph (1). |
|  | (7) The House of the People shall enact a law providing for the details for the registration, monitoring and dissolution of political parties at all levels of government in the Federal Republic of Somalia. | Please see comment on Paragraph (1). |

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| <b>CHAPTER 5:<br/>DEVOLUTION OF THE POWERS OF<br/>STATE IN THE FEDERAL REPUBLIC<br/>OF SOMALIA</b>                                                                                                                                                                           | <b>CHAPTER 5:<br/>DEVOLUTION OF THE POWERS OF STATE IN THE<br/>FEDERAL REPUBLIC OF SOMALIA</b>                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Title One: Structure and Principles<br/>of Collaboration of the Levels of<br/>Government</b>                                                                                                                                                                              | <b>Title One: Structure and Principles of<br/>Collaboration of the Levels of Government</b>                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Article 48. The Structure of the<br/>State</b>                                                                                                                                                                                                                            | <b>Article 47. The Structure of the State</b>                                                                                                                                                                                | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>(1) In the Federal Republic of Somalia, the state is composed of two levels of government:</p> <p>(a) The Federal Government Level;</p> <p>(b) The Federal Member States Level, which is comprised of the Federal Member State government, and the local governments.</p> | <p>(1) In the Federal Republic of Somalia, the State is composed of three levels of government:</p> <p>(a) The Federal Government Level;</p> <p>(b) The Regional State Level; and</p> <p>(c) The Local Government Level.</p> | <p>Generally, it is suggested to replace the term “Federal Member States” with “Regional States”. Without questioning the state-character of the member states, this terminology is deemed to be more appropriate as it emphasizes the regional character of the states in a federated Somali Republic rather than suggesting independent state character.</p> <p>Also it is suggested to explicitly include the "Local Government" level here. Even though being organized on the basis of Regional State legislation, local government is perceived to be of great importance and thus it should be mentioned prominently in the Constitution.</p> |
| <p>(2) No single region can stand alone. Until such time as a region merges</p>                                                                                                                                                                                              |                                                                                                                                                                                                                              | <p>The original version of this Paragraph is considered not to be needed anymore in a revised</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| with another region(s) to form a new Federal Member State, a region shall be directly administered by the Federal Government for a maximum period of two years. |                                                                                                                                                                              | constitution as all Regional States are expected to be established once the revised constitution takes effect.                                                                                                                                |
|                                                                                                                                                                 | (2) The Federal Government is organised and operates on the basis of this Constitution.                                                                                      | This new Paragraph is suggested to be added so as to determine constitutional rule of the Federal Government vis a vis constitutional rule of Regional States and Local Government in the below Paragraphs.                                   |
|                                                                                                                                                                 | (3) The Regional States are organised and operate on the basis of this Constitution and their respective Regional State Constitution.                                        | This Paragraph is suggested to be added so as to clarify that Regional States shall adopt their own constitutions while still operating under the Federal Constitution.                                                                       |
|                                                                                                                                                                 | 4) Local Government is organised and operates on the basis of the respective Regional State Constitution and a law passed by the Legislative Assembly of the Regional State. | This Paragraph is suggested to be added so as to clarify that the establishment of Local Government structures shall be a competence of the Regional States, who shall determine these in their Regional State constitutions and legislation. |
| <b>CHAPTER 12: FEDERAL MEMBER STATES</b>                                                                                                                        |                                                                                                                                                                              | <b>Chapter 12: Since this Chapter talks about the Federal Member States of the Federal Republic it is suggested to merge these Articles with Chapter 5 addressing the federal system.</b>                                                     |
| <b>Article 121. Principles for Constitutions</b>                                                                                                                | <b>Article 48. Regional State Constitutions</b>                                                                                                                              | <b>Suggestions</b>                                                                                                                                                                                                                            |

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| (1) Principally, the Constitution of the Federal Republic of Somalia and those of the Federal Member States shall be harmonized. | (1) Regional State Constitutions need to comply with the Federal Constitution and its underlying values.                                                                                                                                                                                                                                                                                                                                                                                         | <p>The Paragraph is suggested to be relocated from Chapter 12 of the Constitution because it seems misplaced there and is better provided for in the Chapter on Devolution of Powers.</p> <p>It is also suggested to clarify and thereby reaffirm the regulation of Article 4 that the Federal Constitution is the supreme law of the country and thus Regional State constitutions have to comply with this Federal Constitution and its values.</p> |
|                                                                                                                                  | <p>(2) Regional State Constitutions need to ensure the establishment of democratic governance structures in their respective Regional States and provide for the following:</p> <p>(a) The protection and application of Islamic religion;</p> <p>(b) The separation of powers between the legislature, the executive and an independent judiciary;</p> <p>(c) The protection of the rights of the citizens and human rights in general;</p> <p>(d) Open and inclusive government structures</p> | This Paragraph is suggested to be added so as to establish a set of minimum standards and principles guiding Regional State constitutions.                                                                                                                                                                                                                                                                                                            |

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|                                                                                                                                                                                                                                                                        | <p>representing all communities;</p> <p>(e) Accountability and responsiveness of government to the people.</p>                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                                                                                                                                                                        | <p>(3) Any Provision in a Regional State Constitution that is not in compliance with the Constitution of the Federal Republic of Somalia may be invalidated by the Constitutional Court.</p> | <p>This Paragraph is suggested to be added so as to ensure the supremacy of the Federal Constitution by providing a mechanism for ensuring compliance of Regional State constitutions with the Federal Constitution. Obviously, according to the suggested system of concentrated review, this mechanism would be to allow the Constitutional Court to determine compatibility and to invalidate provisions when necessary.</p> |
| <b>Article 49. The Number and Boundaries of the Federal Member States and Districts</b>                                                                                                                                                                                | <b>Article 49. The Number and Boundaries of the Regional States and Districts</b>                                                                                                            | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>(1) The number and boundaries of the Federal Member States shall be determined by the House of the People of the Federal Parliament.</p>                                                                                                                            | <p>(1) The number and boundaries of the Regional States in the Federal Republic of Somalia are to be determined by a law passed by the House of the People .</p>                             | <p>No changes suggested.</p>                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>(2) The House of the People of the Federal Parliament, before determining the number and boundaries of the Federal Member States, shall nominate a national commission which shall study the issue, and submit a report of its findings with recommendations to</p> |                                                                                                                                                                                              | <p>It is suggested to delete this Paragraph as this Commission is already established, started its operations and is expected to have submitted its recommendations at the time when the revised constitution takes effect..</p>                                                                                                                                                                                                |

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| the House of the People of the Federal Parliament.                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | (2) Once the Regional State borders have been defined, further adjustments may only be made based on an agreement between the affected Regional State governments and upon approval of the communities affected by the adjustment in a locally organised referendum. | This Paragraph is suggested to be added so as to provide for future adjustments of Regional State borders. It is suggested to always require agreement between the parties and the communities affected for any future border adjustments. It is suggested to require even approval in a locally organized referendum in order to preserve peace and prevent political instability. |
| <p>(3) The nomination of the commission referred to in Clause 2 shall be preceded by the enactment of a law by the House of the People of the Federal Parliament, which shall define:</p> <p>(a) The responsibilities and powers of the commission;</p> <p>(b) The parameters and conditions it shall use for the establishment of the Federal Member States;</p> <p>(c) The number of the commissioners, requirements of membership, nomination methods, office tenure, and their remuneration.</p> |                                                                                                                                                                                                                                                                      | It is suggested to delete this Paragraph as this Commission is already established, started its operations and is expected to have submitted its recommendations at the time when the revised constitution takes effect.                                                                                                                                                            |

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| (4) The number and the boundaries of the districts in a Federal Member State shall be determined by a law enacted by the parliament of the Federal Member State, which must be approved by the House of the People of the Federal Parliament. | (3) The number and boundaries of Local Government districts within a Regional State shall be determined by a law passed by the Legislative Assembly of the respective Regional State and approved by the House of the People                         | No changes suggested.                                                                                                                                                                                                                                                                                                                                                         |
|                                                                                                                                                                                                                                               | (4) Once district borders have been defined, further adjustments may only be made based on an agreement between the affected district governments and upon approval of the communities affected by the adjustment in a locally organised referendum. | This Paragraph is suggested to be added so as to provide for future adjustments of District borders. It is suggested to always require agreement between the parties and the communities affected for any future border adjustments. It is suggested to require even approval in a locally organized referendum in order to preserve peace and prevent political instability. |
| (5) Federal Member State boundaries shall be based on the boundaries of the administrative regions as they existed before 1991.                                                                                                               |                                                                                                                                                                                                                                                      | This Paragraph is suggested to be deleted as all Regional States are expected to be established when the revised constitution takes effect and the possibility of further border adjustments is provided for in the Paragraphs above.                                                                                                                                         |
| (6) Based on a voluntary decision, two or more regions may merge to form a Federal Member State.                                                                                                                                              |                                                                                                                                                                                                                                                      | This Paragraph is suggested to be deleted as all Regional States are expected to be established when the revised constitution takes effect and the possibility of further border adjustments is provided for in the Paragraphs above.                                                                                                                                         |

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| <b>Article 50. Principles of Federalism in the Federal Republic of Somalia</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Article 50. Principles of Federalism in the Federal Republic of Somalia</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>The various levels of government, in all interactions between themselves and in the exercise of their legislative functions and other powers, shall observe the principles of federalism, which are:</p> <p>(a) Every level of government shall enjoy the confidence and support of the people;</p> <p>(b) Power is given to the level of government where it is likely to be most effectively exercised;</p> <p>(c) The existence and sustainability of a relationship of mutual cooperation and support between the governments of the Federal</p> | <p>(1) Government institutions at every level of government in the Federal Republic of Somalia shall adhere to the following federal principles:</p> <p>(a) Government at all level of governments needs to be accountable and responsive to the people while equal citizenship rights for all Somali citizens are being guaranteed;</p> <p>(b) Existence of intergovernmental relations of mutual cooperation and support between the Federal Government and the Regional States, and among Regional States;</p> <p>(c) Every part of the Federal Republic of Somalia shall enjoy equal opportunity and similar standards of governmental services;</p> | <p>It is suggested to rearrange and consolidate the Paragraphs of this Article.</p> <p>Also it is suggested to add that equal political participation rights of all citizens must be guaranteed by each Regional State.</p> <p>Also it is suggested to clarify that the competent courts shall assist with the resolution of intergovernmental disputes only when the dispute cannot be resolved through mediation and arbitration.</p> <p>It is also suggested to delete letter (b) and (f) of the Paragraph because the idea is that powers including the power to raise revenues should be</p> |

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| <p>Member States, and between the governments of the Federal Member States and the Federal Government, in the spirit of national unity;</p> <p>(d) Every part of the Federal Republic of Somalia shall enjoy similar levels of services and a similar level of support from the Federal Government;</p> <p>(e) Fair distribution of resources;</p> <p>(f) The responsibility for the raising of revenue shall be given to the level of government where it is likely to be most effectively exercised; and</p> <p>(g) The resolution of disputes through dialogue and reconciliation.</p> | <p>(d) Fair distribution of revenues and resources;</p> <p>(e) The disputes between the Federal Government and the Regional States and among the Regional States shall be resolved through dialogue and reconciliation and only failure thereof shall cause disputes to be submitted to the competent court.</p> | <p>allocated clearly between the different levels of government by this constitution. Such a clauses of giving power to the level where it is most effectively exercised are perceived as potentially undermining this constitutional allocation of powers and competences.</p>                                                                                                      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>(2) The Constitutional Court shall guarantee adherence to the federal principles provided for in Paragraph (1) above and may invalidate governmental decisions at all levels of government for non-compliance with these federal principles.</p>                                                              | <p>It is suggested to include this Paragraph so as to strengthen the principles set out in Paragraph (1) of this Article. It is suggeseted to give the Constitutional Court the power to invalidate decisions of the various levels of government which are not in compliance with these principles so as to guarantee full adherence to and effect of these federal principles.</p> |
| <p><b>Article 51. Collaborative Relationships Between the Various Levels of Government in the</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p><b>Article 51. Working Relationships Between the Various Government Institutions in the</b></p>                                                                                                                                                                                                               | <p><b>Suggestions</b></p>                                                                                                                                                                                                                                                                                                                                                            |

| Federal Republic of Somalia                                                                                                                                                                                                                                                                             | Federal Republic of Somalia                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                                                                                                                                                                                                                                                                         | <p>(1) All Regional States shall respect the Constitution and the law of the country, the sovereignty, unity and integrity of the state, and adhere the powers of the Federal Government.</p>                                                                                                                                                                          | <p>This Paragraph is moved from Paragraph (4) of this Article and is suggested to be added so as to emphasise the requirement for Regional States to respect and adhere to the sovereignty and the unity of the Federal Republic as a whole and the special powers of the Federal Government to implement the Constitution of the Federal Republic and federal laws.</p> |
| <p>(1) Every government shall strive for a cooperative relationship with other governments, whether at the same level or at another level of government.</p>                                                                                                                                            | <p>2) Every level of government has to work in collaborative relationship.</p>                                                                                                                                                                                                                                                                                         | <p>Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.</p>                                                                                                                                                                                                                         |
| <p>(2) Every government shall respect and protect the limits of its powers and the powers of other governments, and shall:</p> <p>(a) Have effective brotherly relationships with other levels of government in order to promote the unity of the citizenry;</p> <p>(b) Inform governments of other</p> | <p>(3) Every government institution shall respect and protect the limits of its powers and the powers of other government institutions, and shall:</p> <p>(a) Have effective brotherly relationships with other government institutions at any level of government in order to promote the unity of the citizenry;</p> <p>(b) Inform other government institutions</p> | <p>No changes suggested.</p>                                                                                                                                                                                                                                                                                                                                             |

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| <p>levels of policies and activities it implements within its boundaries which may have an impact on the areas of other levels; and</p> <p>(c) Have policies that facilitate the planning and implementation of joint development projects.</p>                                                                                                                                                                                                                                                                                              | <p>at any level of government of policies and activities it implements within its jurisdiction which may have an impact on them; and</p> <p>(c) Have policies that facilitate the planning and implementation of joint development projects with government institutions.</p> |                                                                                                                                           |
| <p>(3) In order to ensure the existence and development of cooperative federal relations, an annual conference of Executive heads of the Federal Government and the Federal Member State governments shall regularly be convened, so as to discuss and agree on:</p> <p>(a) Strengthening national unity;</p> <p>(b) Security and peace of the country;</p> <p>(c) National socio-economic development, and common market policies of the country;</p> <p>(d) Promotion of the wealth of the people; and</p> <p>(e) Information sharing.</p> |                                                                                                                                                                                                                                                                               | <p>It is suggested to provide for the content of this Paragraph in a separated Article, see suggested review of Article 52 (1) below.</p> |
| <p>(4) All levels of government must comply with the national Constitution, without any</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                               | <p>It is suggested to delete this Paragraph and merge its contents with the revised Paragraph (1)</p>                                     |

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| government assuming more powers than the Constitution allocates.                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                 | above.                                                                                                                                                                                                                                                                                          |
| <p>(5) A law passed by the Federal Parliament shall regulate:</p> <p>(a) The establishment of institutions and guidelines that shall facilitate interaction between the various levels of government; and</p> <p>(b) The establishment of guidelines that will facilitate the resolution of disputes between the various levels of government without resorting to court.</p> | <p>4) A law passed by the House of the People shall regulate the establishment of guidelines, procedures and institutions that facilitate interaction between the various levels of government.</p>                                             | <p>Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.</p> <p>.</p>                                                                                                                                       |
|                                                                                                                                                                                                                                                                                                                                                                               | <p>(5) The head of the Regional State shall assume the title of “Governor” (Xaakim).</p>                                                                                                                                                        | <p>The reason to include this Paragraph is to distinguish the titles of the Head of State of the Federal Republic of Somalia which is “President” to that the Regional leaders, so it was suggested to give the the name of “Governor” or “Xakiim” In Somali to the Regional State leaders.</p> |
|                                                                                                                                                                                                                                                                                                                                                                               | <p><b>Article 52. Forum for Cooperation between the Federal Government and the Regional State Governments</b></p>                                                                                                                               | <p><b>Suggestions</b></p>                                                                                                                                                                                                                                                                       |
|                                                                                                                                                                                                                                                                                                                                                                               | <p>(1) In order to ensure the existence and development of cooperative federal relations a conference for Cooperation between the Federal Government and the Regional State Governments shall be established, so as to discuss and agree on</p> | <p>This Paragraph is relocated from Art 51 (3).</p>                                                                                                                                                                                                                                             |

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|  | <p>common policies including but not limited to:</p> <ul style="list-style-type: none"> <li>(a) Strengthening national unity;</li> <li>(b) Guaranteeing peace and security in the country;</li> <li>(c) Promoting national socio-economic development and common market policies of the country;</li> <li>(d) Promoting the well-being and wealth of the Somali people; and</li> <li>(e) Sharing information of relevance to other levels of government.</li> </ul> |                                                                                                                               |
|  | <p>(2) The conference for Cooperation between the Federal Government and the Regional State Governments shall be convened on a regular basis, at least every six months and whenever deemed necessary.</p>                                                                                                                                                                                                                                                          | <p>It is suggested to add and provide further guidance on the procedures involved for convening the Forum of Cooperation.</p> |
|  | <p>(3) The Federal Government and a Regional State may request an extraordinary conference whenever required.</p>                                                                                                                                                                                                                                                                                                                                                   | <p>See comment on Paragraph 2 above.</p>                                                                                      |
|  | <p>(4) The regular and irregular meetings can only be convened by the President of the Federal Republic of Somalia.</p>                                                                                                                                                                                                                                                                                                                                             | <p>See comment on Paragraph 2 above.</p>                                                                                      |
|  | <p>(5) A law passed by the House of the People shall provide for the necessary procedures</p>                                                                                                                                                                                                                                                                                                                                                                       | <p>This Paragraph is suggested to be added so as to allow Parliament to enact a law providing for</p>                         |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | and infrastructure for the meetings for Cooperation between the Federal Government and the Regional State. | further details.               |
| <b>Article 52. Cooperative Relationships Between the Various Federal Member State Governments</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                            | It was suggested to be deleted |
| (1) The Federal Government and Federal Member State governments shall ensure that meetings between the Presidents of the Federal Member States and high ranking officials be held regularly to discuss issues that affect their territories, including: (a) Water sources; (b) Agriculture; (c) Animal husbandry; (d) Pasture and forestry; (e) The prevention of erosion and the protection of the environment; (f) Health; (g) Education; (h) Relations and dialogue amongst traditional leaders, and the protection and development of traditional law; (i) Relations amongst religious scholars; and(j) Youth. |                                                                                                            |                                |
| (2) Federal Member States may enter cooperative agreements amongst themselves or with the Federal Government, which shall not contradict the national                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                            |                                |

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| Constitution and the constitutions of the Federal Member States concerned, and may not be legally binding. |                                                                                          |                                                                                                                                                                            |
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| <b>Article 111F. Inter-State Commission</b>                                                                | <b>Article 53. Coordination Office of the Federal Government and the Regional States</b> | <b>Suggestions</b><br><br><b>Qod. 111F has been removed from Chapter 10, and the tTitle is changed to “ Coordination Office of the Federal Government and the Regional</b> |

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|                                                                                                                                                                                                                                                                                                                                         | (1) There shall be an Office for coordinating the relationship and cooperation between the Federal Government and the Regional States which shall be part of the structure of the Office of the President. | It is suggested to replace the Inter-State Commission with an office that coordinates the activities between the Federal Government and Regional State governments. The reason for this suggestion is that the Inter-State Commission is not perceived to be an independent body. Instead it will require a political institution to resolve these intergovernmental disputes in the first place. If this cannot resolve the dispute, judicial means shall be made available. |
| (1) There shall be established by federal law an Inter-state Commission.                                                                                                                                                                                                                                                                | (2) A law passed by the House of the People shall set up the power and function of the Coordination Office of the Federal Government and the Regional States.                                              | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                                                                                                                                                                                                                                                                                     |
| (2) The Inter-State Commission shall have such powers as the Federal Parliament deems necessary to:<br><br>(a) Facilitate intergovernmental coordination and cooperation among the Federal Government and the governments of the Federal Member States; and<br><br>(b) Resolve any administrative, political or jurisdictional disputes |                                                                                                                                                                                                            | It is suggested to delete this Paragraph and have the details provided here to be regulated by the law requested in the revised Paragraph (2) above.                                                                                                                                                                                                                                                                                                                          |

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| <p>between the Federal Government and one or more governments of the Federal Member States or between the Governments of Federal Member States.</p>                                                  |  |                                                                                                                                                             |
| <p>(3) The Interstate Commission shall be composed of members appointed by the Prime Minister and at least an equal number of members appointed by each government of the Federal Member States.</p> |  | <p>It is suggested to delete this Paragraph and have the details provided here to be regulated by the law requested in the revised Paragraph (2) above.</p> |

| Article 54. Allocation of powers                                                                                                                                                                                                                                                                                                                                                                            | Article 54. Exclusive Powers of the Federal Government                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Suggestions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <p>The allocation of powers and resources shall be negotiated and agreed upon by the Federal Government and the Federal Member States (pending the formation of Federal Member States), except in matters concerning: (A) Foreign Affairs; (B) National Defence; (C) Citizenship and Immigration; (D) Monetary Policy, which shall be within the powers and responsibilities of the federal government.</p> | <p>The Federal Government has the following exclusive responsibilities and competences:</p> <ul style="list-style-type: none"> <li>(a) It shall protect and defend the Constitution;</li> <li>(b) It shall formulate and implement the country's policies, strategies and plans in respect of overall economic, social and development matters;</li> <li>(c) It shall establish and implement national standards and basic policy criteria for public health, education, science and technology as well as for the protection and preservation of cultural and historical legacies;</li> <li>(d) It shall formulate and execute the country's financial, monetary and foreign investment policies and strategies;</li> <li>(e) It shall enact laws for the utilization and conservation of land and other natural resources, historical sites and objects;</li> <li>(f) It shall establish and administer national defence and public security forces as well as a federal police force;</li> <li>(g) It shall administer the National Bank, print and borrow money, mint coins, regulate foreign exchange and money in circulation; it shall determine by law the conditions and terms under which States</li> </ul> | <p>It is suggested to expand on this Article and provide for two separated Articles on powers of the Federal Government and powers of the Regional States.</p> <p>It is suggested that this Article specifically regulates "the exclusive powers of the Federal Government". Since the Constitution gave the Federal Government only four powers it is considered necessary to expand the power of the Federal Government in order to strengthen national unity and relevance of the Federal Government. The powers listed here, however, are only suggestions and would need to be properly negotiated among federal and regional stakeholders.</p> <p>The specification of exclusive powers of the Regional States is expected to clarify the specific powers of the different levels of government in the Federal Republic of Somalia.</p> |

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|  | <p>can borrow money from internal sources;</p> <p>(h) It shall formulate and implement foreign policy; it shall negotiate and ratify international agreements and bilateral relations and its implementation; diplomatic representations, consulates and liaisons with various issues; represents at United Nations;</p> <p>(i) It shall be responsible for the development, administration and regulation of air, rail, waterways and sea transport and major roads linking two or more States, as well as for postal and telecommunication services such as telephone, internet, media and any form of communication;</p> <p>(j) It shall levy taxes and collect duties on revenue sources reserved to the Federal Government; it shall draw up, approve and administer the Federal Government's budget;</p> <p>(k) It shall determine and administer the utilization of the waters or rivers and lakes linking two or more States or crossing the boundaries of the national territorial jurisdiction;</p> <p>(l) It shall regulate inter-State and foreign commerce;</p> <p>(m) It shall administer and expand all federally funded institutions that provide services to two or more States;</p> <p>(n) It shall deploy, at the request of a state administration, Federal defence forces to</p> |  |
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|  | <p>arrest a deteriorating security situation within the requesting State when its authorities are unable to control it;</p> <p>(o) It shall enact, in order to give practical effect to political rights provided for in this Constitution, all necessary laws governing political parties and elections;</p> <p>(p) It has the power to declare and to lift national state of emergency and states of emergencies limited to certain parts of the country;</p> <p>(q) It shall determine matters relating to nationality;</p> <p>(r) It shall determine and administer all matters relating to immigration, the granting of passports, entry into and exit from the country, refugees and asylum;</p> <p>(s) It shall patent inventions and protect copyrights;</p> <p>(t) It shall establish uniform standards of measurement and calendar;</p> <p>(u) It shall enact laws regulating the possession and bearing of arms.</p> |                                                                                                                                                                                                                                          |
|  | <b>Article 55. Exclusive Powers of the Regional States</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Suggestions</b>                                                                                                                                                                                                                       |
|  | <p>(1) All powers not given to the Federal Government alone, belongs to the Regional States; these powers include:</p> <p>(a) To establish a State administration that best advances self-government, a</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>It is suggested to add this Article regulating the exclusive powers of the Regional States because the Constitution does not clarify the different powers of the Federal and Regional State governments, see commen on Article on</p> |

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|                                                         | <p>democratic order based on the rule of law;<br/>to protect and defend the Federal Constitution;</p> <p>(b) To enact and execute the state constitution and other laws;</p> <p>(c) To formulate and execute economic, social and development policies, strategies and plans of the State;</p> <p>(d) To administer land and other natural resources in accordance with Federal laws;</p> <p>(e) To levy and collect taxes and duties on revenue sources reserved to the States and to draw up and administer the State budget;</p> <p>(f) To enact and enforce laws on the State civil service and their condition of work in conformity with national standards;</p> <p>(g) To establish and administer a state police force, and to maintain public order and peace within the State.</p> | exclusive powers of the Federal Government above. |
| <b>CHAPTER 6:<br/><br/>THE FEDERAL PARLIAMENT</b>       | <b>CHAPTER 6:<br/><br/>THE FEDERAL PARLIAMENT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                   |
| <b>Constitutional Text</b>                              | <b>Option B: Bicameral System with Delegates from Regional States</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Report</b>                                     |
| <b>Article 55. The Houses of the Federal Parliament</b> | <b>Article 56: The Houses of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                   |

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| <p>(1) The Federal Parliament of the Federal Republic of Somalia consists of:</p> <p>(a) The House of the People; and (b) The Upper House.</p> <p>(2) The House of the People of the Federal Parliament and the Upper House of the Federal Parliament shall carry out their legislative duties in accordance with Title Four of this Chapter of the Constitution on the National Legislative Procedures.</p> | <p>(1) The Federal Parliament of the Federal Republic of Somalia consists of two Houses:</p> <p>(a) The House of the People; and</p> <p>(b) The House of Regional State Delegates.</p> <p>(2) The House of the People is the principal legislative body at the federal level and represents all the people of the Federal Republic of Somalia.</p> <p>(3) The House of Regional State Delegates represents the Regional States at the federal level, but without having legislative power.</p> | <p><i>In order to provide for effective legislative processes at the federal level it is suggested to clarify and specifically regulate the participation of the second House of Parliament in national decision making processes such as the election and impeachment of the President, amendment of the constitution, approval of the budget or the appointment of Independent Commissions or members of the judiciary, but to exclude it from the ordinary law making process, see below on the powers of the House of Regional State Delegates.</i></p> <p><i>Due to its reduced powers, the Hosue of the Regional State Delegates is suggested to be a non-permanent body of appointed Delegates coming from the Regional States when required. Thus the suggestion to reflect this also in the name and use the Term House of Delegates instead of using the term “Upper House”, which is providing for a kind of hierarchy that is is perceived to be inappropriate.</i></p> |
| <b>Article 56. Performance of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                     | <b>Article 57: Performance of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>The Houses of the Federal Parliament:</p> <p>(a) Shall jointly perform their shared duties; and</p> <p>(b) Shall each individually perform the</p>                                                                                                                                                                                                                                                        | <p>The Houses of the Federal Parliament:</p> <p>(a) Shall jointly perform their shared duties; and</p> <p>(b) Shall each individually perform the duties specific to them.</p>                                                                                                                                                                                                                                                                                                                 | <p><i>No changes suggested.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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| duties specific to them.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                              |
| <b>Article 57. Joint Sitzings</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>Article 58: Joint Sitzings</b>                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                              |
| <p>Responsibilities of the joint sittings of the two Houses of the Federal Parliament include:</p> <p>(a) When the need arises, the House of the People of the Federal Parliament and the Upper House of the Federal Parliament shall hold joint sessions, which shall be chaired by the Speaker of the Upper House of the Federal Parliament, or any member of the Federal Parliament, in accordance with the rules and regulations of the Houses of the Federal Parliament.</p> <p>(b) The Speaker of the Upper House will chair the joint session, or the Speaker of the House of the People, or an agreed member. While chairing the joint sessions, the Chair of the Joint Session shall not have a vote, unless there is a tie in the votes.</p> <p>(c) Without interfering with the powers of the Federal Parliament to organise its activities, the President of the Federal Republic may, if deemed necessary, request the Speaker of the House of the People of the Federal</p> | <p>(1) The House of the People and the House of Regional State Delegates shall hold joint sessions whenever deemed necessary or required according to the Constitution or the law.</p> <p>(2) Joint sessions of both Houses of the Federal Parliament shall be chaired by the Speaker of the House of the People, or, in his or her absence, by one of his or her Deputies.</p> | <p><i>In order to clarify that the House of the People is the supreme law making body, it is suggested to have joint sessions always be chaired by the Speaker of the House of the People or one of his Deputies so as to emphasise their seniority.</i></p> |

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| <p>Parliament and the Speaker of the Upper House of the Federal Parliament to hold a joint session of the Federal Parliament:</p> <p>(i) To formulate procedures that guide the activities of the joint committees of the two Houses of the Federal Parliament;</p> <p>(ii) To execute procedures for implementing decisions reached by the joint committees of the Federal Parliament;</p> <p>(iii) To amend and review the Constitution in accordance with Chapter 15.</p> |                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Article 58. Membership Criteria for the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                            | <b>Article 59: Membership Criteria for the Federal Parliament</b>                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>(1) In order to be eligible for membership of the Federal Parliament of the Federal Republic of Somalia, a person must:</p> <p>(a) Be a citizen of the Federal Republic of Somalia, of sound mind, not younger than 25, and a registered voter;</p> <p>(b) Not have had their citizenship</p>                                                                                                                                                                             | <p>(1) In order to be eligible for membership of the the Federal Parliament, a person must:</p> <p>(a) Be a citizen of the Federal Republic of Somalia;</p> <p>(b) Be of sound mind;</p> <p>(c) Be not younger than twenty five (25) years of age for membership of the House of the People and forty (40) years of age for membership of the</p> | <p><i>In order to emphasise the difference in standing, it is suggested to have slightly different eligibility for members of the House of the People and the House of Regional State Delegates. The delegates in House of Regional State Delegates thus are suggested to be required to be more senior and experienced than the members of the House of the People. Other than that, only technical refinements are suggested.</i></p> |

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| <p>suspended by a court order in the last five (5) years;</p> <p>(c) Have a minimum of secondary education or equivalent experience.</p> <p>(2) Before the candidature of a person is accepted, the National Independent Electoral Commission shall verify whether the candidate meets the criteria set out in this article.</p> | <p>House of Regional State Delegates;</p> <p>(d) Not have been convicted with a final sentence by a minimum of two (2) years of imprisonment;</p> <p>(e) Have a minimum of secondary school education or equivalent experience for membership of the House of the People;</p> <p>(f) Have experience, integrity and and a high level of patriotism for membership of the House of Regional State Delegates.</p> <p>(2) The National Independent Electoral Commission shall verify whether a candidate standing for election for membership in the House of the People meets the criteria set out in this Article.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p><b>Article 59. Disqualification of Membership of the Federal Parliament</b></p>                                                                                                                                                                                                                                               | <p><b>Article 60: Disqualification of Membership of the House of the People</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>(1) Membership of the Federal Parliament can be lost as a result of:</p> <p>(a) Death of the member;</p> <p>(b) The member consistently failing to perform his or her duties;</p> <p>(c) The acceptance of a resignation submitted by the member to the House he or she is a member of;</p>                                   | <p>(1) Membership of the House of the People can be lost as a result of:</p> <p>(a) Death of the member;</p> <p>(b) The member consistently failing to perform his or her duties due to physical or mental incapacity;</p> <p>(c) The acceptance of a resignation submitted by the member;</p> <p>(d) The member failing to attending at least 2/3 of</p>                                                                                                                                                                                                                                                             | <p><i>Only technical refinements suggested for the members of the House of the People, including a more strict attendance requirement. Such an Article would not need to be applicable for members of the House of Regional State Delegates since the House is suggested to be a non-permanent body and delegates only be called for a relevant sitting and thus only need to fulfill the eligibility criteria for that respective sitting.</i></p> |

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| <p>(d) The member failing to attend two consecutive ordinary sessions of his or her House without a reasonable excuse;</p> <p>(e) The member accepting to hold a government position other than a ministerial post;</p> <p>(f) The member's citizenship rights having been suspended in accordance with the law.</p> <p>(2) If a member of the Federal Parliament loses their membership, the runner-up in the last election shall take up the position.</p> <p>(3) The electoral law shall regulate the procedure for determining the runner-up, who should be sworn in within 30 days of the day of the loss of membership of the Federal Parliament of the member he or she is replacing.</p> | <p>one ordinary session of the House without a reasonable excuse;</p> <p>(e) The member accepting to hold a government position;</p> <p>(f) The member being convicted with a final sentence of upto one (1) year or more years of imprisonment.</p> <p>(2) If a member of the House of the People loses his or her membership, the seat shall be filled with a person elected by the same procedure as the member he or she replaces and the new member shall be sworn in within 30 days.</p> |                                                                                                                                                                                                                                                                                                                                                      |
| <b>Article 60. Term of Office</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Article 61: Term of Office of the House of the People</b>                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                      |
| <p>(1) The term of office of the Federal Parliament is 4 years from the day of the announcement of the election results.</p> <p>(2) A member of the Federal Parliament</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>(1) The term of office of the House of the People shall be five (5) years from the date of the first sitting of a newly elected House.</p> <p>(2) After the completion of its term, the outgoing House of the People shall remain in office until the</p>                                                                                                                                                                                                                                   | <p><i>The experience over the last years has shown, that four years are a very short period of time for a government and parliament to address all the significant challenges of the Somali state-building process. Basically, a newly established parliament required many months to become fully operational and losing many months at the</i></p> |

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| may be re-elected.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | first sitting of the new House.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <i>end of its term in preparations for elections. So as to allow for more time to focus on its work and so as to allow the House to develop institutional memory and provide for greater political stability and time for the state-building process, it is suggested to prolong this term of parliament from four to five years.</i> |
| <b>Article 61. Responsibilities of Members of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Article 62: Responsibilities of Members of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                       |
| <p>(1) When fulfilling his or her duties, every member of the Federal Parliament shall be guided by the best interests of the nation as a whole.</p> <p>(2) While fulfilling his or her duties in accordance with Clause 1 of this Article, every member of the House of the People of the Federal Parliament has a special responsibility to represent the constituency he or she has been elected from, regardless of their political or party affiliations.</p> <p>(3) Every member of the Upper House of the Federal Parliament has a special responsibility to represent the interests of the Federal Member State that the member represents, and to safeguard the federal system, whilst acting in the spirit of inter-governmental</p> | <p>(1) When fulfilling his or her duties, every member of the Federal Parliament shall be guided by the best interests of the nation as a whole.</p> <p>(2) While fulfilling his or her duties in accordance with Paragraph 1 of this Article, every member of the Federal Parliament has a special responsibility to represent the constituency he or she has been elected from, regardless of his or her political party affiliation.</p> <p>(3) Every member of the House of Regional State Delegates has the special responsibility to safeguard national unity, uphold social reconciliation and mediation, promote good governance and foster the spirit of inter-governmental cooperation.</p> | <i>Only technical refinements suggested.</i>                                                                                                                                                                                                                                                                                          |

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| cooperation.                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                       |
| <b>Article 62. Joint Committees of the Federal Parliament</b>                                                                                                                                                                                                                                                                                      | <b>Article 63: Joint Committees of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                       |
| <p>(1) The two Houses of the Federal Parliament may form joint committees to facilitate their work.</p> <p>(2) Joint rules of procedure passed by the two Houses shall determine the number of joint committees to be formed, and the procedure of their work.</p>                                                                                 | <p>(1) The two Houses of the Federal Parliament may form joint committees to facilitate their work.</p> <p>(2) Joint rules of procedure passed by the two Houses shall determine the number of joint committees to be formed, and the procedure of their work.</p>                                                                                                                                                                                                                    | <i>No change suggested.</i>                                                                                                                                                                                                           |
| <b>Article 63. The Legislative Powers of the House of the People</b>                                                                                                                                                                                                                                                                               | <b>Article 64: The Powers of the House of the People</b>                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                       |
| <p>The House of the People of the Federal Parliament represents all the people of Somalia, and the legislative duties tasked solely to the House of the People of the Federal Parliament are as follows:</p> <p>(a) To participate in amending the Constitution in accordance with Chapter 15;</p> <p>(b) To pass, amend or reject legislation</p> | <p>The House of the People represents all the people of Somalia and has the following powers:</p> <p>(a) To pass, amend or reject legislation tabled before it in accordance with the legislative procedures provided by the Constitution;</p> <p>(b) To participate in amending the Constitution in accordance with the constitutional amendment procedures provided by the Constitution;</p> <p>(c) To approve or dismiss the members of Independent Commissions and Offices in</p> | <i>It is suggested to merge the two original Articles 63 and 69 of the Provisional Constitution so as to provide for one consolidated Article, listing all the legislative and non-legislative powers of the House of the People.</i> |

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| <p>tabled before it in accordance with this Chapter and Chapter 15 of the Constitution;</p> <p>(c) To study laws passed by the Upper House of the Federal Parliament;</p> <p>(d) To delegate to the Upper House of the Federal Parliament legislative duties, with the exception of its duty to participate in the procedures for amending the Constitution.</p> | <p>accordance with the procedures provided by the Constitution;</p> <p>(d) To participate in the approval or dismissal of judges and other members of the judiciary at the Federal Government level and the Constitutional Court in accordance with the procedures provided by the Constitution;</p> <p>(e) To hold accountable and monitor the national institutions, and to ensure the implementation of national laws;</p> <p>(f) To summon and question the President, Council of Ministers, members of Independent Commissions and Offices and other governmental officials;</p> <p>(g) To participate in the approval of a state of emergency or war in accordance with the procedures provided by the Constitution;</p> <p>(h) To approve international treaties, agreements and contracts negotiated and presented by the President and the Council of Ministers;</p> <p>(i) To conduct investigations and report on matters of public interest;</p> <p>(j) To carry out any other duties as provided for by the Constitution or the laws of the country.</p> |  |
| <p><b>Article 64. The Number of the Members of the House of the People</b></p>                                                                                                                                                                                                                                                                                   | <p><b>Article 65: The Number of the Members of the House of the People</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |

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| <p>(1) The citizens of the Federal Republic of Somalia shall elect members of the House of the People of the Federal Parliament in a direct, secret and free ballot.</p> <p>(2) The House of the People of the Federal Parliament shall have two hundred and seventy-five (275) ordinary members.</p> <p>(3) The members of the House of the People of the Federal Parliament must represent all communities of the Federal Republic of Somalia in a balanced manner.</p> <p>(4) Any person who becomes the President of the Federal Republic of Somalia shall become a life-time extraordinary member of the House of the People after leaving the office of President of the Federal Republic of Somalia, unless he or she has been removed from this office before the end of the presidential term in accordance with Article ... of the Constitution, and he or she shall be an additional member of the House of the People of the Federal Parliament.</p> | <p>(1) The House of the People shall have two hundred and seventy-five (275) members.</p> <p>(2) The members of the House of the People shall represent all communities of the Federal Republic of Somalia in a fair and balanced manner.</p> <p>(3) The citizens of the Federal Republic of Somalia shall elect the members of the House of the People in a direct, free, secret and fair election.</p> <p>(4) As of right, whoever becomes the President of the Federal Republic of Somalia becomes a member of the House of the People for life, in addition to the elected members, provided that he or she has not been removed from office before the end of the presidential term in accordance with Article ... of the Constitution.</p> | <p><i>Only technical refinements suggested.</i></p> |
| <b>Article 65. The Speaker and Deputy</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Article 66: The Speaker and Deputy Speakers of</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                     |

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| <b>Speakers of the House of the People of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>the House of the People</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                              |
| <p>(1) At its first session, presided over by the eldest member, the House of the People of the Federal Parliament shall elect a Speaker and two (2) Deputy Speakers from amongst its members.</p> <p>(2) If on any occasion neither the Speaker nor the Deputy Speakers are present, the House shall elect one of its members to preside temporarily.</p> <p>(3) Before assuming office, the Speaker shall relinquish any official position in a political party, and shall be strictly neutral in the performance of his or her functions.</p> <p>(4) The Speaker and his or her deputies shall be elected through a secret ballot by a majority vote of the members of the House of the People of the Federal Parliament, and may be removed by a two- thirds majority vote of the members of the House of the People of the Federal Parliament.</p> | <p>(1) At its first session, presided over by the eldest member, the House of the People shall separately elect a Speaker and two Deputy Speakers from amongst its members.</p> <p>(2) If on any occasion neither the Speaker nor the Deputy Speakers are present, the House of the People shall elect one of its members to preside temporarily.</p> <p>(3) Before assuming office, the Speaker and Deputy Speakers shall relinquish any official position in a political party, and shall be strictly neutral in the performance of their functions.</p> <p>(4) The Speaker and Deputy Speakers shall be elected by a majority vote of fifty percent plus one (50% + 1) of the total membership of the House of the People, and may be removed by a two-thirds (2/3) majority vote of the total membership of the House of the People.</p> | <i>Only technical refinements suggested.</i> |
| <b>Article 66. Sessions of the House of the People of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Article 67: Sessions of the House of the People</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                              |

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| <p>(1) A newly elected House of the People of the Federal Parliament must hold its first sitting within thirty (30) days after the declaration of the result of the general election, on a date fixed by the National Independent Electoral Commission.</p> <p>(2) The House of the People of the Federal Parliament must hold two regular sessions each year, and each session shall last for a minimum of four (4) months.</p> <p>(3) The rules of procedure of the House of the People of the Federal Parliament shall determine the timings, dates and the resting period of the regular sessions of the House of the People of the Federal Parliament.</p> <p>(4) The House of the People of the Federal Parliament shall be convened for a special session whenever:</p> <p>(a) Called by the President of the Federal Republic acting on the request of the Council of Ministers;</p> <p>(b) Called by its Speaker; or</p> <p>(c) Requested in writing by at least 20%</p> | <p>(1) A newly elected House of the People must hold its first sitting within 30 days after the declaration of the results of the election, on a date fixed by the National Independent Electoral Commission.</p> <p>(2) The House of the People must hold two regular sessions of at least four (4) months each year.</p> <p>(3) The rules of procedure of the House of the People shall determine the timings, dates and the resting period of its sessions.</p> <p>(4) The House of the People may be convened by its Speaker for an extraordinary special session whenever deemed necessary or upon request by the President of the Federal Republic; or by at least one-fifth (1/5) of its members.</p> | <p><i>Only technical refinements suggested.</i></p> |

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| of the members of the House of the People of the Federal Parliament.                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Article 67. Dissolution of the House of the People of the Federal Parliament</b>                                                                                                                                                                        | <b>Article 68: Dissolution of the House of the People</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>The House of the People of the Federal Parliament cannot be dissolved before the end of its four-year term unless the House has been unable to approve the Council of Ministers and the program of the government under Article 100, Paragraph (c).</p> | <p>(1) The House of the People may not be dissolved before the end of its term unless it has been unable to discharge its functions and the Speaker after consultations with the Deputy Speakers requests the President of the Federal Republic of Somalia to dissolve the House.</p> <p>(2) When dissolving the House of the People upon the request of its Speaker, the President of the Federal Republic of Somalia shall fix the date for the new election to take place within sixty (60) days of the date of the dissolution.</p> <p>(3) No dissolution in terms of Paragraph (1) and (2) shall take place during the first year in office of the House of the People nor during the last year in office of the President of the Federal Republic of Somalia.</p> | <p><i>It is suggested to provide for a clear procedure for the dissolution of Parliament, involving its Speaker, the Constitutional Court and the President. The idea is to prevent arbitrary dissolution risked by the current wording of this Article.</i></p> <p><i>It is also suggested to provide for periods in which the House of the People cannot be dissolved, i.e. during the first year of its term and during the last year of the term of the President. The reason for the former is to allow a newly elected House sufficient time to become fully operational. The reason for the latter is so as to avoid that an outgoing President tries to change Parliament only to get reelected. This regulation is inspired by Somalia's 1960 Constitution (Article 53).</i></p> |
| <b>Article 68. Rules of Procedure of the House of the People of the Federal Parliament</b>                                                                                                                                                                 | <b>Article 69: Rules of Procedure of the House of the People</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

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| <p>(1) The House of the People of the Federal Parliament shall adopt its own rules of procedure, which shall provide for full participation of its members.</p> <p>(2) The House of the People of the Federal Parliament shall divide itself into committees that will carry out the duties of the House of the People of the Federal Parliament.</p> <p>(3) When draft legislation is brought before the House of the People of the Federal Parliament, it shall task it to the relevant House committee so that it may be studied, and a report of its findings and recommendations presented to the plenary of the House.</p> <p>(4) Draft legislation rejected by the House of the People of the Federal Parliament cannot be returned before the House of the People of the Federal Parliament for thirty (30) days from the day of the rejection of the legislation.</p> <p>(5) The House of the People of the Federal Parliament and its committees shall sit in public, in accordance with the general principle of transparency in government. The rules of procedure shall define when it is necessary for the House of the People to have a closed</p> | <p>(1) The House of the People shall adopt its own rules of procedure, which shall regulate the performance of its functions.</p> <p>(2) The House of the People shall divide itself into committees to facilitate its work.</p> <p>(3) When draft legislation or a resolution is brought before the House of the People, it shall task it to the relevant House committee so that it may be studied, and a report of its findings and recommendations presented to the plenary of the House.</p> <p>(4) The House of the People and its committees shall sit in public, unless a closed session is required to protect the personal rights of an individual or is of national interest as to be determined by the rules of procedures.</p> | <p><i>Only technical refinements suggested.</i></p> |
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| door session.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |                                                                                                                                                                                                          |
| <b>Article 69. The Powers of the House of the People of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |                                                                                                                                                                                                          |
| <p>(1) The House of the People of the Federal Parliament has legislative duties, including the duty:</p> <p>(a) To pass, amend or reject any law tabled before it;</p> <p>(b) To prepare laws, except laws related to the annual budget, which shall be formulated by the Council Of Ministers.</p> <p>(2) The House of the People of the Federal Parliament has the following additional powers:</p> <p>(a) To approve the Independent Commissions brought before it by the Prime Minister;</p> <p>(b) To hold accountable and monitor the national institutions, and to ensure the implementation of national laws;</p> <p>(c) To summon the Prime Minister, members of the Council of Ministers and the Chairmen of the Independent Commissions and Offices. The House of the People of the Federal Parliament has the authority to review the duties</p> |  | <p><i>The powers of House of the People are better regulated in one Article and therefore it is suggested to merge the content here with the Article on the powers of House of the People above.</i></p> |

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| <p>of any official who does not respond when summoned by the House of the People of the Federal Parliament;</p> <p>(d) To give a vote of confidence in the Prime Minister and the Council of Ministers, and in government projects, to be conducted by a simple majority vote of the total members (50%+1) by means of a show of hands to the Prime Minister and members of the Council of Ministers;</p> <p>(e) To carry out a vote of no confidence in the Prime Minister and his deputy or deputies by a simple majority vote of the total members (50% +1) to be conducted by means of a show of hands;</p> <p>(f) To elect and dismiss the President of the Federal Republic as provided for by the Constitution;</p> <p>(g) To carry out other duties as provided for by the Constitution to ensure the proper implementation and review of the Constitution.</p> |                                                                                                   |  |
| <p><b>Article 70. The Immunity of the Members of the House of the People of the Federal Parliament</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p><b>Article 70: The Immunity and Entitlements of the Members of the House of the People</b></p> |  |

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| <p>(1) No member of the House of the People shall be penalised for giving their views to the House of the People of the Federal Parliament and its committees.</p> <p>(2) Without the approval of the House of the People of the Federal Parliament, no member of the House of the People of the Federal Parliament may be prosecuted for a criminal offense, be detained, or be physically searched, and nor may the member's house or other dwellings be searched unless the member has been caught in the act of committing a crime that calls for compulsory detention orders. Furthermore, without the approval of the House of the People of the Federal Parliament, no member may be detained or imprisoned, even in the fulfilment of a final court order.</p> <p>(3) A member can be held liable for non-criminal offenses without the approval of the House of the People of the Federal Parliament.</p> <p>(4) A special law shall define the immunity of the members of the House</p> | <p>(1) No member of the House of the People shall be penalised for publicly expressing his or her opinion and views in the exercise of his or her function as member of the Federal Parliament, except for cases of incitement to violence.</p> <p>(2) No member of the House of the People may be arrested or prosecuted for criminal offense, be physically searched or his or her home being under surveillance or searched without the approval of a majority decision of his or her House, unless the member has been caught in the act of committing a crime that calls for compulsory detention orders.</p> <p>(3) A member of the House of the People can be held liable for non-criminal offenses without the approval of the House of the People.</p> <p>(4) A special law shall define the immunities and privileges of members of the House of the People.</p> <p>(5) The allowances and other benefits of the members of the House of the People shall be paid from the central treasury of the Federal Government.</p> | <p><i>Only technical refinements suggested. To highlight different status, it is however suggested to regulate immunities of members of the House of the People and the House of the Regional State Delegates in separate Articles.</i></p> |

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| of the People of the Federal Parliament.<br><br>(5) The allowances and other benefits of the members of the House of the People of the Federal Parliament shall be paid from the central treasury of the Federal Government.                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <b>Article 71. The Upper House of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Article 71: Powers of the House of Regional State Delegates</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>The Upper House of the Federal Parliament represents the Federal Member States, and its legislative duties include:</p> <p>(a) Participation in the process of the amending the Constitution, in accordance with Chapter 15;</p> <p>(b) Passing, amending, or rejecting the laws that are tabled before it in accordance with Articles 80-83;</p> <p>(c) Study of laws delegated to it in accordance with Article 80-83;</p> <p>(d) Participation in the election of the President of the Federal Republic in accordance with Article 89;</p> | <p>The House of Regional State Delegates represents the Regional States of Somalia and has the following powers:</p> <p>(a) To participate in the amendment of the Constitution in accordance with the constitutional amendment procedures provided by the Constitution;</p> <p>(b) To participate in the approval of the national budget in accordance with the procedure provided by the Constitution;</p> <p>(c) To participate in the approval and dismissal of members of Independent Commissions and Offices in accordance with the procedures provided by the Constitution;</p> <p>(d) To participate in the approval and dismissal of judges and other members of the judiciary at the Federal Government level and the</p> | <p><i>Noting concerns raised about over-complicated law making in the new concept of bicameralism and in order to streamline the process of law making on the federal level, it is suggested to have the law making function exercised by the House of the People and have the House of the Federal Member State Delegates involved in other important national decision making processes, e.g. participating in amending the constitution and certain appointment procedures.</i></p> |

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| <p>(e) Dismissal of the President in accordance with Article 92;</p> <p>(f) Participation in the process of declaring war in accordance with the Constitution;</p> <p>(g) Carrying out other duties required by the Constitution to ensure proper implementation and review of the Constitution;</p> <p>(h) Participation in the process of declaring a state of emergency in accordance with the Constitution; and</p> <p>(i) Participation in the process of appointing the following members of government institutions, as provided for by the Constitution: (i) Members of the Judicial Service Commission; (ii) Chairman and Judges of the Constitutional Court; (iii) Members of the National Independent Electoral Commission;</p> <p>(iv) Members of the Boundaries and Federation Commission;</p> <p>(v) Members of the Arbitration Committee.</p> | <p>Constitutional Court in accordance with the procedures provided by the Constitution;</p> <p>(e) To participate in the approval of a state of emergency and war in accordance with the procedures provided by the Constitution;</p> <p>(f) To carry out any other duties as provided for by the Constitution or the laws of the country.</p> |  |
| <b>Article 72. The Number of Members of the Upper House of the Federal</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Article 72: The Number of Delegates in the House of the Regional State Delegates</b>                                                                                                                                                                                                                                                        |  |

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| <b>Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>The members of the Upper House of the Federal Parliament shall be elected through a direct, secret and free ballot by the people of the Federal Member States, and their number shall be no more than fifty-four (54) members based on the eighteen (18) regions that existed in Somalia before 1991, and on the following:</p> <p>(a) The number of Federal Member States of the Federal Republic of Somalia;</p> <p>(b) That all Federal Member States shall have an equal number of representatives in the Upper House of the Federal Parliament; and</p> <p>(c) That the members of the Upper House of the Federal Parliament shall be representative of all communities of the Federal Republic of Somalia.</p> | <p>(1) The House of Regional State Delegates shall convene whenever so required by the Constitution or the laws and comprise of seven (7) delegates per Regional State.</p> <p>(2) The delegates of each Regional State shall be nominated by the head of the executive and be approved by the Legislative Assembly of the Regional State they represent.</p> <p>(3) The delegates shall represent all communities of their respective Regional States in a fair and equal manner and shall strive for reconciliation, mediation and national unity.</p> | <p><i>Since the House Federal Member State Delegates wont be involved in the law making process and only in certain constitutional procedures, it is suggested to not establish the House as a permanent institution. It is also suggested to amend the representation formula and election procedure so as to have equal representation of Regional States as an ad hoc appointment in order to strengthen the representation of Regional State government's interests (instead of the electorate). Currently it is suggested to work with seven delegates per Federal Member State for reasons of logistics and practicality. However, this number may be increased for representation purposes as would need to be agreed upon.</i></p> |
| <b>Article 73. The Speaker and Deputy Speaker of the Upper House of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Article 73: Chairmanship in the House of Regional State Delegates</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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| The Speaker and the Deputy Speaker of the Upper House of the Federal Parliament shall be elected and dismissed through the same procedures that apply to those of the elections for the Speaker and Deputy Speakers of the House of the People of the Federal Parliament.                                                                                                                                                                                                                                               | <p>(1) The sessions of the House of Regional State Delegates shall be chaired by the head of one of the delegations of the Regional States.</p> <p>(2) The Rules of Procedures of the House of Regional State Delegates shall guarantee that the chairmanship rotates once in every two (2) years equally between the head of delegations of the Federal Member States.</p>                                                                                                                                                                                                                                                                                 | <i>As the House of the Regional State Delegates wont be a permanent institution, it is suggested to provide for a rotating chairmanship.</i>                                                               |
| <b>Article 74. Sessions of the Upper House of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Article 74: Sessions of the House of Regional State Delegates</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                            |
| <p>(1) A newly elected Upper House of the Federal Parliament must hold its first sitting within 30 days after the declaration of the result of the general election. The National Independent Electoral Commission shall determine the date of the first session.</p> <p>(2) The Upper House of the Federal Parliament must hold two regular sessions each year, and each session shall last for a minimum of four (4) months.</p> <p>(3) The Rules of Procedure of the Upper House of the Federal Parliament shall</p> | <p>(1) The House of Regional State Delegates convenes when required by the Constitution or the law or if called for an extraordinary session by the President of the Federal Republic of Somalia or at least three of the executive heads of the Regional States.</p> <p>(2) The House of Regional State Delegates shall sit in public, unless a closed session is required to protect the personal rights of an individual or is of national interest as to be determined by the rules of procedures.</p> <p>(3) The Rules of Procedure of the House of Regional State Delegates shall determine the procedures of invitation, preparation, venue, and</p> | <i>As the House of the Regional State Delegates wont be a permanent institution, it is suggested to provide for sessions only when so required and to limit the possibility of extraordinary sessions.</i> |

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| <p>determine the timings, the dates and the resting period of the regular sessions of the Upper House of the Federal Parliament.</p> <p>(4) The Upper House of the Federal Parliament shall be convened for a special session whenever:</p> <p>(a) Called by the Prime Minister;</p> <p>(b) Called by its Speaker; or</p> <p>(c) Requested in writing by at least two (2) Federal Member States.</p>                                              | <p>proceedings.</p> |                                                                                                                                                                                                         |
| <p><b>Article 75. Rules of Procedure of the Upper House of the Federal Parliament</b></p>                                                                                                                                                                                                                                                                                                                                                         |                     |                                                                                                                                                                                                         |
| <p>(1) The Upper House of the Federal Parliament shall adopt its own rules of procedure, which shall provide for full participation of its members.</p> <p>(2) The Upper House of the Federal Parliament shall divide itself into committees that shall facilitate the fulfilment of duties allocated to them by the Upper House of the Federal Parliament.</p> <p>(3) When draft legislation is tabled before the Upper House of the Federal</p> |                     | <p><i>It is suggested to merge this provision with the one before and to provide for the rules of procedures to determine the details for the sessions and proceedings of the House, see above.</i></p> |

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| <p>Parliament, it shall task the relevant House committee to study it, and present a report of its findings and recommendations to the plenary of the House.</p> <p>(4) Draft legislation rejected by the Upper House of the Federal Parliament cannot be returned before the Upper House of the Federal Parliament for thirty (30) days from the day of the rejection of the legislation.</p> <p>(5) The Upper House of the Federal Parliament and its committees shall sit in public, in accordance with the general principle of transparency in government.</p> |                                                                                                                                                                                                                                                           |                                              |
| <b>Article 76. Decision-making in the Upper House of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Article 75: Decision-making in the House of Regional State Delegates</b>                                                                                                                                                                               |                                              |
| <p>(1) Unless stated otherwise by the Constitution, each member of the Upper House of the Federal Parliament shall have one vote.</p> <p>(2) Decisions of the Upper House of the Federal Parliament can pass only with a majority vote of the total membership of the Upper House of the Federal</p>                                                                                                                                                                                                                                                                | <p>(1) Each delegate in the House of Regional State Delegates shall have one vote.</p> <p>(2) Decisions of the House of Regional State Delegates can pass only with a majority vote fifty percent plus one (50% +1) of the total number of delegates.</p> | <i>Only technical refinements suggested.</i> |

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| Parliament.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                             |                                                                                                                                                                                                 |
| <b>Article 77. Presence of Ministers in the Sessions of the Upper House of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                             |                                                                                                                                                                                                 |
| <p>(1) Ministers may attend the sessions of the Upper House of the Federal Parliament, and may speak, but shall not have the right to vote. The rules of procedures of the Upper House of the Federal Parliament may provide for regular sessions in which ministers respond to written or oral questions from members of the House.</p> <p>(2) The Upper House of the Federal Parliament or its committees may summon the Prime Minister and members of the Council of Ministers to ask them questions related to their duties.</p> <p>(3) The Upper House of the Federal Parliament or its Speaker, shall inform the above officials in writing of the subject matter of the meeting at least one week before the agreed date of the meeting.</p> |                                                                                             | <p><i>It is suggested not to provide for such regulation as the control of and interaction with the Federal Government is perceived to be the function of the House of the People only.</i></p> |
| <b>Article 78. The Immunity of the Members of the Upper House of the</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>Article 76: The Immunity of the Members of the House of the Regional State Delegates</b> |                                                                                                                                                                                                 |

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| <b>Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                |
| <p>(1) The members of the Upper House of the Federal Parliament shall have the same immunity as that of members of the House of the People of the Federal Parliament stated in this Constitution.</p> <p>(2) The Upper House of the Federal Parliament cannot be dissolved.</p>                                                                                                                                       | <p>(1) No delegate in the House of Regional State Delegates shall be penalised for publicly expressing his or her opinion and views in the exercise of his or her function as delegate in the House of the Regional State Delegates, except for cases of incitement to violence.</p> <p>(2) A special law shall define the privileges of members of the House of Regional State Delegates.</p> | <p><i>Since the delegates are not permanent members of parliament, it is suggested to limit their immunities to the exercise of their duties as members of parliament.</i></p> |
| <b>Article 79. Draft Legislation</b>                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                |
| <p>(1) In accordance with this Constitution, draft legislation consists of the proposal of a draft law, including:</p> <p>(a) Reviewing, replacing, and proposing amendments to the Constitution;</p> <p>(b) Writing and preparing a new draft law that is not related to the annual budget;</p> <p>(c) Proposing a new draft law that is not related to the annual budget;</p> <p>(d) Reviewing an existing law.</p> |                                                                                                                                                                                                                                                                                                                                                                                                | <p><i>This is Article is considered unnecessary and therefore is suggested to be deleted.</i></p>                                                                              |

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| <p>(2) The debate on draft legislation for reviewing this Constitution shall be initiated at the House of the People of the Federal Parliament.</p> <p>(3) The debate on any draft law may be initiated at either House of the Federal Parliament.</p>                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                             |
| <b>Article 80. Initiating New Laws</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Article 77: Initiating New Laws</b>                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                             |
| <p>(1) Draft legislation at the National Level may be initiated by;</p> <p>(a) The Council of Ministers; or</p> <p>(b) At least ten (10) members of the House of the People of the Federal Parliament, except draft legislation that concerns the annual budget which shall be initiated only by the Council of Ministers.</p> <p>(2) Draft legislation may be proposed to the Upper House of the Federal Parliament by;</p> <p>(a) At least one representative of a Federal Member State; or</p> <p>(b) Any committee of the Upper House of the Federal Parliament.</p> | <p>(1) The annual budget of the Federal Government shall be initiated by the Council of Ministers only.</p> <p>(2) All other draft legislation within the legislative competence of the Federal Government may be initiated by;</p> <p>(a) The Council of Ministers; or</p> <p>(b) At least ten (10) members of the House of the People.</p> | <p><i>As the House of Regional State Delegates is not involved in the law making process, regulation of the initiation of laws can be limited to the differentiation between budget and other laws.</i></p> |

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| <b>Article 81. Political Resolutions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |                                                                                                   |
| <p>(1) Both Houses of the Federal Parliament can initiate draft legislation.</p> <p>(2) Only the House of the People of the Federal Parliament has the authority to reject draft legislation.</p> <p>(3) If there are differences with regard to draft legislation between the two Houses of the Federal Parliament, either House may call for a joint committee of both Houses to attempt to resolve the differences and to suggest a harmonised draft legislation to both Houses in the spirit of intergovernmental cooperation as stipulated in Article 51 and 52 of this Constitution.</p> <p>(4) Only the House of the People of the Federal Parliament may send draft legislation to the President of the Federal Republic for his signature and its publication in the Official Gazette.</p> |  | <p><i>This is Article is considered unnecessary and therefore is suggested to be deleted.</i></p> |
| <b>Article 82. Draft Laws Initiated in the House of the People of the Federal Parliament</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |                                                                                                   |

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| <p>(1) When the House of the People of the Federal Parliament receives a draft law, it may take any of the following courses of action:</p> <p>(a) To pass it in unchanged form, or pass it with amendment(s) and then refer it to the Upper House of the Federal Parliament for approval; or</p> <p>(b) To reject it and inform the Upper House of the Federal Parliament of the reasons for the rejection.</p> <p>(2) When the Upper House of the Federal Parliament receives a draft law passed by the House of the People of the Federal Parliament, it may take any of the following courses of action:</p> <p>(a) To pass it the way it has been received, and send it back to the House of the People of the Federal Parliament;</p> <p>(b) To amend the draft law, and refer it back to the House of the People of the Federal Parliament, with reasons for the amendment(s); or</p> <p>(c) To reject the draft law, and refer it back to the House of the People of the Federal Parliament, with reasons for its rejection.</p> |  | <p><i>This Article would not be needed if the House of the Regional State Delegates is not involved in the law making process. Thus the suggestion to delete it.</i></p> |
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| <p>(3) When the House of the People of the Federal Parliament receives a draft law passed by the Upper House of the Federal Parliament, it shall send it to the President of the Federal Republic of Somalia, for his signature, and its publication in the Official Gazette.</p> <p>(4) When the House of the People of the Federal Parliament receives a draft law that has been amended by the Upper House of the Federal Parliament it can do either of the following:</p> <p>(a) To accept the amendment on the draft law, and then submit it to the President of the Federal Republic of Somalia for his signature, and its publication in the Official Gazette; or</p> <p>(b) To reject the amendment and over-rule the decision of Upper House of the Federal Parliament through a two-thirds (2/3) majority vote of the total membership of the House of the People of the Federal Parliament, and then submit it to the President of the Federal Republic of Somalia, for his signature, and its publication in the Official Gazette.</p> <p>(5) When the House of the People of the Federal Parliament receives a draft</p> |  |  |
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| <p>law that has been rejected by the Upper House of the Federal Parliament, it can do either of the following:</p> <p>(a) To accept the rejection and abandon the draft law; or</p> <p>(b) To over-rule the rejection of the Upper House of the Federal Parliament with a two-thirds (2/3) majority vote of the total membership of the House of the People of the Federal Parliament and then submit it to the President of the Republic for his signature and its publication in the Official Gazette.</p> |  |                                                                                                                                                                                |
| <b>Article 83. Draft Laws Initiated in the</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |                                                                                                                                                                                |
| <p><b>Upper House of the Federal Parliament</b></p> <p>(1) When the Upper House of the Federal Parliament receives a draft law, it can do either of the following:</p> <p>(a) To pass it in unchanged form, or pass it with amendment(s), and then refer it to the House of the People of the Federal Parliament for approval; or</p> <p>(b) To reject it, and inform the House of the People of the Federal Parliament of the reasons for the rejection.</p> <p>(2) When the House of the People of</p>     |  | <p><i>This Article would not be needed if the House of the Federal Member State Delegates is not involved in the law making process. Thus the suggestion to delete it.</i></p> |

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| <p>the Federal Parliament receives a draft law that has been passed by the Upper House of the Federal Parliament, it may act in any of the following ways:</p> <p>(a) To accept it the way it was submitted by the Upper House of the Federal Parliament and then submit it to the President of the Federal Republic of Somalia, for his signature, and its publication in the Official Gazette;</p> <p>(b) To amend it and refer it back to the Upper House of the Federal Parliament, with reasons for the amendment(s); or</p> <p>(c) To reject it and refer it back to the Upper House of the Federal Parliament, with reasons for the rejection.</p> <p>(3) When the Upper House of the Federal Parliament receives a draft law that has been amended by the House of the People of the Federal Parliament, it may act in any of the following ways:</p> <p>(a) To accept the amendment to the draft law without voting and then refer it back to the House of the People to submit it to the President of the Republic so as to sign it and then publish it in the Official Gazette; or</p> <p>(b) To reject the amendment and over-</p> |  |  |
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| <p>rule the decision of the House of the People of the Federal Parliament by a two-thirds (2/3) majority vote of the total membership of the House, and then refer it back to the House of the People of the Federal Parliament.</p> <p>(4) When the Upper House of the Federal Parliament receives a draft law that has been rejected by the House of the People of the Federal Parliament, it may do either of the following:</p> <p>(a) To accept the rejection, and abandon the draft law; or</p> <p>(b) To over-rule the rejection of the House of the People through by a two-thirds (2/3) majority vote of the total membership of the Upper House, and then refer it back to the House of the People of the Federal Parliament.</p> <p>(5) When the House of the People of the Federal Parliament receives a draft law that it has amended, and the amendment has been accepted by the Upper House of the Federal Parliament, it shall submit the draft law to the President of the Federal Republic of Somalia for his signature, and its subsequent publication in the Official Gazette.</p> |  |  |
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| <p>(6) When the House of the People of the Federal Parliament receives a draft law that it has amended or rejected, and its decision has been over-ruled by the Upper House of the Federal Parliament, it may do either of the following:</p> <p>(a) To over-rule the decision of the Upper House of the Federal Parliament by a two- third (2/3) majority vote of the total membership of the House of the People of the Federal Parliament, and drop the draft law; or</p> <p>(b) To accept the decision of the Upper House of the Federal Parliament, and submit the draft law to the President of the Federal Republic for his signature and its publication in the Official Gazette.</p> <p>(7) If the two Houses of the Federal Parliament differ on a draft law, when the draft law reaches the level mentioned in section 4 or 6, either of the Houses can request for the formation of a joint committee of the two Houses in order to settle the difference and come up with a draft law that both Houses agree on based on the general principles of intergovernmental cooperation as</p> |  |  |
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| stipulated in Article 51 and 52 of this Constitution.                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                    |
| <b>Article 84. Publishing and Keeping Records of Laws</b>                                                                                                                                                                                                 | <b>Article 78: Keeping and Publishing of Records</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                    |
| The secretaries of the Houses of the Federal Parliament and the Attorney General of the Federal Republic of Somalia shall be responsible for keeping records of laws passed by the Federal Parliament, and for their publication in the Official Gazette. | The Secretary General of the House of the People shall be responsible for taking, keeping and publishing the minutes of committee or plenary sittings of both Houses of the Federal Parliament.                                                                                                                                                                                                                                                                                                                                                       | <i>It is suggested to limit this provision to the taking, keeping and publishing of minutes and merge the regulation of the publication of laws in the Article on Assent to Legislation below.</i> |
| <b>Article 85. Assent to Legislation</b>                                                                                                                                                                                                                  | <b>Article 79: Assent to Legislation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                    |
| Draft legislation becomes law once it has been passed in accordance with the legislative procedure as stipulated in this Chapter, signed by the President of the Federal Republic, and published in the Official Gazette.                                 | <p>(1) Every law adopted by the House of the People shall be promulgated by the President of the Federal Republic of Somalia within thirty (30) days of its adoption, failing which the Speaker of the House of the People may sign the adopted law.</p> <p>(2) Within the period fixed for promulgation, the President of the Federal Republic of Somalia may return the adopted law to the House of the People for reconsideration with specification of one of the following reasons:</p> <p>(a) The law contradicts the constitution or other</p> | <i>It is suggested to provide only for a suspensive veto of the President of the Republic, which can be overturned by Parliament in order to avoid deadlocks.</i>                                  |

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|                                                                                                                                                                                                  | <p>existing laws;</p> <p>(b) The law has not been passed in accordance with the legislative procedures provided by the Constitution; or</p> <p>(c) The law is against national interests.</p> <p>(3) If the President of the Federal Republic of Somalia returns a law to the Federal Parliament in terms of Paragraph (2) and the House of the People approves the law again with a fifty percent plus one (50% +1) majority vote of its total membership, the President shall sign the law within fifteen (15) days of its approval, failing which the Speaker of the House of the People may sign the adopted law.</p> <p>(4) The Solicitor General shall keep and publish laws passed by the House of the People and signed by the President of the Federal Republic of Somalia or the Speaker of the House of the People in the Official Gazette.</p> |                                                                                                                          |
| <b>Article 86. Challenging Legislation</b>                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                          |
| <p>(1) Legislation that has been passed in accordance with the legislative procedure, as stipulated in this Chapter, may be challenged only if it is alleged to contradict the Constitution.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p><i>It is suggested to provide for the challenge of legislation in the provisions on the Constitutional Court.</i></p> |

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| <p>(2) Legislation that has been passed in accordance with the legislative procedure, as stipulated in this Chapter, may be challenged by:</p> <p>(a) All members of the Upper House of the Federal Parliament or one representative of a Federal Member State;</p> <p>(b) A third of the members of the House of the People of the Federal Parliament;</p> <p>(c) The Council of Ministers of the Federal Republic of Somalia; or</p> <p>(d) Ten thousand (10,000) or more registered voters.</p> <p>(3) Legislation that has been challenged, in accordance with Clause 1 and 2 of this Article, must be presented to, and decided upon, only by the Constitutional Court.</p> <p>(4) If the Constitutional Court dismisses a challenge to the legislation, the expenses shall be met by the party that has brought the matter to the Constitutional Court.</p> |                                                 |  |
| <b>Suggested to be added:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Article 80: Parliamentary Investigations</b> |  |

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|                                                                                                                                        | <p>(1) The House of the People has the power to carry out, through its committees and other experts, any form of investigations, which are in the public interest, and may summon any person or institution to appear before it to give evidence.</p> <p>(2) In accordance with the laws of the Federal Republic of Somalia, the House of the People may compel any person or institution to comply with a summon or other duty stated.</p> | <p><i>It is suggested to include a new provision that gives the House of the People the power to investigate issues of national interest and concern for reasons of accountability and transparency.</i></p> |
| <p><b>CHAPTER 7 &amp; 8:</b></p> <p><b>THE PRESIDENT AND THE EXECUTIVE BRANCH OF GOVERNMENT OF THE FEDERAL REPUBLIC OF SOMALIA</b></p> | <p><b>CHAPTER 7:</b></p> <p><b>THE EXECUTIVE</b></p>                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                              |
| <b>Constitutional Text</b>                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                              |
| <b>Article 87. The President of the Federal Republic of Somalia</b>                                                                    | <b>Article 81: The Role and Functions of the President</b>                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                              |
| <p>(1) The President of the Federal Republic of Somalia is:</p>                                                                        | <p>(1) The President of the Federal Republic of Somalia is:</p>                                                                                                                                                                                                                                                                                                                                                                             | <p><i>It is suggested to abolish the Office of the Prime Minister and make the President the ceremonial head of state</i></p>                                                                                |

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| <p>(a) The Head of the State of the Federal Republic of Somalia;</p> <p>(b) The symbol of the national unity;</p> <p>(c) The guardian and promoter of the founding principles of the Constitution.</p> <p>(2) The President of the Federal Republic of Somalia shall carry out his duties in accordance with the Constitution and the other laws of the Federal Republic of Somalia.</p> | <p>(a) The Head of the State of the Federal Republic of Somalia; and</p> <p>(b) The head of the Executive of the Fedreral Government;</p> <p>(2) The President of the Federal Republic of Somalia shall carry out his or her duties in accordance with the Constitution and the laws of the country.</p> | <p><i>and political head of government. Reason for this suggestion is the constant infighting between President and Prime Ministers in recent years. It seems that the division of the position of head of the executive did not work out particularly well in the Somali context. The reason could be the Siyad Barre legacy, causing a President to believe that naturally he would have similar powers. Another reason could be current clan dynamics, making a President automatically a political fugure. In any case, this unfortunate state of affairs could be avoided by merging the two head of executive positions by making the President head of state and head of government and providing for a Deputy President instead of Prime Minister.</i></p> <p><i>In light of the suggestion to make the President head of state and head of government, the President clearly would hold a political position and thus it is suggested that the office holder should not be labelled protector of the constitution or a national symbol. Naturally, he could not play such a role for his political opposition.</i></p> |
| <p><b>Article 88. Eligibility Criteria for the position of President of the Federal Republic of Somalia</b></p>                                                                                                                                                                                                                                                                          | <p><b>Article 82: Eligibility Criteria for the Presidency</b></p>                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>Any citizen is eligible for the position of President of the Federal Republic of Somalia, as long as he or she meets the</p>                                                                                                                                                                                                                                                          | <p>(1) The candidates for the President and Deputy President of the Federal Republic of Somalia shall</p>                                                                                                                                                                                                | <p><i>In order to safeguard and enhance the loyalty of the person seeking to hold the Office of the President of Federal Republic of Somalia, it is suggested to include</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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| <p>eligibility requirements of:</p> <p>(a) Being a Somali citizen and a Muslim;</p> <p>(b) Being not less than forty years of age;</p> <p>(c) Having relevant knowledge or experience for the role;</p> <p>(d) Having a sound mind; and</p> <p>(e) Not having been convicted by a court of a major crime.</p> | <p>meet the following eligibility requirements:</p> <p>(a) Being Somali citizens and Muslims;</p> <p>(b) Having parents of Somali citizen of the Federal Republic of Somalia;</p> <p>(c) Having a university-level degree or knowledge and equivalent experience;</p> <p>(d) Being not less than 40 years of age;</p> <p>(e) Not married to a foreigner;</p> <p>(f) Being of sound mind; and</p> <p>(g) Not having been convicted for a crime by a court with a final sentence.</p> <p>(2) Before the candidature of a person is accepted, the National Independent Electoral Commission shall verify whether the candidate meets the criteria set out in this Article.</p> | <p><i>Letters (c) &amp; (d) and requiring a presidential candidate to have Somali parents and not being married to a foreigner.</i></p> <p><i>It is also suggested to state clearly who would be in charge in determining whether a presidential candidate meets the required lection criteria of not. In accordance with other provisions, it is suggested to give the National Independent Electoral Commission this role. Therefore the suggestion to include Paragraph (2) in this Article.</i></p> |
| <p><b>Article 89. Election of the President of the Federal Republic of Somalia</b></p>                                                                                                                                                                                                                        | <p><b>Article 83: Election of the President and Deputy President</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>(1) The Houses of the Federal Parliament shall elect the President of the Federal Republic of Somalia in a joint session, presided over by the Speaker of the House of the People of</p>                                                                                                                   | <p>(1) The President and Deputy President of Somali Federal Republic of Somalia are elected by the people of the Federal Republic of Somalia in a direct, fair, equal, secret and free election.</p> <p>(2) Every presidential candidate has to declare his</p>                                                                                                                                                                                                                                                                                                                                                                                                             | <p><i>In a presidential system, the President exercises significant political powers, therefore it is suggested to provide the President with direct democratic legitimacy and have him or her directly elected by the Somali people. It is also suggested to have the President elected</i></p>                                                                                                                                                                                                        |

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| <p>the Federal Parliament.</p> <p>(2) A minimum of two-thirds (2/3) of the members of each House of the Federal Parliament must be present when electing the President of the Federal Republic of Somalia.</p> <p>(3) Candidatures must be proposed to the joint session of the Houses of the Federal Parliament by a minimum of twenty (20) members of the House of the People of the Federal Parliament, or a minimum of one (1) Federal Member State.</p> <p>(4) When the members of the Upper House of the Federal Parliament are voting for the President of the Federal Republic of Somalia, each one of them has one vote.</p> <p>(5) Every presidential candidate has to declare his candidacy to the Houses of the Federal Parliament and shall present his election programme to the Federal Parliament, which shall then elect the President by the following process:</p> <p>(a) The election of the President of the Federal Republic of Somalia shall be conducted by secret ballot;</p> | <p>or her candidacy together with a candidate for the office of the Deputy President to the National Independent Electoral Commission, which evaluates whether the candidates meet the necessary eligibility criteria and publishes the names of all accepted candidates.</p> <p>(3) The candidates who gains an absolute majority of fifty percent plus one (50%+1) of registered voters and at least 25 percent of the votes in half of the Regional States in the first round of voting shall be elected President and Deputy President of the Federal Republic of Somalia.</p> <p>(4) If no candidates gain a necessary majority in the first round of voting in terms of Paragraph (3), the National Independent Electoral Commission shall organize a second round of voting for the two candidatures with the greatest number of votes from the first round, and any candidates who gain the greatest number of votes in the second round shall be elected President and Deputy President of the Federal Republic of Somalia.</p> | <p><i>together with a Deputy President as running mate so as to provide for a greater constituency basis for the presidency. It is suggested to have the National Electoral Commission to organize such presidential elections.</i></p> |
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| <p>(b) Any candidate who gains a two-thirds (2/3) majority vote of the total membership of the two Houses of the Federal Parliament shall be elected President of the Federal Republic of Somalia;</p> <p>(c) If no candidate gains the necessary two-thirds (2/3) majority in the first round, a second round of voting shall be conducted for the four candidates with the greatest number of votes from the first round, and any candidate who gains a two-thirds (2/3) majority vote of the total membership of the two Houses of the Federal Parliament in the second round shall be elected President of the Federal Republic of Somalia;</p> <p>(d) If no candidate gains the necessary two-thirds (2/3) majority in the second round, a third round of voting shall be conducted between the two candidates with the greatest number of votes from the second round, and the candidate who gains the greatest number of votes in the third round shall be elected President of the Federal Republic of Somalia.</p> |                                                                            |  |
| <p><b>Article 90. The Responsibilities and Powers of the President of the Federal</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p><b>Article 84: The Powers and Responsibilities of the President</b></p> |  |

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| <p>The powers and responsibilities of the President of the Federal Republic of Somalia are to:</p> <p>(a) Declare a state of emergency and war in accordance with the law;</p> <p>(b) Serve as Commander in Chief of the Armed Forces;</p> <p>(c) Appoint and dismiss the Commanders of the Forces at the Federal Government Level on the recommendation by the Council of Ministers;</p> <p>(d) Appoint the Prime Minister, and to dissolve the Federal Government if it does not get the required vote of confidence from the House of the People of the Federal Parliament by a simple majority (50% +1);</p> <p>(e) Dismiss ministers, state ministers and deputy ministers on the recommendation of the Prime Minister;</p> <p>(f) Sign draft laws passed by the Federal Parliament in order to bring them into law; (g) Open the House of the People of the Federal Parliament;</p> <p>(h) Hold an annual session with the</p> | <p>The powers and responsibilities of the President of the Federal Republic of Somalia are the following:</p> <p>(a) To represent the Federal Republic of Somalia as head of state;</p> <p>(b) To be the head of the Council of Ministers of the Federal Government;</p> <p>(c) To appoint and dismiss members of the Council of Ministers;</p> <p>(d) To maintain the harmony of the Federal Government policy by coordinating and promoting the functions of ministries, agencies and offices;</p> <p>(e) To sign decisions of the Council of Ministers;</p> <p>(f) To countersign with individual members of the Council Ministers important decisions that are outside the administration of their everyday work;</p> <p>(g) To convene the regular and irregular meetings of the Forum of Cooperation between the Federal Government and the Regional State Governments;</p> <p>(h) To enhance the promotion of good governance throughout the Federal Republic of Somalia;</p> <p>(i) To serve as Commander in Chief of the Armed Forces;</p> <p>(j) To formally appoint and dismiss the Commanders of the Armed Forces;</p> | <p><i>As per the suggestion above to make the President Head of State and Head of Government, this Article is suggested to be adjusted accordingly. Powers thus include to be the head of the Council of Ministers and to appoint and dismiss members of the Council of Ministers on own discretion.</i></p> |

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| <p>House of the People of the Federal Parliament; (i) Address the House of the People of the Federal Parliament at any other time;</p> <p>(j) Appoint the chairman of the Constitutional Court, the High Court, and other judges at the Federal Government Level in accordance with the recommendation of the Judicial Service Commission;</p> <p>(k) Appoint senior Federal Government officials and the heads of the Federal Government Institutions on the recommendation of the Council of Ministers;</p> <p>(l) Appoint ambassadors and high commissions on the recommendation of the Council of Ministers;</p> <p>(m) Receive foreign diplomats and consuls;</p> <p>(n) Confer State Honours on the recommendation of the Council of Ministers;</p> <p>(o) Dissolve the House of the People of the Federal Parliament when its term expires, thereby prompting new elections;</p> <p>(p) Pardon offenders and commute</p> | <p>(k) To appoint ambassadors and senior civil servants of the Federal Government upon proposal of the Council of Ministers;</p> <p>(l) To formally appoint and dismiss members of Independent Commissions and Offices upon the approval of the House of the People in accordance with the procedures provided by the Constitution;</p> <p>(m) To formally appoint and dismiss judges and other members of the judiciary at the Federal Government level and the Constitutional Court in accordance with the procedure provided by the Constitution;</p> <p>(n) To sign draft laws passed by the Federal House of the People in accordance with the procedures provided by the Constitution;</p> <p>(o) To sign international treaties approved by the House of the People in accordance with the procedures provided by the Constitution;</p> <p>(p) To declare a state of emergency or war in accordance with the procedures provided by the Constitution;</p> <p>(q) To grant pardon and commute sentences;</p> <p>(r) To accredit credentials from foreign ambassodars and receive foreign diplomats and senior officials from the international organizations;</p> <p>(s) Confer national honors and awards;</p> |  |
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| sentences on the recommendation of the Judicial Service Commission; and<br><br>(q) Sign international treaties proposed by the Council of Ministers and approved by the House of the People of the Federal Parliament.                           | (t) To carry out any other duties provided by the Constitution or the laws of the country.                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Article 91. Term of Office of the President of the Federal Republic of Somalia</b>                                                                                                                                                            | <b>Article 85: Term of Office of the President and Deputy President</b>                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| The President of the Federal Republic of Somalia shall hold office for a term of four (4) years, starting from the day he takes the oath of the President of the Federal Republic of Somalia, in accordance with Article 96 of the Constitution. | (1) The President and Deputy President of the Federal Republic of Somalia shall hold office for a term of five years, starting from the day they take the oath of President and Deputy President of the Federal Republic of Somalia.<br><br>(2) The President of the Federal Republic of Somalia may be re-elected only once for another term. | <i>The experience over the last years has shown, that four years are a very short period of time for a government and parliament to address all the significant challenges of the Somali state-building process. Basically, a newly established government and parliament required many months to become fully operational and losing many months at the end of their term in preparations for elections. So as to allow for more time to focus on its work and so as to allow the President to develop institutional memory and provide for greater political stability and time for the state-building process, it is suggested to prolong this term of the President from four to five years.</i> |
| <b>Article 92. Impeachment and Discharging of Duties of the President of the Federal Republic of Somalia</b>                                                                                                                                     | <b>Article 86: Impeachment of the President</b>                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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| <p>(1) The House of the People of the Federal Parliament can propose the dismissal of the President of the Federal Republic of Somalia if he is accused of treason, or gross violation of the Constitution or the laws of the Federal Republic of Somalia.</p> <p>(2) The motion for dismissing the President of the Federal Republic of Somalia may be introduced by no less than one-third (1/3) of the total membership of the House of the People of the Federal Parliament, and may be presented to the Constitutional Court, which shall preside over the case to see whether it has legal grounds.</p> <p>(3) If the Constitutional Court determines that the case has legal grounds, the President of the Federal Republic of Somalia may be dismissed by a two-thirds (2/3) majority vote of the total membership of the two Houses of the Federal Parliament.</p> <p>(4) If the President of the Federal Republic of Somalia is dismissed in accordance with Clauses 1-3 of this Article, the Speaker of the House of the People of the Federal Parliament shall</p> | <p>(1) The House of the People can propose the dismissal of the President of the Federal Republic of Somalia if he or she is accused of treason, or gross violation of the Constitution or the laws of the Federal Republic of Somalia.</p> <p>(2) The motion for dismissing the President of the Federal Republic of Somalia may be introduced by no less than one-third (1/3) of the total membership of the House of the People of the Federal Parliament and shall be examined by the relevant committee of the House.</p> <p>(3) The relevant committee of the House of the People shall report its findings to the plenary within fourteen (14) days of receiving the motion.</p> <p>(4) If the plenary of the House of the People approves an affirmative committee report, the motion shall be presented to the Constitutional Court, which shall preside over the case and determine within a maximum of thirty (30) days whether it has legal grounds or not.</p> <p>(5) If the Constitutional Court determines that the case has legal grounds, the President of the Federal Republic of Somalia may be dismissed by a two-third (2/3) majority vote of the total membership of the two Houses of the Federal Parliament.</p> | <p><i>Only technical refinements suggested.</i></p> |

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| assume the duties of the President of the Federal Republic of Somalia.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                 |
| <p><b>Article 93. Resignation of the President of the Federal Republic of Somalia</b></p> <p>The President of the Federal Republic of Somalia may resign to the Federal Parliament through the Speaker of the House of the People of the Federal Parliament.</p>                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p><i>It is suggested to delete this Article and merge its content with the Articles below.</i></p>                                                                                                                                             |
| <b>Article 94. Acting President of the Federal Republic of Somalia</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>Article 87: Acting President</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                 |
| <p>(1) If the President of the Federal Republic of Somalia is absent from the country, or unable to fulfil his duties due to illness or any other reason, the Speaker of the House of the People of the Federal Parliament shall assume these duties until such time as the President of the Federal Republic of Somalia resumes office.</p> <p>(2) If the Speaker of the House of the People of the Federal Parliament assumes the duties of the President of the Federal Republic, the Deputy Speaker of the House of the People of the Federal Parliament shall act as the</p> | <p>(1) If the President of the Federal Republic of Somalia is absent from the country, or temporarily unable to fulfill his or her duties due to illness or any other reason, the Deputy President shall assume the Office as an Acting President until such a time as the President of Somali Federal republic resumes office.</p> <p>(2) If the Deputy President assumes the Office of the President of the Federal Republic of Somalia, he or she shall appoint an Acting Deputy President from among the members of the Council of Ministers.</p> | <p><i>In a presidential system the President functions of executive and legislature are strictly separated. It is therefore suggested to introduce the Office of a Deputy President to fill in for the President in his or her absence.</i></p> |

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| Speaker of the House of the People of the Federal Parliament.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Article 95. Vacancy in the Office of the President of the Federal Republic of Somalia</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Article 88: Vacancy in the Office of the President</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>(1) If the Office of the President of the Federal Republic of Somalia falls vacant, the Speaker of the House of the People of the Federal Parliament shall act as President of the Federal Republic until such time as a new President of the Federal Republic is elected, within a maximum of thirty (30) days.</p> <p>(2) If the President of the Federal Republic suffers a terminal illness that is expected to lead to his or her death within a period of three (3) months and this is attested to by medical experts, the office of the President of the Federal Republic shall legally be deemed vacant.</p> <p>(3) The election of a President of the Federal Republic of Somalia to fill an office left vacant in accordance with Clause 2 of this Article shall be conducted in accordance with the presidential election procedure stated</p> | <p>(1) The Office of the President of the Federal Republic of Somalia may fall vacant for any of the following reasons:</p> <ul style="list-style-type: none"> <li>(a) Death;</li> <li>(b) Written resignation submitted to the Speaker of the House of the People;</li> <li>(c) Impeachment in terms of Article ... of the Constitution; or</li> <li>(d) Permanent inability to fulfill the functions of the office due to mental or physical illness attested by a trusted team of medical doctors.</li> <li>(e) The President being absent from office for a period of sixty (60) consecutive days or ninety (90) days within a year.</li> </ul> <p>(2) If the Office of the President of the Federal Republic of Somalia falls vacant the Deputy President shall act as President of the Federal Republic until a new President of the Federal</p> | <p><i>It is suggested to expand on the situations of vacancy and limit the time a President can be absent from the country. Suggested periods are 60 consecutive days or more than 90 days per year. Reason for this suggestion is the excessive travel and continued absence of the President in recent years that is perceived to have become unreasonable.</i></p> <p><i>As it is suggested to introduce the Office of a Deputy President instead of that of a Prime Minister, it is also suggested to have the Deputy President to fill a vacancy in the Office of the President.</i></p> |

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| <p>in Article 89 of the Constitution.</p> <p>(4) A President of the Federal Republic of Somalia elected in accordance with Clause 3 of this Article shall complete the remaining period of the term of the previous President.</p>                                                                                                                                                                                                  | <p>Republic Somalia is elected.</p> <p>(3) The election of a President of the Federal Republic of Somalia to fill an office left vacant in accordance with Paragraph (2) of this Article shall be conducted within ninety (90) days of the beginning of the vacancy and in accordance with the procedures outlined in Article ... of the Constitution.</p>                                                                                                                                    |                                                     |
| <p><b>Article 96. Oath of the President of the Federal Republic of Somalia</b></p>                                                                                                                                                                                                                                                                                                                                                  | <p><b>Article 89: Oath of the President of the Federal Republic of Somalia</b></p>                                                                                                                                                                                                                                                                                                                                                                                                            |                                                     |
| <p>Before assuming office, the President of the Federal Republic of Somalia shall take an oath before the Federal Parliament, administered by the Chairman of the High Court, which shall be as follows:</p> <p>“I swear in the name of Allah that I will perform my duties honestly and in the best interest of the Nation, People and Religion, and that I will abide by the Constitution and the other Laws of the Country”.</p> | <p>Before assuming office, the President of the Federal Republic of Somalia shall take an oath before the House of the People, administered by the Chief Justice of the Constitutional Court, which shall be as follows:</p> <p>“I swear in the name of Allah that I will discharge faithfully all my duties as President of the Federal Republic of Somalia and defend the constitution and the laws with all my strength in the interests of the country, the people and the religion”.</p> | <p><i>Only technical refinements suggested.</i></p> |

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| <b>Article 97. The Council of Ministers</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Article 90: The Council of Ministers</b>                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                          |
| <p>(1) The executive power of the Federal Government shall be vested in the Council of Ministers, in accordance with the Constitution.</p> <p>(2) The Council of Ministers is the highest executive authority of the Federal Government and consists of the Prime Minister, the deputy prime minister (s), ministers, state ministers and deputy-ministers.</p> <p>(3) The Prime Minister shall appoint deputy prime ministers, ministers, state ministers, and deputy ministers. Those eligible for membership of the Council of Ministers may be, but shall not be limited to, members of the House of the People of the Federal Parliament.</p> <p>(4) Vacancy in the office of the Prime Minister caused by the resignation, dismissal, failure to fulfill responsibility, or death of the Prime Minister shall lead to the dissolution of the Council of Ministers.</p> | <p>(1) The executive power of the Federal Government is vested in the President of the Federal Republic of Somalia.</p> <p>(2) The President presides over the Council of Ministers, which consists of the President, Deputy President, Ministers, State Ministers and Deputy Ministers.</p> <p>(3) Ministers, State Ministers and Deputy Ministers are individually responsible for their functions and actions to the President of the Federal Republic of Somalia.</p> | <p><i>In a presidential system the Council of Ministers serves at the discretion and pleasure of the President. Therefore it is suggested that all executive authority is vested in the President and members of the Council of Ministers are accountable to the President only.</i></p> |
| <b>Article 98. Criteria for Membership of</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Article 91: Criteria for Membership of the Council</b>                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                          |

| the Council of Ministers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | of Ministers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                |
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| <p>(1) The person holding the office of the Prime Minister or Deputy Prime Minister must :</p> <p>(a) Not be below the age of forty (40) years; and</p> <p>(b) Have a university-level education.</p> <p>(2) The person being appointed as Minister, State Minister or Deputy-Minister must:</p> <p>(a) Not be below the age of thirty (30) years; and</p> <p>(b) Have university-level education.</p> <p>(3) During their term of office, members of the Council of Ministers are prohibited from:</p> <p>(a) Holding any responsibility other than that of membership of the House of the People of the Federal Parliament;</p> <p>(b) Having a private profession, or carrying out private commercial, economic, or industrial activities;</p> <p>(c) Purchasing or hiring government assets; or</p> | <p>(1) The person being appointed as Minister, State Minister or Deputy Minister must:</p> <p>(a) Not be below thirty (30) years of age; and</p> <p>(b) Have a recognized university-level education.</p> <p>(2) During their term of office, members of the Council of Ministers are prohibited from:</p> <p>(a) Holding any other public office or responsibility, including that of a member of the Federal Parliament or a Regional State Legislative Assembly;</p> <p>(a) Practicing a private profession, or carrying out private commercial, economic, or industrial activities;</p> <p>(b) Purchasing or hiring government assets; or</p> <p>(c) Selling or renting their assets to the government.</p> | <p><i>Due to the strict separation between the executive and the legislature in a presidential system, it is suggested to prohibit members of the Council to be members of Parliament.</i></p> |

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| (d) Selling or renting their assets to the government.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                     |
| <b>Article 99. Responsibilities of the Council of Ministers</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Article 92: Powers and Responsibilities of the Council of Ministers</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                     |
| <p>The Council of Ministers has the powers to:</p> <p>(a) Formulate the overall government policy and implement it;</p> <p>(b) Approve and implement administrative regulations, in accordance with the law;</p> <p>(c) Prepare draft laws, and table them before the House of the People of the Federal Parliament; (d) Prepare the annual budget and finalise the accounts;</p> <p>(e) Set the national development plan;</p> <p>(f) Implement laws, ensure national security, and protect state interests;</p> <p>(g) Appoint and dismiss senior public officials;</p> <p>(h) Propose the appointment or dismissal of ambassadors, consuls and diplomats; and</p> | <p>(1) The Council of Ministers has the following powers and responsibilities:</p> <p>(a) To formulate the overall government policy and implement it;</p> <p>(b) To approve and implement administrative regulations, in accordance with the law;</p> <p>(c) To prepare draft laws, and table them before the House of the People;</p> <p>(d) To prepare the annual budget and finalise the accounts;</p> <p>(e) To set the national development plan;</p> <p>(f) To implement laws, ensure national security, and protect state interests;</p> <p>(g) To participate in the appointment and dismissal of members of Independent Commissions and Offices in accordance with the procedures provided by the Constitution;</p> <p>(h) To participate in the appointment and dismissal of judges and other members of the judiciary at the Federal Government level and the</p> | <p><i>Only technical refinements suggested.</i></p> |

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| <p>(i) Exercise any other power conferred upon it by the Constitution or by other laws.</p>                                                               | <p>Constitutional Court in accordance with the procedures provided by the Constitution;</p> <p>(i) To advice the President of the Federal republic of Somalia on the appointment of ambassadors and senior civil servants of the Federal Government;</p> <p>(j) To participate in negotiating international treaties and propose to the House of the People in accordance with the procedures provided by the Constitution;</p> <p>(k) To participate in the declaration of a state of emergency or war in accordance with the procedures provided by the Constitution;</p> <p>(l) To carry out any other duties provided by the Constitution or the laws of the country.</p> <p>(2) Every Minister shall perform his or her duties in accordance with the Constitution and the laws of the country.</p> |                                                                                                                                                                                    |
| <p><b>Article 100. Responsibilities and Powers of the Prime Minister</b></p>                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                    |
| <p>The responsibilities of the Prime Minister are to:</p> <p>(a) Be the Head of the Federal Government;</p> <p>(b) Appoint and dismiss members of the</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p><i>This Article would not be needed in a presidential system as there is no Office of a Prime Minister in such system. Therefore the suggestion to delete this Article.</i></p> |

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| <p>Council of Ministers;</p> <p>(c) Present the Council of Ministers and government program before the House of the People of the Federal Parliament to seek their endorsement;</p> <p>(d) Carry out any other function conferred upon him or her by the Constitution or by any other law that complies with the Constitution and its underlying values.</p> |                                                                                                                                                                                                                 |                                                                                                                                        |
| <b>Article 101. Deputy Prime Minister</b>                                                                                                                                                                                                                                                                                                                    | <b>Article 93: Powers and Responsibilities of the Deputy President</b>                                                                                                                                          |                                                                                                                                        |
| <p>The Deputy Prime Minister acts for the Prime Minister when the Prime Minister is out of the country, and carries out other responsibilities as may be delegated by the Prime Minister.</p>                                                                                                                                                                | <p>The Deputy President shall:</p> <p>(a) Assume the office of the President when he or she is absent from the office; and</p> <p>(b) Carry out any function that the President may delegate to him or her.</p> | <p><i>Only technical refinements suggested, including to reflect the suggestion to establish the Office of a Deputy President.</i></p> |
| <b>Article 102. Functions of the Minister, Deputy-Minister, and State Minister</b>                                                                                                                                                                                                                                                                           | <b>Article 94: Powers and Responsibilities of Ministers, State Ministers and Deputy Ministers</b>                                                                                                               |                                                                                                                                        |
| (1) Every Minister is personally                                                                                                                                                                                                                                                                                                                             | (1) Every Minister is personally responsible for the                                                                                                                                                            | <i>Only technical refinements suggested, including</i>                                                                                 |

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| <p>responsible for the functions of his Ministry.</p> <p>(2) Every Deputy-Minister shall carry out functions delegated to him by his Minister.</p> <p>(3) State ministers shall carry out specific functions assigned to them by the Prime Minister.</p> | <p>functions of his or her Ministry.</p> <p>(2) Every State Minister shall carry out the specific functions assigned to him or her by the President and is the second person in charge for the Ministry.</p> <p>(3) Every Deputy-Minister shall carry out the duties delegated to him or her by the Minister.</p> <p>(4) In the absence of any Minister, the President shall appoint a Minister Ad Interim from among the other Ministers of the Council of Ministers to assume the responsibilities of that Ministry.</p> | <p><i>reflecting the suggestion that the President is the head of the Council of Ministers.</i></p>                                                 |
| <b>Article 103. Caretaker Government</b>                                                                                                                                                                                                                 | <b>Article 95: Caretaker Government</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                     |
| <p>Between the date of a general election and the swearing in of the new Prime Minister, the existing Prime Minister and Council of Ministers shall continue to serve in a caretaker capacity to carry out routine duties.</p>                           | <p>Whenever the President is removed from office in terms of Article ... or unable to serve in terms of <b>Article ...</b>, the Deputy President and the Council of Ministers will serve as a caretaker government to carry out routine duties until a new President is elected and a new Council of Ministers is approved and sworn into office.</p>                                                                                                                                                                      | <p><i>Only technical refinements suggested, including to reflect the suggestion that the President is the head of the Council of Ministers.</i></p> |
| <b>Article 104. Oath</b>                                                                                                                                                                                                                                 | <b>Article 96: Oath of the Council of Ministers</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                     |

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| <p>After obtaining a vote of confidence, the Prime Minister and the Council of Ministers shall, before assuming their duties, take the Oath in a special session of the House of the People of the Federal Parliament, administered by the Chairman of the High Court, and which shall read as follows:</p> <p>“I swear in the name of Allah that I will perform my duties honestly and in the best interest of the Nation, People and Religion, and that I will abide by the Constitution and the other Laws of the Country”.</p> | <p>Upon appointment, members of the Council of Ministers before assuming their duties, shall take the following Oath:</p> <p>“I swear in the name of Allah that I will discharge faithfully my duties in the best interest of the country, the people and the religion, and will abide by the Constitution and the laws of the country.”</p>                                                                                                                                                                            | <p><i>It is suggested to reflect that members of the Council of Ministers do not require a vote of confidence and thus are required to take their oath upon appointment by the President.</i></p>                                            |
| <p><b>Suggested to be added:</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p><b>Article 97: Organisation of the Federal Government and Internal Rules and Regulations</b></p> <p>(1) The details for the functions and jurisdictions of members of the Council of Ministers and other agencies and offices of the Federal Government shall be provided by a law adopted by the House of the People.</p> <p>(2) (2) In line with the Constitution and the law adopted by the House of the People, the Council of Ministers may adopt its own internal rules and regulations to guide its work.</p> | <p><i>It is suggested to provide for a new Article, which provides for more details on the organization of the Federal Government and its internal rules and regulations, which the current Provisional Constitution does not offer.</i></p> |

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| <b>CHAPTER 9:<br/><br/>THE JUDICIAL SYSTEM OF THE<br/>FEDERAL REPUBLIC OF SOMALIA</b>                                                                                                                                                                                                                                      | <b>CHAPTER 8:<br/><br/>THE JUDICIARY</b>                                                                                                                                                                                                                                                                                                                                                             |                                              |
| <b>Constitutional Text</b>                                                                                                                                                                                                                                                                                                 | <b>Option C: Separated Court System</b>                                                                                                                                                                                                                                                                                                                                                              | <b>Report</b>                                |
| <b>Article 105. The Judicial Authority of<br/>the Federal Republic of Somalia</b>                                                                                                                                                                                                                                          | <b>Article 98: Judicial Authority</b>                                                                                                                                                                                                                                                                                                                                                                |                                              |
| (1) Judicial authority is vested in the courts.<br><br>(2) The judicial structure shall be regulated in a law enacted by the Federal Parliament.                                                                                                                                                                           | (1) All judicial authority is vested in the courts.<br><br>(2) The courts may interpret and apply the law only to the extent provided by the Constitution and the laws of the country.                                                                                                                                                                                                               | <i>Only technical refinements suggested.</i> |
| <b>Article 106. Judicial Independence</b>                                                                                                                                                                                                                                                                                  | <b>Article 99: Judicial Independence</b>                                                                                                                                                                                                                                                                                                                                                             |                                              |
| (1) The judiciary is independent of the legislative and executive branches of government whilst fulfilling its judicial functions. Members of the judiciary shall be subject only to the law.<br><br>(2) No civil or criminal proceedings shall be instituted against a judge in respect of the exercising of any judicial | (1) The judiciary shall be independent of the legislative and executive branches of government and any other form of interference and whilst fulfilling their judicial functions members of the judiciary shall be subject only to the law.<br><br>(2) No civil or criminal proceedings shall be instituted against a member of the judiciary in respect of the exercising of any judicial function. | <i>Only technical refinements suggested.</i> |

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| <p>function.</p> <p>(3) The home or person of a judge cannot be searched without the authorization of the Judicial Service Commission.</p>                                                                                                                                                                                                                                                                                                    | <p>(3) No member of the judiciary may be arrested, prosecuted, detained, imprisoned, be physically searched or his or her home being under surveillance or searched without prior approval of the Higher Judicial Council, unless the member of the judiciary has been caught in the act of committing a crime that calls for compulsory detention orders.</p>                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                |
| <b>Article 107. Judicial Procedure</b>                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Article 100: Judicial Proceedings</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                |
| <p>(1) Judicial proceedings shall be open to the public, but the courts may decide, in the interests of ethics, national security, the protection of witnesses, in cases involving juveniles, or concerning rape, that the proceedings be held in private.</p> <p>(2) No judicial decision shall be made unless all parties have had the opportunity to present their case.</p> <p>(3) Reasons shall be given for all judicial decisions.</p> | <p>(1) Everyone shall have equal access to courts regardless of his or her financial, physical, social position or other status.</p> <p>(2) Judicial proceedings shall be open to the public; the courts may decide that the proceedings be held in private for the following reasons:</p> <ul style="list-style-type: none"> <li>(a) For reasons of national security;</li> <li>(b) In the interests of ethics;</li> <li>(c) For the protection of witnesses;</li> <li>(d) In cases involving juveniles;</li> <li>(e) In cases concerning rape; or</li> <li>(f) Any other reason superseding the interests of publicity of proceedings after careful evaluation of the presiding judge.</li> </ul> <p>(3) All parties shall be treated equally and dignified in court.</p> | <p><i>It is suggested to expand on the principles of judicial proceedings as the current regulation is not providing for many internationally accepted judicial principles and standards and this is considered not to sufficiently address this issue</i></p> |

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|                                                                                                                                                                                                                                                                                                                                                                                                      | <p>(4) No judicial decision shall be made unless all parties have had the opportunity to present their case.</p> <p>(5) Judicial decisions must be rendered without unreasonable delay.</p> <p>(6) Judicial decisions shall be notified to the parties, made public and be adequately recorded.</p> <p>(7) For all judicial decisions reasons shall be given in writing.</p> <p>(8) Any judicial decisions shall make reference to the possibility of appeal.</p>                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Article 108. National Court Structure</b>                                                                                                                                                                                                                                                                                                                                                         | <b>Article 101: Court Structure</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>The national court structure shall be of three levels, which are: (a) The Constitutional Court;</p> <p>(b) The Federal Government level courts;</p> <p>(c) The Federal Member State level courts. The highest court at the Federal Government level shall be the Federal High Court, whilst the highest court at the Federal Member State level shall be the Federal Member State High Court.</p> | <p>(1) The court structure of the Federal Republic of Somalia shall be as follows:</p> <p>(a) The Constitutional Court as specialized court adjudicating constitutional matters and as highest court of the country;</p> <p>(b) The Federal Supreme Court as last instance court of appeal for federal laws;</p> <p>(c) Federal Courts of Appeal as the first instance of appeal for federal laws;</p> <p>(d) Regional State Courts of Appeal as last instance courts of appeal for Regional State laws;</p> <p>(e) Federal Regional Courts with first instance jurisdiction for federal laws;</p> | <p><i>It is suggested to establish a separate court structure in which federal courts only adjudicate on federal laws and Federal Member State courts only adjudicate on Federal Member State laws. This would provide for the independence of Regional States in legal and judicial matters to the maximum extend possible, but would also imply significant administrative and financial efforts to be made.</i></p> |

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|                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>(f) Regional State Courts with first instance jurisdiction for Regional State laws.</p> <p>(g) Federal District Courts with first instance jurisdiction for federal laws; and</p> <p>(h) Regional State District Courts with first instance jurisdiction for Regional State Laws.</p> <p>(2) A court with specialized jurisdictions may only be established by a law enacted by the House of the People.</p> <p>(3) A law enacted by the House of the People may establish Military Tribunals for times of war or for offences committed by the members of the Armed Forces in time of peace.</p> |                                                                                                                                                                                                              |
| <b>Article 109. The Proceedings of the National Courts</b>                                                                                                                                                                                                                                                                                                                                                       | <b>Article 102: The Jurisdiction of Courts</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                              |
| <p>(1) If a case is presented before a court, and the case concerns the Federal Government, the court shall refer the case to the Federal Government level court.</p> <p>(2) If a case is presented before a court and the case concerns a constitutional matter, the court may refer the case to the Constitutional Court.</p> <p>(a) Any court with judicial powers can decide on whether a matter brought</p> | <p>(1) Every court has to remain within its competences and jurisdiction as prescribed by the Constitution and the law and is obliged to refer cases to the competent court.</p> <p>(2) Federal courts may only decide cases on the basis of federal laws;</p> <p>(3) Regional State courts may only decide cases on the basis of the laws of their respective Regional State.</p> <p>(4) If a case is presented before a court and the case concerns a constitutional matter, the court shall refer the case to the Constitutional</p>                                                              | <p><i>In a separate court structure jurisdiction over federal and Regional State laws needs to be clarified. Also the special jurisdiction of the Constitutional Court is suggested to be clarified.</i></p> |

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| <p>before it is a constitutional matter or not, if this will not contradict the exclusive powers of the Constitutional Court, as stipulated in Article 109C of the Constitution;</p> <p>(b) The Constitutional Court is the final authority in constitutional matters;</p> <p>(c) The Constitutional Court shall have sole jurisdiction on matters of interpretation of the Constitution which have not arisen out of court litigation;</p> <p>(d) Any individual or group, or the government may submit a reference application directly to the Constitutional Court on matters concerning the public interest.</p> <p>(3) Notwithstanding Clauses 1 and 2 of this Article, the Federal Parliament shall enact a law providing detailed laws for the interaction between the Federal Government level courts and the Federal Member States courts.</p> | <p>Court.</p>                                                                                           |                                                                                                                  |
| <p><b>Article 109A. The Judicial Service Commission</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p><b>Article 103: The Higher Judicial Council</b></p>                                                  |                                                                                                                  |
| <p>(1) This Constitution establishes a</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>(1) There shall be Higher Judicial Council, which shall ensure the independence of the judiciary</p> | <p><i>Since in a separate court structure the Federal Government and Regional States establish their own</i></p> |

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| <p>Judicial Service Commission.</p> <p>(2) The Judicial Service Commission shall be comprised of nine (9) members, which shall be as follows:</p> <p>(a) The Chief Judge of the Constitutional Court;</p> <p>(b) The Chief Judge of the High Court;</p> <p>(c) The Attorney General;</p> <p>(d) Two (2) people who are members of the Somali Bar, appointed by the Somali Law Society for a four (4) year term;</p> <p>(e) The Chair of the Human Rights Commission;</p> <p>(f) Three (3) people of high reputation within Somali society, proposed by the Council of Ministers, and then appointed by the President for a term of four (4) years, and renewable only once.</p> <p>(3) The Judicial Service Commission shall elect a chair from amongst its members.</p> <p>(4) The term of office for the members of the Judicial Service Commission is five (5) years, renewable only once.</p> <p>(5) A disciplinary regulation passed by</p> | <p>and which shall have an independent budget.</p> <p>(2) The Higher Judicial Council shall be an independent, neutral, and non-partisan institution.</p> <p>(3) The Higher Judicial Council shall be comprised of the following members:</p> <p>(a) The Chief Justice of the Constitutional Court;</p> <p>(b) The Chief Justice of the Supreme Court;</p> <p>(c) The Public Prosecutor at the federal level;</p> <p>(d) The Chair of the Human Rights Commission;</p> <p>(e) Two members of the Somali Bar Association, nominated by the Somali Law Society and to be approved by both Houses of the Federal Parliament serving for five (5) years term;</p> <p>(f) Three persons of high reputation within the Somali society, nominated by the President, upon the recommendation of the Council of Ministers and approved by both Houses of the Federal Parliament.</p> <p>(4) The Chief Justice of the Constitutional Court shall be the Chair of the Higher Judicial Council and the Chief Justice of the Supreme Court the Deputy Chair of the Higher Judicial Council.</p> <p>(5) In accordance with the Constitution, the law and its internal rules and regulations, the Higher Judicial Council shall exercise the</p> | <p><i>separate judicial systems, it is suggested to have the Higher Judicial Council only advise on the administration of justice at the federal level and to allow Regional States to establish their own Judicial Councils.</i></p> <p><i>The name "Higher Judicial Council," is suggested as this is the term traditionally used in Somalia.</i></p> |
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| <p>the Judicial Service Commission shall apply to all the members of the Judicial Service Commission.</p> <p>(6) In accordance with law and regulation, the Judicial Service Commission shall do the following:</p> <p>(a) Appoint, discipline and transfer any member of the judiciary at the Federal level; (b) To decide on remuneration and pensions of members of the judiciary;</p> <p>(c) To decide on other work matters of the judiciary.</p> | <p>following functions:</p> <p>(a) To promote and protect the independence and integrity of the judiciary at the Federal Government level;</p> <p>(b) To regulate the internal organisation of courts and other judicial institutions and offices on the Federal Government level;</p> <p>(c) To advise the Federal Government on the administration and finance of the judiciary;</p> <p>(d) To appoint, discipline, transfer, remove from office, promote the knowledge of the members of the judiciary and to decide on the promotion, remuneration, and pensions of the judges and other members of the judiciary at the Federal Government level and the Constitutional Court;</p> <p>(e) To carry out any other duties provided by the Constitution or the laws of the country.</p> <p>(6) The Regional States shall establish their own Judicial Councils to fulfill these functions for members of the judiciary at the Regional State level.</p> |                                                                   |
| <b>Article 109B. The Formation of the Constitutional Court</b>                                                                                                                                                                                                                                                                                                                                                                                         | <b>Article 104: The Constitutional Court</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                   |
| (1) This Constitution establishes the                                                                                                                                                                                                                                                                                                                                                                                                                  | (1) There shall be a specialized Constitutional                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <i>It is suggested to provide for one consolidated Article on</i> |

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| <p>Constitutional Court, which is composed of five (5) Judges including the Chief Judge and the Deputy Chief Judge.</p> <p>(2) The Judicial Service Commission shall nominate as judge of the Constitutional Court only persons of high integrity, with appropriate qualifications in law and Shari’a, and who are each highly competent in Constitutional matters.</p> <p>(3) The Judicial Service Commission shall propose to the House of the People the person they want to be appointed as a Constitutional judge.</p> <p>(4) If the House of the People of the Federal Parliament approves the name proposed in accordance with Clause 3 of this Article, the President of the Federal Republic shall appoint that Person as a judge of the Constitutional Court.</p> <p>(5) From amongst their members, the Constitutional Court judges shall appoint the Chief Judge and Deputy Chief Judge.</p> | <p>Court with the sole jurisdiction to hear and decide cases concerning constitutional matters.</p> <p>(2) The Constitutional Court shall comprise of nine (9) Constitutional Court judges, including the Chief Justice and Deputy Chief Justice of the Constitutional Court.</p> <p>(3) The judges of the Constitutional Court shall be elected in the following manner:</p> <p>(a) The Higher Judicial Council shall nominate as judge of the Federal Constitutional Court only persons of high integrity, with the necessary qualifications in law obtained from a recognized university, with relevant experience and who are each highly competent in constitutional matters and present its nominees to both Houses of the Federal Parliament;</p> <p>(b) Each House of the Federal Parliament may either approve or reject the nominations by a majority decision of its total membership;</p> <p>(c) Once a nominee is approved by both Houses of the Federal Parliament, the President of the Federal Republic of Somalia shall formally sign his or her appointment, which shall be published in the Official Gazette.</p> <p>(4) From amongst their members, the Constitutional Court judges shall appoint the Chief Justice and Deputy Chief Justice of the</p> | <p><i>the establishment and powers of the Constitutional Court. Also it is suggested to expand on the number of judges of the Constitutional Court so as to provide for sufficient human resources and manpower of such an important court.</i></p> |
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|  | <p>Constitutional Court.</p> <p>(5) The Constitutional Court shall have the following exclusive powers:</p> <p>(a) To hear and decide on cases concerning constitutional matters that have been submitted from ordinary courts to the Constitutional Court;</p> <p>(b) To hear and decide cases submitted to the Constitutional Court by individuals claiming that their fundamental rights have been, are being, or will be violated;</p> <p>(c) To hear and decide cases arising out of disputes between organs of the Federal Government, concerning their respective constitutional powers and duties;</p> <p>(d) To resolve any disputes between the Federal Government and the Regional State governments, or among the Regional State governments after all other remedies have been exhausted;</p> <p>(e) Upon request of the Council of Ministers, ten members of either House of the Federal Parliament, the executive head of a Regional State or 10.000 registered voters to review federal laws, Regional State laws or laws that were enacted prior to the adoption of the Constitution that are still in force, and determine their compatibility with the Constitution;</p> <p>(f) To establish whether a motion to impeach the President of the Federal Republic of Somalia has</p> |  |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>legal grounds or not.</p> <p>(6) A law enacted by the House of the People shall regulate the procedures of the Constitutional Court.</p> |                                                                                                     |
| <p><b>Article 109C. The Powers of the Constitutional Court</b></p> <p>(1) The Constitutional Court shall have the following exclusive powers:</p> <p>(a) Upon request from a member of the Council of Ministers, a committee from either one of the Houses, or ten members of either House of the Federal Parliament, to review draft legislation, and determine its compatibility with the Constitution;</p> <p>(b) To hear and decide cases as stipulated in Article 86 concerning challenges to the constitutionality of a law passed by the Federal Parliament;</p> <p>(c) To hear and decide on cases that have been submitted to the Constitutional court resulting from matters stated in Article 109 (2) (c), concerning matters of interpretation of the Constitution not arising out of Court litigation;</p> <p>(d) To resolve any disputes between the</p> |                                                                                                                                             | <p><i>It is suggested to delete this Article and merge its contents with the Article above.</i></p> |

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| <p>Federal Government and the Federal Member State governments, or among the Federal Member State governments;</p> <p>(e) To hear and decide cases arising out of disputes between organs of the Federal Government, concerning their respective constitutional powers and duties;</p> <p>(f) To hear and decide cases arising in terms of Article 92 concerning the impeachment trials of the President.</p> <p>(2) The Constitutional Court shall determine the date from which the decision to void legislation shall come into effect.</p> <p>(3) In the case of legislation held to be unconstitutional, except in terms of Paragraph (b) of this Clause, taking into account the effect of the decision on the date of invalidation on the stakeholders and other social interests, the constitutional court may declare the legislation invalid from the time of enactment, or from the time of the judgment, or, to enable appropriate action pending invalidity, from a date specified in the future.</p> <p>(4) In the case of criminal legislation, if</p> |  |  |
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| the effect of declaring the law invalid from the enactment date would be of benefit to a person who has been convicted through this unconstitutional legislation, the invalidity must be from the time of enactment. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                               |
| <b>Suggested to be added:</b>                                                                                                                                                                                        | <b>Article 105: The Federal Supreme Court</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                               |
|                                                                                                                                                                                                                      | <p>(1) There shall be a Federal Supreme Court who shall be the highest court of appeal for cases concerning federal laws.</p> <p>(2) The Federal Supreme Court shall comprise of eleven (11) judges, including the Chief Justice and the Deputy Chief Justice of the Federal Supreme Court.</p> <p>(3) The judges of the Federal Supreme Court shall be elected in the following manner:</p> <p style="padding-left: 40px;">(a) The Higher Judicial Council shall nominate as judge of the Federal Supreme Court only persons of high integrity, with the necessary qualifications in law obtained from a recognized university, with more than ten (10) years of experience as a judge and present its nominees to both Houses of the Federal Parliament;</p> <p style="padding-left: 40px;">(b) Each House of the Federal Parliament may either approve the nominations by a majority decision of its total membership</p> | <p><i>It is suggested to add this new Article in order to establish the basic structure and powers of the Supreme Court, which the Provisional Constitution currently does not offer.</i></p> |

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|                               | <p>or reject one or more of the nominees;</p> <p>(c) Once a nominee is approved by both Houses of the Federal Parliament, he or she shall be formally appointed by the President of the Federal Republic of Somalia.</p> <p>(4) The judges of the Federal Supreme Court may be removed from office by the same procedure as of their appointment.</p> <p>(5) From amongst their members, the Federal Supreme Court judges shall appoint the Chief Justice and Deputy Chief Justice of the Federal Supreme Court.</p> <p>(6) A law enacted by the House of the People shall regulate the procedures of the Federal Supreme Court.</p> |                                                                                                                                                                                                                 |
| <b>Suggested to be added:</b> | <b>Article 106: The Public Prosecutor</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                 |
|                               | <p>(1) There shall be as part of the judiciary the Office of the Public Prosecutor.</p> <p>(2) The Office of the Public Prosecutor shall comprise of the Public Prosecutor and such a number of Deputies and Prosecutors at the Federal Government level as established by a law enacted by the Federal Parliament;</p> <p>(3) The Public Prosecutor shall be nominated in</p>                                                                                                                                                                                                                                                       | <p><i>It is suggested to add this new Article in order to establish the basic structure and powers of the Office of the Public Prosecutor, which the Provisional Constitution currently does not offer.</i></p> |

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|  | <p>the following manner:</p> <p>(a) The Higher Judicial Council shall nominate as Public Prosecutor only persons of high integrity, with the necessary qualifications in law obtained from a recognized university, with more than ten (10) years of experience, and present the nominee to both Houses of the Federal Parliament for approval.</p> <p>(b) Each House of the Federal Parliament may either approve the nominee by a majority decision of its total membership or reject him or her;</p> <p>(c) Once a nominee is approved by both Houses of the Federal Parliament, he or she shall be formally appointed by the President of the Federal Republic of Somalia.</p> <p>(4) The Public Prosecutor may be removed from office by the same procedure as of his or her appointment.</p> <p>(5) Upon advice of the Higher Judicial Council, the Public Prosecutor shall appoint his or her Deputies and Prosecutors at the Federal Government level.</p> <p>(6) The Office of the Public Prosecutor shall have the duty to protect, safeguard and defend the rule of law.</p> <p>(7) A law enacted by the House of the People shall regulate the procedures of the Office of the Public Prosecutor.</p> |  |
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| <b>CHAPTER 10:<br/>THE INDEPENDENT COMMISSIONS</b>                                                                                                                              | <b>CHAPTER 9:<br/>THE INDEPENDENT COMMISSIONS</b>                                                                                                    |                                                                                                                                                                                                      |
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| <b>Article 110. General Principles</b>                                                                                                                                          | <b>Article 107. General Principles</b>                                                                                                               | <b>Suggestions</b>                                                                                                                                                                                   |
|                                                                                                                                                                                 | (1) The Federal Government and the Federal Parliament shall establish Independent Commissions based on the actual needs of the country.              | This Paragraph is suggested to be added so as to establish a general principle which gives the Federal Government and Parliament the power to establish Independent Commissions as deemed necessary. |
| (1) An Independent Commission is a body that is independent of government or political control, and able to make use of expertise relevant to the particular areas of its work. | (2) An Independent Commission is a body that is independent from the Government and conducts its activities in accordance with its specific mandate. | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                            |
| (2) In its mandate and operations, an Independent Commission shall embody and reflect the spirit of human rights, democracy and transparency.                                   | (3) In its mandate and operations, an Independent Commission shall embody and reflect the spirit of human rights, democracy and transparency.        | No changes suggested.                                                                                                                                                                                |
| (3) An Independent Commission must not be subject to the direction or control of any person or institution.                                                                     |                                                                                                                                                      | This Paragraph is suggested to be deleted as its content is already provided in Paragraph (2), see above.                                                                                            |
| (4) The funding for each Independent Commission shall be                                                                                                                        | (4) The funding for each Independent Commission shall be allocated by a separate                                                                     | No changes suggested.                                                                                                                                                                                |

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| allocated by a separate vote in the national budget.                                                                                                                                                                                                               | vote in the national budget.                                                                                                                                           |                                                                                                                                                                                                                  |
| <b>Article 111. The Formation of Independent Commissions</b>                                                                                                                                                                                                       | <b>Article 108. The Establishment of Independent Commissions</b>                                                                                                       | <b>Suggestions</b>                                                                                                                                                                                               |
| (1) The country shall have Independent Commissions both at the Federal Government level as well as at the level of the Federal Member States, and their obligations, duties and numbers shall be defined in a law passed by both Houses of the Federal Parliament. | (1) The regulations of the Independent Commissions shall be stated in a law passed by the House of the People.                                                         | It is suggested to leave the details of the establishment of Independent Commissions to be determined by a law enacted by the House of the People.                                                               |
| (2) While putting into consideration the specific tasking that those commissions are entrusted with, the Federal Member States of Somalia must be consulted when appointing the commissioners.                                                                     |                                                                                                                                                                        | This Paragraph is suggested to be deleted as It is suggested to leave the details of the establishment of Independent Commissions to be determined by a law enacted by Parliament, see comment on Paragraph (1). |
|                                                                                                                                                                                                                                                                    | (2) Unless the Constitution or the law establishing the Independent Commission provide otherwise, an Independent Commission shall not have more than nine (9) members. | This Paragraph is suggested to be moved from Article 135 (1) of Provisional Constitution as it is considered to be rightfully placed here.                                                                       |
|                                                                                                                                                                                                                                                                    | (3) Unless the Constitution or the law establishing the Independent Commission                                                                                         | This Paragraph is suggested to be added so as to set minimum standards and general procedures for all Independent Commissions.                                                                                   |

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|  | <p>provide otherwise, members of an Independent Commission shall be appointed according to the following process:</p> <p>(a) The Council of Ministers shall assign the relevant Minister to propose the names of members of an Independent Commission to the Council of Ministers;</p> <p>(b) If the Council of Ministers agrees to the proposed members of an Independent Commission, it shall submit them to the Federal Parliament .</p> <p>(c) The Federal Parliament may approve or dismiss one or all proposed members of an Independent Commission.</p> <p>(d) Once all members of an Independent Commission have been approved by the Federal Parliament , the President shall appoint and formally establish the Independent Commission within a maximum period of 30 days.</p> |                                                                                                                                                                                                                                                                                                                      |
|  | <p>(4) A member of an Independent Commission shall cease to hold office if he or she:</p> <p>(a) Resigns;</p> <p>(b) Dies; or</p> <p>(c) is permanently unable to perform the functions of the office as to be determined by a decision approved by a 2/3 majority vote of the Independent Commission he or</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>This Paragraph is suggested to be added so as to set minimum standards and general procedures for all Independent Commissions. Particularly the need for providing clarity on the end of service of the member of an Independent Commission is considered to be important to be provided by the Constitution.</p> |

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|                                                                                                                                                                                                           | she is a member of.                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                        |
|                                                                                                                                                                                                           | (5) The Council of Ministers, if necessary, may recommend the removal of a member or all members of an Independent Commission from office. The recommendation shall be approved or rejected upon a majority vote of the total membership of the Federal Parliament. | This Paragraph is suggested to be added so as to set minimum standards and general procedures for all Independent Commissions. Particularly the need for providing clarity on the removal of the member of an Independent Commission is considered to be important to be provided by the Constitution. |
| <b>Article 111A. The Judicial Service Commission</b>                                                                                                                                                      |                                                                                                                                                                                                                                                                     | <b>Suggestions</b>                                                                                                                                                                                                                                                                                     |
| (1) There shall be a Judicial Service Commission, which shall advise the Federal Government on the administration of justice including recruitment, dismissal, and any legal action taken against judges. |                                                                                                                                                                                                                                                                     | It is suggested to remove this Article and provide for a Higher Judicial Council in the Chapter on the Judiciary instead.                                                                                                                                                                              |
| (2) The Judicial Service Commission has to be independent, neutral, non-partisan and shall ensure the independence of the judiciary.                                                                      |                                                                                                                                                                                                                                                                     | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                    |
| (3) The Judicial Service Commission shall have powers, and responsibilities as stipulated in the Constitution and the national laws.                                                                      |                                                                                                                                                                                                                                                                     | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                    |
| <b>Article 111B. The Human Rights</b>                                                                                                                                                                     | <b>Article 109. The Human Rights Commission</b>                                                                                                                                                                                                                     | <b>Suggestions</b>                                                                                                                                                                                                                                                                                     |

| Commission                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                  |
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| <p>(1) There shall be a Human Rights Commission that shall be mandated to:</p> <p>(a) Promote respect of human rights, and the culture of human rights;</p> <p>(b) Promote the protection, development, and attainment of human rights; and</p> <p>(c) Monitor and assess the observance of the conduct of human rights in the Federal Republic of Somalia.</p>                                                                                  | <p>(1) The Human Rights Commission shall be mandated to:</p> <p>(a) Promote respect of human rights, and the culture of human rights;</p> <p>(b) Promote the protection, development, and attainment of human rights; and</p> <p>(c) Monitor and assess the observance of the conduct of human rights in the Federal Republic of Somalia.</p>                                                                                                                                                                   | <p>Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.</p> |
| <p>(2) In accordance with the Constitution, the Human Rights Commission shall have powers to perform the following functions:</p> <p>(a) To investigate and report on the observance of human rights;</p> <p>(b) To take steps to secure appropriate redress where human rights have been violated; (c) To carry out research; and</p> <p>(d) To educate the public and state officials on international standards relating to human rights.</p> | <p>(2) In accordance with the Constitution, the Human Rights Commission shall have powers to perform the following functions:</p> <p>(a) To carry out research on comparative international human rights standards and regulations;</p> <p>(b) To educate the public and state officials on international standards relating to human rights;</p> <p>(c) To monitor, investigate and report on the violations and observances of human rights, with evidences attached, in the Federal Republic of Somalia;</p> | <p>Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.</p> |

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|                                                                                                                                                | <p>(d) To develop recommendations on the appropriate observance of human rights and the redress for human rights violations; and</p> <p>(e) To carry out any other function that may be provided by the Constitution or the laws of the Federal Republic of Somalia.</p>                                                                                                                                              |                                                                                                                                                                                                                                                                                              |
| (3) The powers and the activities of the Human Rights Commission shall be stipulated in the Human Rights Commission Act.                       | (3) The Human Rights Commission shall be independent, impartial, and inclusive and shall have not more than nine (9) members.                                                                                                                                                                                                                                                                                         | <p>Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.</p> <p>Also the sequence of Paragraphs (3) and (4) is suggested to be changed so as to provide for a more logical structure of the Article.</p> |
| (4) The Human Rights Commission shall be independent, impartial, and inclusive and shall have not more than nine members.                      | (4) A law enacted by the House of the People shall regulate the details of the mandate and powers of the Human Rights Commission and the appointment criteria and procedures of its members.                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                              |
| <b>Article 111C. The Anti-Corruption Commission</b>                                                                                            | <b>Article 110. The Anti-Corruption Commission</b>                                                                                                                                                                                                                                                                                                                                                                    | <b>Suggestions</b>                                                                                                                                                                                                                                                                           |
| (1) There shall be an Anti-Corruption Commission and its mandate is to investigate allegations of corruption that implicate the public sector. | <p>(1) There shall be an Anti-Corruption Commission that shall be mandated to:</p> <p>(a) To promote integrity, accountability, and proper management of public matters and property;</p> <p>(b) To develop and promote measures and policies to prevent and combat corruption by state, state partnerships, or non-state actors efficiently and effectively;</p> <p>(c) To develop and promote international co-</p> | The contents of Paragraphs (1) and (3) of the original Article of the Provisional Constitution are suggested to be adjusted and merged together, as they both address the mandate of the Commission.                                                                                         |

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|                                                                                                                                        | operation related to anti-corruption policies.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                             |
| (2) The Anti-Corruption Commission may conduct enquiries at its own discretion and is not required to act only upon a complaint.       | <p>(2) In accordance with the Constitution, the Anti-Corruption Commission shall have powers to perform the following functions:</p> <p>(a) To carry out research on comparative international anti-corruption standards and regulations;</p> <p>(b) To educate the public and state officials on international anti-corruption standards and policies;</p> <p>(c) To investigate and report on incidents of corruption and mismanagement by state, state partnerships or non-state actors in the Federal Republic of Somalia;</p> <p>(d) To develop recommendations on anti-corruption laws and policies; and</p> <p>(e) To carry out legal measures to inform judicial authorities with the aim of freezing, putting on hold, and confiscating any national property illegal misappropriated; and</p> <p>(f) To carry out any other function that may be provided by the Constitution or the laws of the Federal Republic of Somalia.</p> | The powers of the Commission provided in Paragraphs (2), (4) and (5) of the original Article of the Provisional Constitution are suggested to be adjusted and merged together so as to address these powers in one comprehensive Paragraph. |
| <p>(3) The mandate of the Anti-Corruption Commission includes:</p> <p>(a) To promote and strengthen measures to prevent and combat</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | See comment on Paragraph (1) above.                                                                                                                                                                                                         |

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| <p>corruption more efficiently and effectively;</p> <p>(b) The advancement, facilitation and support of international co-operation related to anti- corruption policies; and</p> <p>(c) To promote integrity, accountability, and proper management of public matters and property.</p>                                                                                         |                                                                                                                                         |                                                                                                                                                           |
|                                                                                                                                                                                                                                                                                                                                                                                 | <p>(3) The Anti-Corruption Commission shall be independent, impartial, and inclusive and shall have not more than nine (9) members.</p> | <p>This Paragraph is suggested to be moved from Paragraph (6) of the original Article of the Provisional Constitution and its wording to be adjusted.</p> |
| <p>(4) The powers of the Anti-Corruption Commission include:</p> <p>(a) To prevent, investigate and publish corruption allegations;</p> <p>(b) To freeze, seize, confiscate or return any gains from criminal activity; and</p> <p>(c) To support the adoption of such laws and other measures necessary to effectively prevent and prosecute criminal offences relating to</p> |                                                                                                                                         | <p>See comment on Paragraph (2) above.</p>                                                                                                                |

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| corruption.                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                 |
|                                                                                                                                                                                                                                                                                                                      | (4) A law enacted by the House of the People shall regulate the details of the mandate and powers of the Anti-Corruption Commission and the appointment criteria and procedures of its members. | This new Paragraph (4) is suggested to be added so as to make reference to the law that shall regulate the details of the mandate and powers of the Commission as well as the appointment criteria and procedures of its members. Just as for any other Independent Commission. |
| (5) The scope of the Anti-Corruption Commission includes issues relating to:<br><br>(a) Corruption of national or foreign public officials and officials of public international organizations;<br><br>(b) Embezzlement, misappropriation or other diversion by a public official of any public or private property; |                                                                                                                                                                                                 | See comment on Paragraph (2) above.                                                                                                                                                                                                                                             |

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| (c) Trading in influence; and<br>(d) Abuse of functions and illicit enrichment.                                                                                                                        |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| (6) The Anticorruption Commission shall be independent, impartial, representative and inclusive and shall have not more than nine members.                                                             |  | See comment on Paragraph (3) above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Article 111D. Parliamentary Service Commission</b>                                                                                                                                                  |  | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| (1) At the beginning of the term of the House of the People, both Houses of the Federal Parliament shall establish a Parliamentary Service Commission serving for the term of the House of the People. |  | This Article is suggested to be deleted as there is no need seen for the establishment of an independent Parliamentary Service Commission. The functions of the Parliamentary Service Commission in practice have been replaced by the Standing Committee of the House of the People which was established by the House of the People's Rules of Procedure. Therefore it is suggested to refrain from the establishment of such Commission and preserve the current structure spearheaded by the Standing Committee. |
| (2) The Parliamentary Service Commission shall consist of:<br><br>(a) The Speaker of the House of the People as chairperson; (b) The Speaker of the Upper House as vice-chairperson;                   |  | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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| <p>(c) Four (4) members elected by the House of the People from among its members, of whom at least two (2) shall be women;</p> <p>(d) Two (2) members elected by the Upper House from among its members, of whom at least one shall be a woman; and</p> <p>(e) One member appointed by the House of the People from among persons who are experienced in public affairs, but are not members of the Federal Parliament.</p> |  |                                     |
| <p>(3) A member of the Parliamentary Service Commission shall vacate office:</p> <p>(a) At the end of the term of the House of the People;</p> <p>(b) If the member is a member of the Federal Parliament and ceases to be a member of the Federal Parliament; or</p> <p>(c) If the member is an appointed member, on revocation of the person's appointment by the House of the People.</p>                                 |  | See comment on Paragraph (1) above. |
| <p>(4) The Parliamentary Service Commission shall be responsible for:</p>                                                                                                                                                                                                                                                                                                                                                    |  | See comment on Paragraph (1) above. |

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| <p>(a) Providing services and facilities to ensure the efficient and effective functioning of the Federal Parliament;</p> <p>(b) Constituting offices to support the parliamentary service, and appointing and supervising office holders;</p> <p>(c) Preparing annual estimates of expenditure of the Federal Parliament and submitting them to the House of the People for approval, and exercising budgetary control over financial activities; and</p> <p>(d) Performing any other function necessary for the well-being of the members and staff of the Federal Parliament as prescribed by federal law</p> |  |                                     |
| <p>(5) With the approval of the relevant House, the Parliamentary Service Commission shall appoint a Clerk for each House of the Federal Parliament. The offices of the Clerks and offices of members of the staff of the Clerks shall be offices in the Parliamentary Service.</p>                                                                                                                                                                                                                                                                                                                              |  | See comment on Paragraph (1) above. |
| <p><b>Article 111E. Boundaries and Federation Commission</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | <b>Suggestions</b>                  |

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| (1) There shall be a Boundaries and Federation Commission to support the territorial changes in Somalia in order that it may become a fully-fledged federation of states.                                                                                        |  | It is suggested to delete this Article as this Commission is already established, started its operations and is expected to have submitted its recommendations at the time when the revised constitution takes effect. Therefore constitutional regulation thereof is perceived as no longer required. |
| (2) The Boundaries and Federation Commission may draw on national and international expertise, conduct studies, make and print maps and conduct inquiries to support the creation of viable federal states.                                                      |  | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                    |
| (3) The Boundaries and Federation Commission shall take into account demographic and cartographic information as well as political, economic and social criteria and recommend to the Federal Parliament the demarcation of boundaries of Federal Member States. |  | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                    |
| (4) The commission shall be independent, impartial, inclusive and representative of all geographical parts of Somalia.                                                                                                                                           |  | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                    |
| (5) The final determination of the boundaries of Federal Member                                                                                                                                                                                                  |  | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                    |

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| States shall be made by the Federal Parliament and shall be based on the recommendations of the Boundaries and Federation Commission.                                                                                                                                                                                                                                                                                                                                                       |  |                                                                                                                                                                                                           |
| <b>Article 111F. Inter-state Commission</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | <b>Suggestions</b>                                                                                                                                                                                        |
| (1) There shall be established by federal law an Inter-state Commission.                                                                                                                                                                                                                                                                                                                                                                                                                    |  | It is suggested to move this Article to Chapter (5) above and to replace the Inter-State Commission with a Coordination Office, which is not an independent institution, but a political body, see above. |
| <p>(2) The Inter-State Commission shall have such powers as the Federal Parliament deems necessary to:</p> <p>(a) Facilitate intergovernmental coordination and cooperation among the Federal Government and the governments of the Federal Member States; and</p> <p>(b) Resolve any administrative, political or jurisdictional disputes between the Federal Government and one or more governments of the Federal Member States or between the governments of Federal Member States.</p> |  | See comment on Paragraph (1) above.                                                                                                                                                                       |

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| (3) The Interstate Commission shall be composed of members appointed by the Prime Minister and at least an equal number of members appointed by each government of the Federal Member States.                                                                                                                                                                                                    |                                                                                                                                                                                                                                                 | See comment on Paragraph (1) above.                                                                                                                                                                                        |
| <b>Article 111G. National Independent Electoral Commission</b>                                                                                                                                                                                                                                                                                                                                   | <b>Article 111. The National Independent Electoral Commission</b>                                                                                                                                                                               | <b>Suggestions</b>                                                                                                                                                                                                         |
| (1) There shall be established a National Independent Electoral Commission, established under the Constitution. The National Independent Electoral Commission shall be independent of the executive and shall manage its own budget. The National Independent Electoral Commission shall be inclusive and representative and be impartial and neutral and shall not have more than nine members. |                                                                                                                                                                                                                                                 | This Paragraph is suggested to be deleted as its contents are already provided in the Article on general principles of Independent Commissions above.                                                                      |
| (2) The mandate of the National Independent Electoral Commission includes: (a) The conduct of presidential elections;<br>(b) The conduct of Federal Parliament elections;<br>(c) The continuous registration of                                                                                                                                                                                  | (1) In accordance with the Constitution, the National Independent Electoral Commission shall have powers to perform the following functions:<br><br>(a) To carry out research on comparative international electoral standards and regulations; | Letter (a) of this Paragraph is suggested to be deleted as the presidential elections are conducted by the house of the People. No other substantial changes suggested. However, minor language adjustments are suggested. |

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| <p>voters and revision of the voter's roll;</p> <p>(d) The registration of candidates for elections;</p> <p>(e) The delimitation of constituencies and wards;</p> <p>(f) The regulation of the political party system;</p> <p>(g) The settlement of electoral disputes;</p> <p>(h) The facilitation of the observation, monitoring and evaluation of elections;</p> <p>(i) The regulation of money spent by an elected candidate or party in respect of any election;</p> <p>(j) The development of an electoral code of conduct for its candidates and parties;</p> <p>(k) The monitoring of compliance with legislation on nomination of candidates by parties; and</p> <p>(l) Voter education.</p> | <p>(b) To organize and prepare for parliamentary elections and referenda on the Federal Government and the Regional State level;</p> <p>(c) To facilitate and conduct parliamentary elections and referenda on the Federal Government and the Regional State level;</p> <p>(d) To continuously register voters for parliamentary elections and referenda on the Federal Government and the Regional State level;</p> <p>(e) To continuously register candidates and political parties for parliamentary elections on the Federal Government and the Regional State level;</p> <p>(f) To delimitate constituencies and wards;</p> <p>(g) To develop an electoral code of conduct for candidates and political parties for parliamentary elections on the Federal Government and the Regional State level;</p> <p>(h) To monitor, evaluate and report on candidates and political parties observance of electoral laws and regulations for parliamentary elections on the Federal Government and the Regional State level;</p> <p>(i) To carry out any other function that may be provided by the Constitution or the laws of the Federal Republic of Somalia.</p> |                                                                                                      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | (2) The National Independent Electoral                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | This new Paragraph is suggested to be added so as to assert that the Commission shall have local and |

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|                                                                                                                                                                                     | Commission shall be independent, impartial, and inclusive and shall have local and regional offices in all parts of the Federal Republic of Somalia.                                              | regional offices in all parts of the country. The reason being that the idea is that the Commission will be monitoring and managing elections at all levels of government and not only on the Federal Government level.                                                                                                                                                                                               |
| (3) The Federal Parliament shall establish the National Independent Electoral Commission and the relevant legislation required to support it as a matter of priority.               | (3) A law enacted by the House of the People shall regulate the details of the mandate and powers of the National Independent Electoral Commission and the appointment criteria and procedures of | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                                                                                                                                                                                                                             |
| <b>Article 111H. National Security Commission</b>                                                                                                                                   |                                                                                                                                                                                                   | <b>Suggestions</b>                                                                                                                                                                                                                                                                                                                                                                                                    |
| (1) A National Security Commission shall be established by federal law. The National Security Commission shall be independent and shall comprise security experts from all sectors. |                                                                                                                                                                                                   | This Article is suggested to be deleted as there is no need seen for the establishment of an independent National Security Commission. There is already a National Security Commission which is composed of the President, the Prime Minister, members of the Council of Ministers and Commanders of the Armed Forces fulfilling these functions. Therefore it is suggested to refrain from the establishment of such |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |  | an Independent Commission and preserve the current structure spearheaded by the Federal Government's executive. |
| <p>(2) The mandate of the National Security Commission shall be to:</p> <p>(a) Study and develop an integrated security framework to address the present and future needs of Somalia for review and adoption by the Federal Parliament;</p> <p>(b) Present proposals to ensure that human security is prioritized and incorporated into the national security framework;</p> <p>(c) Develop a framework through which the public may provide oversight and monitor security related expenditure; and</p> <p>(d) Seek redress from abuses by security personnel.</p> |  | See comment on Paragraph (1) above.                                                                             |
| <p>(3) The priority issues to be addressed by the National Security Commission shall include:</p> <p>(a) Piracy;</p> <p>(b) Demobilization of militias and reintegration into society which includes skills training and the provision of material support and</p>                                                                                                                                                                                                                                                                                                  |  | See comment on Paragraph (1) above.                                                                             |

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| <p>psychological counselling;</p> <p>(c) Policing; and</p> <p>(d) Ensuring civilian control of the armed forces.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |                                            |
| <p>(4) The National Security Commission shall establish a Civilian Oversight Sub-Committee comprising security experts, members of the Federal Parliament, academics and civil society representatives from all sectors of Somali society. The mandate of the Civilian Oversight Sub-Committee shall be to:</p> <p>(a) Present proposals to ensure that human security is prioritized and incorporated into the national security framework;</p> <p>(b) Develop a framework through which the public may provide oversight;</p> <p>(c) Monitor security related expenditure; and</p> <p>(d) Seek redress from abuses by security personnel.</p> |  | <p>See comment on Paragraph (1) above.</p> |
| <p><b>Article 111I. Truth and Reconciliation Commission</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | <p><b>Suggestions</b></p>                  |

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| <p>(1) There shall be established a Truth and Reconciliation Commission to foster national healing, reconciliation and unity and to ensure that matters relating to impunity, revenge and other triggers of violence are addressed through a legal and state directed process.</p>                                                        |  | <p>This Article is suggested to be deleted. National reconciliation is perceived as a national priority for any government and the Somali people in general. So it would not be helpful to put this important matter into the hands of an Independent Commission, which could then be used as an excuse to do nothing from the government side. Therefore it is suggested to refrain from the establishment of such an Independent Commission and instead to make national reconciliation a national responsibility and priority</p> |
| <p>(2) The Truth and Reconciliation Commission shall be independent, impartial and representative and shall include: traditional elders and leaders, members of the Federal Parliament, respected members of civil society, judges and security personnel.</p>                                                                            |  | <p>See comment on Paragraph (1) above.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>(3) The mandate of the Truth and Reconciliation Commission shall include:</p> <p>(a) Bearing witness to, record, and in some cases, grant amnesty to the perpetrators of crimes relating to human rights violations, and rehabilitation of the criminals; and</p> <p>(b) Promoting forgiveness, reconciliation and national unity.</p> |  | <p>See comment on Paragraph (1) above.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| Article 111J. The Office of the Ombudsman                                                                                                                                                                                                                                                                                                                                                                                            |  | Suggestions                                                                                                                                                                                                                                                                                                                                             |
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| (1) There shall be established the Office of the Ombudsman.                                                                                                                                                                                                                                                                                                                                                                          |  | This Article is suggested to be deleted. The concept of the Office of an Ombudsman is alien to Somalia and there is plenty of overlaps with other institutions already provided. Particularly in light of the powers and competences of the Anti-Corruption Commission it is suggested to refrain from the establishment of the Office of an Ombudsman. |
| (2) The Ombudsman must act in accordance with the Constitution and the Laws.<br><br>(a) A member of the Council of Ministers, the Federal Parliament or any other person shall not interfere with the work of the office of the Ombudsman.<br><br>(b) Each department of the Government shall co-operate with the office of the Ombudsman regarding the need to maintain its independence, integrity and effective service delivery. |  | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                                                                     |
| (3) While acting in accordance with the recommendations of the Judicial Service Commission, the President of the Federal Republic of Somalia shall nominate an Ombudsman.                                                                                                                                                                                                                                                            |  | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                                                                     |

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| <p>(a) The Judicial Service Commission can recommend the nomination of a person as an Ombudsman, only if such a person is qualified to be nominated as a judge of the Constitutional Court.</p> <p>(b) The Ombudsman's term of office is seven (7) years.</p>                                                                                                                                                                                                                                                    |  |                                     |
| <p>(4) In Clause 5, the word "officer" means any person who is elected or nominated or who works for a Federal Government, Federal Member State government or a local government institution or an officer who is part of a business owned, managed or is in the hands of the government, or an office member of the defence or police forces, but does not include a judge of the Constitutional Court, a High Court or any other officers involved until an allegation becomes evident of a judicial task.</p> |  | See comment on Paragraph (1) above. |
| <p>(5) The Ombudsman shall:</p> <p>(a) Investigate complaints regarding allegations or outright violations against basic rights and freedoms, abuse of power, unfair behaviour, mercilessness, lack of clemency, indiscipline or disrespect towards a</p>                                                                                                                                                                                                                                                        |  | See comment on Paragraph (1) above. |

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| <p>person that lives in Somalia by an officer who works at the various levels of government, an apparently unfair behaviour, or act in a corrupt manner, or a behaviour by an officer deemed as illegal by a democratic society or regarded as mischief or injustice.</p> <p>(b) Investigate complaints in relation to the activities of the Public Service Commission of the government, administrative institutions of the government, and the defence and police forces whoever such complaints relate to, failure to equally align those services or fair recruitment among all people in those services or to administer those services fairly.</p> <p>(c) Take appropriate steps that the public calls for, to rectify or change items mentioned in earlier clauses through a fair, and appropriate process, which include, but are not limited to:</p> <p>(i) Consultations and sacrifices among the people concerned;</p> <p>(ii) Reporting on the complaints and matters presented to the Ombudsman, and submit to the</p> |  |  |
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| <p>head of the offender;</p> <p>(iii) To forward the matter to the Attorney General;</p> <p>(iv) To bring the matter before a court that forbids improper conducts by an officer; or</p> <p>(v) Forward to the Attorney General a matter suspected to involve corruption.</p>                                                                                                |  |                                                                                                                                      |
| <p>(6) The Attorney General shall submit a yearly report to the House of the People and the Upper House of the Federal Parliament and to the public in general.</p>                                                                                                                                                                                                          |  | <p>See comment on Paragraph (1) above.</p>                                                                                           |
| <p><b>Article 112. Appointment of Independent Commissions at the Federal Level</b></p>                                                                                                                                                                                                                                                                                       |  | <p><b>Suggestions</b></p>                                                                                                            |
| <p>Unless the Constitution provides otherwise, the relevant Minister shall propose the names of commissioners to the Council of Ministers. If the Council of Ministers approves, the names shall be submitted to the concerned House of the Federal Parliament. If the concerned House of the Federal Parliament approves the names, they shall be sent to the President</p> |  | <p>This Article is suggested to be deleted and its content merged with the general regulations on Independent Commissions above.</p> |

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| of the Federal Republic for formal appointment.                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                 |
| <b>Article 113. Regulations of Independent Commissions</b>                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Suggestions</b>                                                                                                                                                                                                                                                              |
| The regulations of the Independent Commissions shall be stated in a law passed made by the House of the People of the Federal Parliament. |                                                                                                                                                                                                                                                                                                                                                                                                                          | This Article is suggested to be deleted and its content merged with the general regulations on Independent Commissiony above.                                                                                                                                                   |
|                                                                                                                                           | <b>Article 112: Civil Service Commission</b>                                                                                                                                                                                                                                                                                                                                                                             | <b>Suggestions</b>                                                                                                                                                                                                                                                              |
|                                                                                                                                           | <p>(1) There shall be a Civil Service Commission that shall be mandated to:</p> <ul style="list-style-type: none"> <li>(a) Protect the rights and promote the quality of the civil servants at all levels of government in the Federal Republic of Somalia; and</li> <li>(b) Promote accountability, and good governance of the civil service at all levels of government in the Federal Republic of Somalia.</li> </ul> | This Article is suggested to be added so as to provide for a Civil Service Commission which deals with issues related to the promotion and protection of the rights of the civil servants of the Federal Republic of Somalia and to promote accountability and good governance. |
|                                                                                                                                           | (2) The Civil Service Commission shall be independent, impartial, and inclusive and shall have not more than nine (9)                                                                                                                                                                                                                                                                                                    | See comment on Paragraph (1) above.                                                                                                                                                                                                                                             |

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|  | members.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                     |
|  | <p>(3) In accordance with the Constitution, the Civil Service Commission shall have powers to perform the following functions:</p> <ul style="list-style-type: none"> <li>(a) To develop recommendations for the Federal Government on setting up a code of conduct and the general conditions of civil service at all levels of government in the Federal Republic of Somalia;</li> <li>(b) To verify the knowledge, skills and experience of the civil servants pursuant to the code of conduct and the general requirements established by the Federal Government;</li> <li>(c) To develop recommendations for the Federal Government and Regional State Governments on the organization and administration of civil service;</li> <li>(d) To register civil servants and develop recommendations for the Federal Government and Regional State Governments on the promotion, transfer, reassessment, or discharge of civil servants on the basis of merit and qualifications;</li> <li>(e) To empower, train and promote the knowledge and skills of the civil servants.</li> </ul> | See comment on Paragraph (1) above. |

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|                                                                                                                                                                                                | <p>(f) To function as an appellate body in appeals against removal, suspension, demotion or other complaints by civil servants;</p> <p>(g) To carry out any other function that may be provided by the Constitution or the laws of the Federal Republic of Somalia.</p> |                                                                                                                                                            |
|                                                                                                                                                                                                | (4) A law enacted by the House of the People shall regulate the details of the mandate and powers of the Civil Service Commission and the appointment criteria and procedures of its members.                                                                           | See comment on Paragraph (1) above.                                                                                                                        |
| <b>Article 114. The Independent Offices</b>                                                                                                                                                    |                                                                                                                                                                                                                                                                         | <b>Suggestions</b>                                                                                                                                         |
| There shall be independent institutions which the Federal Government and the Federal Member States shall have; such as the Attorney General, the Auditor General and the Federal Central Bank. |                                                                                                                                                                                                                                                                         | This Article is suggested to be deleted as there are specific provisions suggested to be added that relate to each and every of these independent offices. |
|                                                                                                                                                                                                | <b>Article 113: National Commission on Drafting and Reforming the Laws</b>                                                                                                                                                                                              | <b>Suggestions</b>                                                                                                                                         |

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|  | (1) There shall be a National Commission on drafting and Reforming Somali Federal Republic Laws;                                                                                                                                                                                                                                                            | This Article is suggested to be added so as to provide for the establishment of a National Commission on Drafting and Reforming the Laws. Such a law reform commission is considered to be essential, particularly due to the fact that past laws are still legally effective and thus might need to be reviewed in order to maintain a sound and coherent legal order. The suggested Article provides for details on the powers and the mandate of the Commission including the provision of advice on the drafting and reforming of the Federal and Regional State laws and the harmonisation of all laws with the Federal Constitution. |
|  | (2) The Commission shall have all powers necessary for the effective discharge of its functions in accordance with the Constitution and any other laws of the country.                                                                                                                                                                                      | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|  | (3) The Commission shall be responsible to:<br>(a) Review the laws of the Federal Republic of Somalia and Regional State and recommend the reform thereof to ensure:<br>i. Conformity of laws of the Federal Republic of Somalia with the letter and spirit of the Constitution;<br>ii. Systematic development of the law in compliance with the values and | See comment on Paragraph (1) above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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|  | <p>principles enshrined in the Constitution;</p> <ul style="list-style-type: none"> <li>iii. Consistency, harmonization, fairness, simplification, accessibility, modernization, and cost-effectiveness in application of the law,</li> <li>iv. Elimination of anomalies in the law;</li> <li>v. Repeal of obsolete, amend or update the laws;</li> <li>vi. Harmonize all laws implementing different levels of the Federal Republic of Somalia when they are contradicting each other;</li> <li>vii. Respect for and observance of treaty obligations in relation to international instruments that constitute part of the law of Somalia; and</li> <li>viii. Monitoring of international legal practices;</li> </ul> <p>(b) Work with the Solicitor-General, House of the People and other government departments for the preparation of new bill new laws;</p> <p>(c) Submit a written report to the entities named in subsection (b) that explains the relevant issues and the need for reform and identifies the proposed reforms;</p> <p>(d) Provide advice and information to the</p> |  |
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|  | <p>national, Regional States, and local governments with regard to the reform or amendment of a law;</p> <p>(e) Upon request or on its own initiative, undertake research and comparative studies relating to law reform;</p> <p>(f) Formulate and implement programs, plans, and actions for effective law reform at the national, Regional State, and local levels of government;</p> <p>(g) Consult and collaborate with governmental and non-governmental organs, departments, and agencies in the formulation of laws to give effect to the social, economic, and political policies for the time being in force;</p> <p>(h) Formulate, by means of draft laws or otherwise, any proposals for reform of legislation at the national, Regional State, or local level;</p> <p>(i) Upon request or on its own initiative, advise the national government and the governments of the Regional States on the review and reform of their laws;</p> <p>(j) Undertake public education on matters relating to law reform; and</p> <p>(k) Perform such other functions as may be prescribed by the Constitution, or any other written law.</p> |  |
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|                                                                                                                                                                                              | (4) The Commission shall compile and collect, maintain the records of all national existing laws or any other laws that are currently in force whether at the national, Regional State, or local level;                          |                                                                                                                                                                                                                                                                                                                                                                        |
|                                                                                                                                                                                              | (5) All government institutions shall respect the independence of the Commission whilst performing its functions and duties.                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                        |
| <b>CHAPTER 11:<br/><br/>CIVIL SERVICE</b>                                                                                                                                                    | <b>CHAPTER 10:<br/><br/>CIVIL SERVICE AND PUBLIC FINANCE</b>                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Article 115. Civil Service Values</b>                                                                                                                                                     | <b>Article 114. Civil Service and Public Employees</b>                                                                                                                                                                           | <b>Article 115. Civil Service Values</b>                                                                                                                                                                                                                                                                                                                               |
|                                                                                                                                                                                              | (1) Civil servants and public employees deserve respect and admiration and shall exercise their functions in accordance with the Constitution and the laws of the Federal Republic of Somalia and solely in the public interest. | This Paragraph is suggested to be added so as to establish a new general principle that assures respect and admiration for the civil servants and public employees for the services they are doing for the public. Likewise it is suggested emphasising that in performing their duties they have to respect and observe the constitution and the laws of the country. |
| The civil service at all levels of government is a pledge to serve the people and shall be based on the values of the Constitution, compassion, transparency, community service, respect for | (2) While exercising their functions civil servants and public employees shall adhere to the following values:<br><br>(a) Respect for the Constitution and the laws of the Federal Republic of Somalia;                          | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                                                                                                                                                                              |

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| administrative hierarchy, obedience, confidentiality, work ethics, efficiency, effectiveness, professionalism protect principles of fairness, equality and best practices. | <p>(b) Compassion and service for the Somali people and communities;</p> <p>(c) Professionalism, effectiveness and efficiency;</p> <p>(d) Political neutrality;</p> <p>(e) Fairness;</p> <p>(f) Transparency;</p> <p>(g) Confidentiality;</p> <p>(h) Respect for administrative hierarchy and obedience.</p>                                                                 |                                                                                     |
|                                                                                                                                                                            | <p>(3) Civil servants may not be:</p> <p>(a) Abused for doing work related to their public service;</p> <p>(b) Dismissed from their job, transferred from office or be demoted unless there is legal and reasonable ground;</p> <p>(c) Civil servants and public employees of the Federal Government and Regional Governments shall not be leaders of political parties.</p> | This Paragraph has been moved from Articles 116 and 118 of the original text of PC. |
| <b>Article 116. Protection of the rights of civil servants</b>                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                              | <b>Suggestions</b>                                                                  |

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| <p>Civil servants may not be:</p> <p>(a) Victimized for doing work related to their responsibility;</p> <p>(b) Dismissed from their job, transferred from office or be demoted, unless there is legal and reasonable ground.</p> |  | <p>It is suggested to delete this Article and merge its content with the general Article on Civil Service Values above.</p>                                                            |
| <b>Article 117. Appointment of High Ranking Officials</b>                                                                                                                                                                        |  | <b>Suggestions</b>                                                                                                                                                                     |
| <p>High ranking public employees and officials of the government as defined by the law shall be appointed by the President of the Federal Republic of Somalia, after considering the proposal by the Council of Ministers.</p>   |  | <p>It is suggested to delete this Article as this appointment power is already regulated in the Article on the powers of the President and this Article thus is largely redundant.</p> |
| <b>Article 118. Civil Servants and Public Employees</b>                                                                                                                                                                          |  | <b>Suggestions</b>                                                                                                                                                                     |
| <p>(1) Civil servants and public employees shall exercise their functions in accordance with the law and solely in the public interest.</p>                                                                                      |  | <p>It is suggested to delete this Article and merge its content with the general Article on Civil Service Values above.</p>                                                            |

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| (2) Civil servants and public employees shall not be leaders of any political party.                                                                                   |  | See comment on Paragraph (1) above. |
| (3) The law shall determine the categories of state employees who may not be members of political parties, and the activities that are incompatible with their duties. |  | See comment on Paragraph (1) above. |
| (4) The legal status of the state employees shall be regulated by law.                                                                                                 |  | See comment on Paragraph (1) above. |

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| (5) Permanent jobs with the government may be earned only by an open competition, except in the circumstances described by law.                                                                                        |                                                                                                                                                                                                                  | See comment on Paragraph (1) above.                                                                                                                                                                         |
| <b>Article 119. Civil Service</b>                                                                                                                                                                                      | <b>Article 115. Recruitment and Appointment of Civil Servants and Public Employees</b>                                                                                                                           | <b>Suggestions</b>                                                                                                                                                                                          |
| (1) The Federal Government and the Federal Member States may recruit their employees.                                                                                                                                  | (1) There shall be a civil service both at the Federal level and at the level of the Regional States.                                                                                                            | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                   |
| (2) There shall be a civil service both at the Federal level and at the level of the Federal Member States;                                                                                                            | (2) Regional States may establish their own civil service regulation in accordance with the Constitution and the laws of the Federal Republic of Somalia.                                                        | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                   |
| (3) The Federal Government and the Federal Member States may cooperate in the deployment of staff, in order to ensure that expertise and experience are available where needed and in order to promote national unity. | (3) The Federal Government and the Regional States may cooperate in the deployment of staff, in order to ensure that expertise and experience are available where needed and in order to promote national unity. | No changes suggested.                                                                                                                                                                                       |
| (4) The Civil Service of the Federal Government and Federal Member States shall be formed on the basis of proportional representation of                                                                               | (4) The civil service of the Federal Government and Regional States shall be recruited on the basis of open competition and promoted on the basis of fairness and                                                | This Paragraph is suggested to be slightly changed, so as to include that “the Federal Government and Regional States shall be recruiting and promoting civil servants on the basis of open competition and |

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| the resident population.                                                                                                                                             | equality.                                                                                                                                                           | on the basis of fairness and equality”.                                                                                                                                                                                                                     |
|                                                                                                                                                                      | (5) A law enacted by the Federal Parliament shall provide for the details of the appointment, the status and the categories of civil servants and public employees. | This Paragraph is suggested to be added so as to allow the House of the People to enact a law that provides for the details of the appointment, the status and the categories of the civil servants and the public employees all over the Federal Republic. |
| <b>CHAPTER 12:<br/>FEDERAL MEMBER STATES</b>                                                                                                                         |                                                                                                                                                                     | <b>This Chapter has been merged with Chapter 5, see above.</b>                                                                                                                                                                                              |
| <b>Article 120. Institutions of the Federal Member States</b>                                                                                                        |                                                                                                                                                                     | <b>Suggestions</b>                                                                                                                                                                                                                                          |
| The establishment of the legislative and executive bodies of government of the Federal Member States is a matter for the Constitutions of the Federal Member States. |                                                                                                                                                                     | This Article is suggested to be moved to Chapter 5 above, because it has a direct relation with the devolution of powers regulated in that Chapter. Also, only two Articles are perceived not to justify a specific and dedicated own Chapter.              |
| <b>Article 121. Principles for Constitutions</b>                                                                                                                     |                                                                                                                                                                     | <b>Suggestions</b>                                                                                                                                                                                                                                          |
| Principally, the Constitution of the Federal Republic of Somalia and those of the Federal Member States shall be harmonized.                                         |                                                                                                                                                                     | See comment on Article 120 above.                                                                                                                                                                                                                           |

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| <b>CHAPTER 13:<br/>PUBLIC FINANCE</b>                                                                                                           |                                                                                                                                                                                               | <b>It is suggested to delete this Chapter and merge its contents with Chapter 11 above. The small number of Articles in both Chapters 11 and 13 are considered to justify such a merger.</b> |
| <b>Article 122. Principles of Public Finance</b>                                                                                                | <b>Article 116. Principles of Public Finance</b>                                                                                                                                              | <b>Suggestions</b>                                                                                                                                                                           |
| The Principles of public finance will be discussed between the Federal Government and Federal Member State in accordance with the Constitution. |                                                                                                                                                                                               | It is suggested to delete this Paragraph. See Article 55 on the 'Exclusive Powers of the Federal Government' in the suggested review of the Constitution.                                    |
|                                                                                                                                                 | (1) Public funds are the foundations of the existence, development and peace of the country and shall be managed in a transparent way and only in accordance to the law.                      | This Paragraph is suggested to be added so as to make clear that public funds are the foundations of the existence, development and peace of the country and thus require transparency.      |
|                                                                                                                                                 | (2) When managing public funds, the competent state or non-state actors must adhere to the following principles:<br>(a) Accountability and transparency;<br>(b) Effectiveness and efficiency; | This Paragraph is suggested to be added so as to make sure that all state actors or non-state actors must follow and observe the general principles when using public funds.                 |

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|                                                                                                                                                                                                                                                  | <p>(c) Fairness in distribution of revenues and expenditure responsibilities;</p> <p>(d) Consideration of the development needs of each Regional State, region or district;</p> <p>(e) Legality of public revenue collection and expenditure.</p> |                                                                                                                                                                                                                  |
| <b>Article 123. The Federal Central Bank</b>                                                                                                                                                                                                     | <b>Article 117. The Federal Central Bank</b>                                                                                                                                                                                                      | <b>Suggestions</b>                                                                                                                                                                                               |
| (1) A law passed by the Federal Parliament shall establish the Federal Central Bank of the Federal Republic of Somalia.                                                                                                                          |                                                                                                                                                                                                                                                   | This paragraph is suggested to be moved to Paragraph (4), of this Article so as to provide for a proper sequence of Paragraphs and follow the same structure of Articles throughout the constitutional document. |
|                                                                                                                                                                                                                                                  | (1) There shall be a Federal Central Bank established as an independent institution bound only by the Constitution and the laws of the Federal Republic of Somalia.                                                                               | This Paragraph is suggested to be moved from Paragraph (5), and to be slightly adjusted so as to provide for a more coherent and comprehensible legal provision.                                                 |
| (2) The Federal Central Bank of the Federal Republic of Somalia shall be responsible for formulating and implementing financial policies and monetary policies and all the banks shall abide by the regulations set by the Federal Central Bank. | <p>(2) The Federal Central Bank shall have the following functions:</p> <p>(a) Produce currency;</p> <p>(b) Control inflation;</p> <p>(c) Stabilize exchange rates;</p> <p>(d) Establish a sound banking system;</p>                              | It is suggested to merge Paragraph (2), (3) and (5) of the original Article of the Provisional Constitution so as to provide for a more coherent and comprehensible legal provision.                             |

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|                                                                                                                                                                                                                                                | <p>(e) Set regulations for all banks, remittance and financial institutions; and</p> <p>(f) To perform any other functions as provided by the Constitution or the laws of the Federal Republic of Somalia.</p> |                                                                                                                                                                                                                   |
| <p>(3) The main functions of the Federal Central Bank of the Federal Republic of Somalia are to: (a) Produce currency;</p> <p>(b) Control inflation;</p> <p>(c) Stabilize exchange rates; and</p> <p>(d) Establish a sound banking system.</p> |                                                                                                                                                                                                                | See comment on Paragraph (2) above.                                                                                                                                                                               |
| <p>(4) The financial policy shall be based on the market forces and lending shall not be based on administrative decisions.</p>                                                                                                                | <p>(3) The financial policies of the Federal Central Bank shall be based on the national economic interest for a balanced and sustainable growth.</p>                                                          | <p>This Paragraph is suggested to be slightly changed so as to clarify that the financial policies should be aimed at providing for sustainable economic growth instead of simply referring to market forces.</p> |
|                                                                                                                                                                                                                                                | <p>(4) A law enacted by the Federal Parliament shall regulate the details of the mandate and functions of the Federal Central Bank and the appointment criteria and procedures of its staff.</p>               | See comment on Paragraph (1) above.                                                                                                                                                                               |
| <p>(5) The Federal Central Bank of the Federal Republic of Somalia has full authority to execute the monetary policy.</p>                                                                                                                      |                                                                                                                                                                                                                | See comment on Paragraph (1) of this Article of the review suggestions above.                                                                                                                                     |

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| (6) The Federal Central Bank is the National Reserve Bank                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                         | It is suggested to delete this Paragraph as there is a specifically dedicated Article on the National Reserve.                                                                                                                                    |
| <b>Article 124. Federal Legislation on Financial Matters</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Article 118. Management of Financial Matters</b>                                                                                                                     | <b>Suggestions</b><br><b>Note: the title has been changed to Managemnet of Financial Matters</b>                                                                                                                                                  |
| <p>A law enacted by the Federal Parliament shall provide the framework for financial management with the following characteristics among others:</p> <p>(a) The preparation, timetable and procedure for presenting the budgets of Federal Member States and districts in a transparent, accountable and efficient manner;</p> <p>(b) Guarantees by the Federal Government for loans raised by Federal Member States; (c) Procedures that the Government will follow for public procurements;</p> <p>(d) Auditing of accounts of non-governmental bodies that receive government funding; and</p> <p>(e) General measures necessary for the implementation of this Chapter.</p> | <p>(1) A law enacted by the Federal Parliament shall provide the framework for financial management at all levels of government in the Federal Republic of Somalia.</p> | <p>Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.</p> <p>For better accessability, it is also suggestet to divide the Article into two Paragraphs.</p> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>(2) The law enacted in terms of Paragraph (1) above shall provide for the following:</p>                                                                             | See comment on Paragraph (1) above.                                                                                                                                                                                                               |

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|                                          | <p>(a) The details of the preparation, including timetables and procedures for presenting the budgets of Federal Government and Regional States in a transparent, accountable and efficient manner;</p> <p>(b) The details of the auditing of accounts of state and non-state actors receive public funding;</p> <p>(c) The details of procedures for public procurements;</p> <p>(d) The details for the preparation, including timetables and procedures for presenting requests for financial support from the Federal Government by Regional States;</p> <p>(e) Guarantees for loans raised by the Federal Government or Regional States;</p> <p>(f) Any other issue necessary for the implementation of the public finance system provided by the Constitution or the laws of the Federal Republic of Somalia.</p> |                                                                             |
| <b>Article 125. The National Reserve</b> | <b>Article 119. National Account and Reserve</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Suggestions</b><br><b>NB: the term 'Account' was added to the Title.</b> |

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| (1) A law enacted by the Federal Parliament shall establish a National Reserve. That law shall also determine legitimate revenue collection and expenditure disbursement relating to institutions at all levels within the Federal Republic of Somalia. That law shall be based on an accountability system that has been tested worldwide and is known to have standards related to financial reserve and expenditure that can equally be implemented in every part of the Federal Republic of Somalia. | A law enacted by the Federal Parliament shall establish a National Account and Reserve to collect all revenues within the Federal Republic of Somalia and regulate the prerequisites of withdrawal and legitimate expenditure. | The written structure of this Article is suggested to be summarised by determining that a law enacted by Parliament shall establish the collection, prerequisites of withdrawal and legitimate expenditure within the Federal Republic of Somalia. |
| (2) The National Reserve shall ensure the implementation of the principle stated in Clause 1 and it shall stop disbursement of funds to any government department that commits major violations or constantly violates the law of National Reserve.                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                | This Paragraph is suggested to be deleted because its content is considered to be provided by the law enacted in terms of Paragraph (1) above.                                                                                                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Article 120. The Auditor General</b>                                                                                                                                                                                        | <b>Suggestions</b>                                                                                                                                                                                                                                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | (1) The Auditor General is an independent institution, which shall be bound only by the Constitution and the Laws of the Federal                                                                                               | This Article is suggested to be added so as to strengthen the provisions on the financial system of the Federal Republic of Somalia and to have                                                                                                    |

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|  | Republic of Somalia.                                                                                                                                                                                                                                                                                                                                                                                                                                                              | constitutional provisions forming the base for a law to be enacted by the Federal Parliament that regulates the office of the Auditor General. |
|  | <p>(2) The Auditor General shall audit and report on the accounts, financial statements and financial management of:</p> <p>(a) Federal Governments institutions;</p> <p>(b) Regional State institutions;</p> <p>(c) Local Government institutions;</p> <p>(d) Any other entity that receives public funding.</p>                                                                                                                                                                 | See comment on Paragraph (1) above.                                                                                                            |
|  | <p>(3) Audited reports in terms of Paragraph (2) above shall be submitted to the House of the People or the relevant Regional State legislative assembly;</p>                                                                                                                                                                                                                                                                                                                     | See comment on Paragraph (1) above.                                                                                                            |
|  | <p>(4) The Auditor General shall be appointed by the following process:</p> <p>(a) The Prime Minister shall propose a candidate for the position of the Auditor General to the Council of Ministers;</p> <p>(b) If the Council of Ministers agrees to the proposed candidate, it shall submit his or her name to House fo the People;</p> <p>(c) Both Houses of the Federal Parliament may approve or dismiss the candidate by a majority decision of their total membership.</p> | See comment on Paragraph (1) above.                                                                                                            |

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|                                                                                                        | (d) Once a candidate has been approved by both Federal Parliament, the President of the Federal Republic shall, by a presidential decree, formally appoint the candidate within a maximum period of 30 days. |                                                                                                            |
|                                                                                                        | (5) The Auditor General shall be appointed for a term of five (5) years, which is renewable for only time, and may only be removed from office following the same procedure for his appointment.             | See comment on Paragraph (1) above.                                                                        |
|                                                                                                        | (6) The Auditor General shall be of high integrity, possess the relevant qualifications and shall have extensive knowledge of public finance.                                                                | See comment on Paragraph (1) above.                                                                        |
|                                                                                                        | (7) A law enacted by the Federal Parliament shall regulate the details of the mandate and functions of the Auditor General and the appointment criteria and procedures of his or her staff.                  | See comment on Paragraph (1) above.                                                                        |
| <b>CHAPTER 14:<br/><br/>PEACE AND SECURITY</b>                                                         | <b>CHAPTER 11:<br/><br/>NATIONAL SECURITY AND DEFENSE</b>                                                                                                                                                    | <b>NB: the Title has been changed to 'National Security and Defence'.</b>                                  |
| <b>Article 126. Ensuring Security of the Federal Republic of Somalia</b>                               | <b>Article 121. Security and Defence Forces</b>                                                                                                                                                              | <b>Suggestion</b>                                                                                          |
| (1) The Federal Government shall guarantee the peace, sovereignty and national security of the Federal | (1) The Federal Republic of Somalia shall have inclusive security and defence forces with different mandates, who shall guarantee the                                                                        | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is |

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| <p>Republic of Somalia and the safety of its people through its security services, including:</p> <p>(a) The armed forces;</p> <p>(b) The intelligence services;</p> <p>(c) The police force; and</p> <p>(d) The prison forces.</p> | <p>national security, peace, sovereignty, and unity of the Federal Republic of Somalia and the safety of its people, including:</p> <p>(a) The Armed Forces;</p> <p>(b) The Intelligence Service</p> <p>(c) The Police Force; and</p> <p>(d) The Custodial Corpse.</p> | <p>more clear and comprehensible.</p>                                                                                                                                                                                            |
| <p>(2) The deployment of the security forces shall be determined by law.</p>                                                                                                                                                        |                                                                                                                                                                                                                                                                        | <p>This Paragraph is suggested to be moved to Paragraph (8) of the review suggestions so as to provide for a proper sequence of Paragraphs and follow the same structure of Articles throughout the constitutional document.</p> |
| <p>(3) The armed forces of the Federal Republic of Somalia have the mandate to guarantee the sovereignty and independence of the country and to defend its territorial integrity.</p>                                               | <p>(2) The Armed Forces of the Federal Republic of Somalia have the mandate to guarantee the sovereignty and independence of the country and to defend its territorial integrity and unity.</p>                                                                        | <p>Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.</p>                                                                                 |
|                                                                                                                                                                                                                                     | <p>(3) The Intelligence Service has the mandate to gathering intelligence and information relevant for maintaining the peace and security of the Federal Republic of Somalia inside the country or abroad.</p>                                                         | <p>This Paragraph is suggested to be added to this Article in order to set up a constitutional mandate of the Intelligence Service as is provided for the other security forces.</p>                                             |

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| (4) The federal police force has the mandate to protect the lives and property, the peace and security of the citizens and other residents of the Federal Republic of Somalia.                                            | (4) The Police Force has the mandate to protect the lives, good morality, property, peace and security of the citizens and other residents of the Federal Republic of Somalia and police forces shall be provided for at the Federal Government and the Regional State level. | Paragraphs (4) and (5) of this Article are suggested to be merged and the wording slightly adjusted in order to provide for a regulation that is more clear and comprehensible. |
| (5) The police forces established by the laws of the Federal Member States have the mandate to protect lives and property and preserve peace and security locally, alone or in cooperation with the federal police force. |                                                                                                                                                                                                                                                                               | See comment on Paragraph (4) above.                                                                                                                                             |
|                                                                                                                                                                                                                           | (5) The Custodial Corps has the mandate to protect and administer prisons and provide correction services for convicts within the Federal Republic of Somalia and custodial corpses shall be provided for at the Federal Government and the Regional State level.             | This Paragraph is suggested to be added to this Article in order to set up a constitutional mandate of the Custodial Corps as is provided for the other security forces.        |

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| (6) The armed national security agencies shall be controlled by civilian agencies.                                                                                                                    | (6) Any security and defence forces within the Federal Republic of Somalia shall be controlled by the relevant state institutions at the Federal Government and Regional State level.                                                                                                          | This Paragraph is suggested to be changes so as to remove the controlling power of “civilian agencies” and instead give such power to “the relevant State institutions at the Federal Government and Regional State level”. |
|                                                                                                                                                                                                       | (7) A law enacted by the Federal Parliament shall regulate the establishment of private security companies.                                                                                                                                                                                    | This new Paragraph is suggested to be added so as to give House of the People the power to enact a law that regulates the establishment of private security companies.                                                      |
|                                                                                                                                                                                                       | (8) A law enacted by the Federal Parliament shall provide for the details of the establishment and employment of the security and defence forces of the Federal Republic of Somalia.                                                                                                           | This new Paragraph is suggested to be added so as to give House of the People the power to enact a law that provides the details of the establishment and employment of the security and defence forces.                    |
| <b>Article 127. Principles for the Security Forces</b>                                                                                                                                                | <b>Article 122. Principles for the Security and Defence Forces</b>                                                                                                                                                                                                                             | <b>Suggestions</b>                                                                                                                                                                                                          |
| (1) The security forces must respect the following principles:<br>(a) Professionalism, discipline and patriotism;<br>(b) Respect for the rule of law, democratic institutions and fundamental rights; | (1) When performing their duties, members of the security and defence forces must adhere to the following principles:<br>(a) Respect for the Constitution and the laws of the Federal Republic of Somalia;<br>(b) Respect for the rule of law, democratic institutions and fundamental rights; | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                                   |

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| <p>(c) A commitment to uphold the Constitution of the Federal Republic of Somalia;</p> <p>(d) Transparency and accountability;</p> <p>(e) Political neutrality; and</p> <p>(f) Members of the forces shall be trained on the implementation of this Constitution, the laws of the land and the international treaties to which the Federal Republic of Somalia is a party.</p> | <p>(c) Professionalism and discipline;</p> <p>(d) Transparency and accountability;</p> <p>(e) Political neutrality;</p> <p>(f) Patriotism and integrity in the public interest.</p>                               |                                                                                                                                                                                                                                                  |
|                                                                                                                                                                                                                                                                                                                                                                                | <p>(2) Members of the forces shall be trained in nationalism, application of the Constitution, the laws of the country and international conventions of which Somalia has adopted.</p>                            | <p>This Paragraph is suggested to be moved from Paragraph (1) (f) of this Article with the additional term “nationalism” so as to emphasise the importance of such trainings to be given to the members of the forces and ensure patriotism.</p> |
| <p>(2) Every Somali citizen is entitled to be considered for positions in the national armed forces at all levels, without discrimination, and the rights of women shall be protected in this respect.</p>                                                                                                                                                                     | <p>(3) Every Somali citizen who meets the terms and conditions for the recruitment in the forces, is entitled to hold positions in the all inclusive security and defence forces at all levels of government.</p> | <p>This Paragraph is suggested to be slightly adjusted and the term “discrimination” which is seen as a negative term to be changed to the more positive term “all inclusiveness of security and defence forces”.</p>                            |
|                                                                                                                                                                                                                                                                                                                                                                                | <p>(4) The security and defence forces of the Federal Government and Regional States shall be formed on the basis of proportional representation of all Somali communities and parts of society.</p>              | <p>This Paragraph is suggested to be added so as to provide for a general principle for the formation of security and defence forces, which should be based on proportional representation of all Somali communities.</p>                        |

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|                                                                                                                                               | (5) Members of the security and defence forces may only be appointed and promoted based on merit and open competition.                                                                                         | This Paragraph is suggested to be added so as to provide for the general principle of the appointment and promotion of the national and regional forces, which must be based on merit and open competition.                                                 |
|                                                                                                                                               | (6) A law enacted by the Federal Parliament shall provide for the details of the appointment, the status and the categories of members of the security and defence forces.                                     | This Paragraph is suggested to be added so as to allow House of the People to enact a law detailing the appointment, the status and the categories of members of the security and defence forces.                                                           |
| <b>Article 128. Abuse of Powers</b>                                                                                                           | <b>Article 123. Abuse of Powers</b>                                                                                                                                                                            | <b>Suggestions</b>                                                                                                                                                                                                                                          |
| Human rights abuses alleged to have been committed by members of the armed forces against civilians shall be brought before a civilian court. | (1) Any abuse of powers by members of the security and defence forces violating the fundamental rights or constituting any other offence against a civilian shall be brought before ordinary courts.           | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                                                                   |
|                                                                                                                                               | (2) A law enacted by the Federal Parliament shall provide for the details for the redress of fundamental rights violations and other offences against civilians by members of the security and defence forces. | This Paragraph is suggested to be added so as to allow House of the People to enact a law which stipulates the details for the redress of fundamental rights violations and other offences against civilians by members of the security and defence forces. |
| <b>Article 129. The Office of the Ombudsman</b>                                                                                               |                                                                                                                                                                                                                | <b>Suggestions</b>                                                                                                                                                                                                                                          |
| (1) This Constitution establishes the Office of the Ombudsman which is an entity where the public can lodge their complaints against abuses   |                                                                                                                                                                                                                | It is suggested to delete this Article as there is no need for such a new institution.                                                                                                                                                                      |

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| committed by the members of the security forces and the government administration.                                                                                                                                                                                                                         |                                                                                         |                                                                                                                              |
| (2) The office of the Ombudsman can initiate an investigation if it suspects the existence of violation committed by the security forces against an individual or on a section of the community. If the investigations reveal convincing results it can take up the matter before a relevant court of law. |                                                                                         | See comment on Paragraph (1) above.                                                                                          |
| (3) A special law shall determine the powers and duties of the Ombudsman                                                                                                                                                                                                                                   |                                                                                         | See comment on Paragraph (1) above.                                                                                          |
| <b>Article 130. Security Agencies Laws</b>                                                                                                                                                                                                                                                                 |                                                                                         | <b>Suggestions</b>                                                                                                           |
| The two Houses of the Parliament shall enact a law governing the structure, functions and levels of the security agencies of the Federal Republic of Somalia.                                                                                                                                              |                                                                                         | It is suggested to delete this Article and merge its contents with the revised Article on Security and Defense Forces above. |
| <b>Article 131. State of Emergency</b>                                                                                                                                                                                                                                                                     | <b>Article 124. State of Emergency</b>                                                  | <b>Suggestions</b>                                                                                                           |
| (1) A State of Emergency may be declared only if it is necessary to                                                                                                                                                                                                                                        | (1) A State of Emergency may be declared only if it is necessary to deal with a serious | No changes suggested.                                                                                                        |

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| deal with a serious situation arising from war, invasion, insurrection, disorder, a natural disaster or some other grave public emergency.                                                                                                                                                                                                                                 | situation arising from war, invasion, insurrection, disorder, a natural disaster or some other grave public emergency.                                                                                       |                                                                                                                                                                                                            |
| (2) A State of Emergency may be declared affecting the whole or part of the country, but shall not be more extensive than necessary to deal with the situation.                                                                                                                                                                                                            | (2) A State of Emergency may be declared affecting the whole or part of the country, but shall not be more extensive than necessary to deal with the situation.                                              | No changes suggested.                                                                                                                                                                                      |
| (3) The President acting on the request of the Council of Ministers may declare a necessary State of Emergency, which shall then be debated, and may be approved, by both Houses of the Federal Parliament within 21 days after that declaration. The debates in the Federal Parliament shall take place in public unless it is no feasible to do so in the circumstances. | (3) The President acting on the request of the Council of Ministers may declare a State of Emergency.                                                                                                        | It is suggested to split Paragraph (3) into two new Paragraphs (3) and (4) so as to provide for a more coherent and comprehensible provision.                                                              |
|                                                                                                                                                                                                                                                                                                                                                                            | (4) Within 7 days after the declaration of the State of Emergency by the President, the Federal Parliament shall debate and may approve such a declaration with a majority decision of its total membership. | See comment on Paragraph (3) above.<br><br>Substantially it is however suggested to reduce the time period in which Parliament needs to endorse the declaration of a State of Emergency from 21 to 7 days. |
| (4) The Federal Parliament may approve or extend a state of emergency for no more than three                                                                                                                                                                                                                                                                               | (5) The Federal Parliament may approve a State of Emergency for no more than three months. However, if there is a need, the                                                                                  | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.                                                                  |

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| months at a time. If the Federal Parliament does not approve or extend a State of Emergency, the State of Emergency ceases to be in effect.                                                                                       | Government may request the House of the People for an extension of no more than three months; if the Federal Parliament does not approve or extend a State of Emergency, the State of Emergency ceases to have effect.                                    |                                                                                                                                                |
| (5) The declaration of a State of Emergency may give the executive special powers that are necessary to deal with the situation only.                                                                                             | (6) The declaration of a State of Emergency may give the executive special powers that are necessary and proportional to deal with the situation.                                                                                                         | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.<br>. |
| (6) The powers granted under a State of Emergency shall not include powers to violate the rights under this Constitution, unless that violation is absolutely necessary for the purposes of dealing with the emergency situation. | (7) The powers granted to the executive branch under a State of Emergency shall not include powers to violate the rights under this Constitution, unless such violation is absolutely necessary for the purposes of dealing with the emergency situation. | Only linguistic changes suggested. The suggested wording is an attempt to provide for a regulation that is more clear and comprehensible.      |
| (7) The validity of a declaration of a State of Emergency, and the procedures involved in making the declaration, may be challenged in court.                                                                                     | (8) The validity of a declaration of a State of Emergency, and the procedures involved in making the declaration, may be challenged before the Constitutional Court.                                                                                      | It is suggested to clarify that challenges against the declaration of a State of Emergency may only be filed before the Constitutional Court.  |
|                                                                                                                                                                                                                                   | <b>Article 125. Declaration of War</b>                                                                                                                                                                                                                    | <b>Suggestions</b>                                                                                                                             |
|                                                                                                                                                                                                                                   | (1) The President of the Federal Republic of Somalia upon consultation with the Council of                                                                                                                                                                | This Article is suggested to be added so as to provide for a procedure for the Declaration of War, similar to the procedure provided for the   |

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|  | Ministers may declare war if the circumstances so require and such a declaration is the only measure to protect the interests of the country and thus deploy the armed forces of the Federal Republic of Somalia. | Declraration of a State of Emergency. |
|  | (2) The President must submit the declaration of war to the Federal Parliament , which must approve or dismiss it by a majority decision of its total membership to have effect.                                  | See comment on Paragraph (1) above.   |
|  | (3) The validity of a declaration of war and the procedures involved in making the declaration may be challenged before the Constitutional Court.                                                                 | See comment on Paragraph (1) above.   |

| Text                                                         | Harmonized                              | Report |
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| <b>CHAPTER 15:<br/>FINAL AND TRANSITIONAL<br/>PROVISIONS</b> | <b>CHAPTER 12:<br/>FINAL PROVISIONS</b> |        |

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| <p><b>Article 132. Provisions Applicable to an Amendment to the Constitution Proposed After the Expiry of the First Term of the Federal Parliament</b></p>                                                                                         | <p><b>Article 126. Amendments to the Constitution</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>(1) Notwithstanding Clause 2, whether before or after the expiry of the first term of the Federal Parliament, neither House of Parliament may consider an amendment to the Founding Principles mentioned in Chapter 1 of this Constitution.</p> | <p>(1) The proposal for an amendment or addition to the Constitution is to be presented to the House of the People and the House of Regional State Delegates by:</p> <p>(a) Any committee of the two Houses of the Federal Parliament;</p> <p>(b) The Council of Ministers;</p> <p>(c) Any Regional State government;</p> <p>(d) A petition signed by at least forty thousand (40,000) registered voters of the Federal Republic of Somalia.</p> <p>(2) Any amendment or addition to the Constitution in accordance with Paragraphs (1) and (2) of this Article shall be approved by a two-thirds (2/3) majority vote of the total membership of the House of the People and the House of Regional State Delegates.</p> <p>(3) Amendments to the Constitution in accordance with Paragraphs (1) and (2) of this Article may never provide for either of the following:</p> | <p><i>It is suggested to significantly simplify the provisions on the constitutional amendments procedure. The suggested provision is inspired by the historic Constitutional amendment provisions of 1960, 1979 and 1990 Somali Constitutions. However, it is suggested to reflect on the new federal structure and have Regional States be presented in the constitutional amendment procedure through the House of Regional State Delegates, which is suggested to be required to approve constitutional amendments by a 2/3 majority vote as well.</i></p> |

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|                                                                                                                                                                                                                                                                                  | <p>(a) Modifying the republican and democratic form of government;</p> <p>(b) Restricting the fundamental rights provided by the Constitution.</p> <p>(c) Undermining the principles of the Sharia as applied under the Constitution; or</p> <p>(d) Challenging the national unity and territorial integrity of the Federal Republic of Somalia.</p> |                                                   |
| <p>(2) Subject to Clause 1, and other than an amendment of the boundaries of Federal Member States in terms of Article 49, a House of the Federal Parliament may consider an amendment to the Constitution only in terms of the procedures set forth in Clauses 3 through 9.</p> |                                                                                                                                                                                                                                                                                                                                                      | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>(3) The Federal Government or a Federal Members State government, a member of the Federal Parliament or a petition signed by at least 40,000 citizens may initiate the amendment process.</p>                                                                                 |                                                                                                                                                                                                                                                                                                                                                      | <p><i>See comment on Paragraph (1) above.</i></p> |

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| <p>(4) A sponsor of a constitutional amendment in terms of Clause 3 may introduce that proposed amendment into either House of the Federal Parliament.</p>                                                                                                                                                                                                                                     |  | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>(5) If a majority of the members of the House in which its sponsors introduce a proposed constitutional amendment accept that amendment on first or a subsequent reading, the Speaker of the House of the People and the Speaker of the Upper House of the Federal Parliament of Somalia shall each appoint ten members of that Speaker's House to a joint committee of the two Houses.</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| <p>(6) The joint committee appointed in terms of Clause 5 shall:</p> <p>(a) Review a proposal for the amendment;</p> <p>(b) Inform the public of the proposal;</p> <p>(c) Ensure that adequate opportunity exists for public debate; (d) Consult with members of the public;</p> <p>(e) Ensure that members of the public have adequate opportunity to present their comments and suggestions to the joint committee; and</p> <p>(f) Engage Federal Member State legislatures and incorporate the Federal Member States' harmonized submissions into the proposed amendment, whereas the matter concerns Federal Member State interests.</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>(7) Within two (2) months after its appointment, the joint committee shall submit its report to each House of the Federal Parliament.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| <p>(8) The Federal Parliament adopts a proposed amendment only after approving it on a final vote in the House of the People by at least two-thirds (2/3) of the existing members, and on a final vote in the Upper House of the Federal Parliament by at least two-thirds (2/3) of the existing members.</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>(9) A House of Parliament may take a final vote only three (3) months or more after the report of the joint committee in terms of Clause 7.</p>                                                                                                                                                            |  | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>(10) If the Parliament approves one or more proposed amendments in terms of this Article and Article 136 concerning the review of the final Constitution, it shall conduct a referendum on the revised Constitution as amended.</p>                                                                        |  | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>Article 133. Provisions Applicable to an Amendment to the Provisional Constitution Schedule One (C), or a Law Mentioned in Schedule One (D) of this Constitution, Proposed Before the Expiry of the First Term of the Federal Parliament: The Oversight</p>                                                |  |                                                   |

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| Committee                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |                                                                                                                                                                                                                                             |
| (1) In this Article and in Article 134:<br>(a) 'Oversight Committee' means the Provisional Constitution Review and Implementation Oversight Committee. (b) 'Review and Implementation Commission' means the Independent Provisional Constitution Review and Implementation Commission                                                                                                                                                                                                                                      |  | <i>It is suggested to delete this Article due to the fact that it is based on the first term of the Federal Parliament. A special amendment procedure tied to the first term of the Federal Parliament obviously is no longer required.</i> |
| (2) This Constitution establishes the Oversight Committee as a Committee of the Federal Parliament.<br><br>(a) Each House of the Federal Parliament of the Federal Republic of Somalia shall elect five (5) of its Members as members of the Oversight Committee. In addition, each existing Federal Member State of the Federal Republic of Somali that qualifies as a Federated State under the Federal Constitution of Somalia shall nominate one Federal Member State Delegate as a member of the Oversight Committee; |  | <i>See comment on Paragraph (1) above.</i>                                                                                                                                                                                                  |

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| <p>(b) The Oversight Committee shall oversee, direct and approve the work of the Review and Implementation Commission, and, generally, the implementation of the Constitution.</p> |  |                                                   |
| <p>(3) The members of the Oversight Committee shall select its Chairperson from among the members of the Oversight Committee.</p>                                                  |  | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>(4) Not later than one month after the Oversight Committee selects its Chairperson, the Oversight Committee shall by majority vote adopt rules for its functioning.</p>         |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| <p>(5) The Oversight Committee shall from time to time, assign to the Review and Implementation Commission a drafting project based upon the requirements of Schedules 1 (C) and 1 (D) and such other requirements as shall be deemed necessary pursuant to the outcomes of the National Constituent Assembly provisional adoption as set forth in the Protocol Establishing the National Constituent Assembly.</p>                                                                                                                                  |  | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>(6) In assigning a drafting project mentioned in Clause 5, the Oversight Committee shall prioritize the project as follows:</p> <p>(a) Analyse the project in terms of the social problem that the proposed Constitutional amendment or bill will address;</p> <p>(b) Accord high priority to a project that aims at changing the behaviours that constitute a social problem concerning:</p> <p>(i) National security, public safety, the protection of basic human rights, or the environment;</p> <p>(ii) Inequality in quality of life of</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| <p>different segments of the Somali population, including income inequality, inequality in health care delivery, and inequality in education;</p> <p>(iii) Economic development, including the availability of jobs, ensuring that a fair proportion of surplus value earned by foreign investors is reinvested in the Federal Republic of Somalia , and ensuring that Somali citizens receive education in, and obtain jobs related to the use of new technologies; and</p> <p>(iv) Safeguarding public funds against corruption and misuse.</p> <p>(c) Accord lesser priority to a drafting project concerning a social problem related to the responsibility of an existing Ministry other than those concerned with high priority social problems;</p> <p>(d) So far as possible on the basis of accurate social cost-benefit calculations, assign relative priorities between proposed drafting projects seemingly of equal priority;</p> <p>(e) Invite Members of both Houses of the Federal Parliament of the Federal Republic of Somalia to discuss prioritization of proposed</p> |  |  |
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| <p>constitutional amendments and proposed draft bills;</p> <p>(f) Annually submit to the Federal Parliament of the Federal Republic of Somalia for approval, amendments, approval, or rejection, of a current legislative drafting program of priority proposed Constitutional amendments and proposed draft bills, in the order in which the Oversight Committee will assign projects for drafting to the Review and Implementation Commission, and from time to time add or subtract from that program as the current situation warrants.</p> |  |                                                   |
| <p>(7) As the Review and Implementation Commission, in terms of Clause 6, completes a project assigned to it for drafting, as mentioned in Article 134, it shall submit for the Oversight Committee's review the draft Constitutional amendment or draft bill, accompanied by the report mentioned in Article 134 (7)(b).</p>                                                                                                                                                                                                                   |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| <p>(8) The Oversight Committee shall:</p> <p>(a) Internally review a draft Constitutional amendment or draft bill and the accompanying report, received in terms of Clause 7;</p> <p>(b) Inform the public of the proposal and the report;</p> <p>(c) So far as possible, ensure that adequate opportunity exists for public debate;</p> <p>(d) Consult with members of the public and other members of the Federal Parliament of the Federal Republic of Somalia; and</p> <p>(e) Engage Federal Member State legislatures and incorporate harmonized submissions into the proposed amendment, where the matter concerns Federal Member State interests.</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>(9) If after the consultations mentioned in Clause 8 the Oversight Committee decides to incorporate various suggestions into the proposed Constitutional amendment or bill, it shall return the proposed Constitutional amendment or bill and report to the Review and</p>                                                                                                                                                                                                                                                                                                                                                                                |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| Implementation Commission for redrafting, with instructions.                                                                                                                                                                                                                                                                                                           |  |                                            |
| (10) If after the consultations mentioned in Clause 8 the Oversight Committee decides to submit the proposed Constitutional amendment or bill for enactment, it shall forward the proposed Constitutional amendment or bill to the Speaker of the House of the People, together with its accompanying report, for further proceedings in terms of this Constitution.   |  | <i>See comment on Paragraph (1) above.</i> |
| (11) The Oversight Committee shall report not less than once each quarter year to both Houses of the Federal Parliament the progress in completing the projects mentioned in Schedules One (C) and One (D) and as required pursuant to the outcomes of the National Constituent Assembly as stipulated in the Protocol Establishing the National Constituent Assembly. |  | <i>See comment on Paragraph (1) above.</i> |

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| (12) The Oversight Committee ceases to exist upon the approval of its dissolution by a simple majority (50% plus 1) of each House of the Federal Parliament of the Federal Republic of Somalia.                                                                                                                    |  | <i>See comment on Paragraph (1) above.</i>                                                                                                                                                                                                  |
| Article 134. Provisions Applicable to an Amendment to the Constitution Proposed Before the Expiry of the First Term of the Federal Parliament: The Review and Implementation Commission                                                                                                                            |  |                                                                                                                                                                                                                                             |
| (1) This Constitution establishes the Review and Implementation Commission as a Commission subject to the overall direction of the Oversight Committee in accordance with Article 133.                                                                                                                             |  | <i>It is suggested to delete this Article due to the fact that it is based on the first term of the Federal Parliament. A special amendment procedure tied to the first term of the Federal Parliament obviously is no longer required.</i> |
| (2) At the beginning of the first term of the Federal Parliament of the Federal Republic of Somalia, the relevant Minister shall nominate to the Prime Minister five members of the Review and Implementation Commission whom the relevant Minister selects from short lists prepared by the Council of Ministers. |  | <i>See comment on Paragraph (1) above.</i>                                                                                                                                                                                                  |

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| <p>In addition, existing Federal Member States shall nominate one additional delegate to the Review and Implementation Commission, based on the same selection criteria.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |                                                   |
| <p>(3) The relevant Minister shall select as a nominee a person, not a member of the Federal Parliament, who meets the following criteria for appointment to the Review and Implementation Commission:</p> <p>(a) Has a good moral character and reputation;</p> <p>(b) Possesses a degree from a recognized university;</p> <p>(c) Has demonstrated competence at high levels of public administration or law in Somalia;</p> <p>(d) Has knowledge and experience of at least ten years in matters relating to one or more of the following fields:</p> <p>(i) Law;</p> <p>(ii) Public administration; (iii)</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| <p>Economics;</p> <p>(iv) Gender;</p> <p>(v) Human rights.</p> <p>(e) Has had a distinguished career in the nominee's respective field; and</p> <p>(f) Has extensive legislative drafting experience.</p>                                                                                 |  |                                                   |
| <p>(4) The Prime Minister shall place the names of the nominees before each House of the Federal Parliament of the Federal Republic of Somalia within 15 days after the Cabinet is formed, which shall, within fourteen (14) days, approve all or reject one or more of the nominees.</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| <p>(5) If either House rejects a nominee, the relevant Minister shall in terms of Clause 3 nominate a replacement, and thereafter follow the procedure prescribed in Clauses 4 through 6.</p>                                                                                                                                                                                                                              |  | <p><i>See comment on Paragraph (1) above.</i></p> |
| <p>(6) After the Federal Parliament of the Federal Republic of Somalia has selected five 5 nominees in terms of Clauses 4 and 5, the Prime Minister shall designate one of the nominees as Chairperson, and forward the nominees' names to the President, who shall forthwith appoint the Prime Minister's designee as Chairperson, and the other two nominees as members of the Review and Implementation Commission.</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| <p>(7) The Review and Implementation Commission shall:</p> <p>(a) As the Oversight Committee may direct, draft a proposed constitutional amendment in terms of Schedule One (C), or a proposed bill as mentioned in Schedule One (D), or as otherwise required pursuant to the outcomes of the National Constituent Assembly;(b) Prepare a research report to accompany that proposed amendment or bill, which report, in terms of evidence, both justifies the proposed amendment or bill and predicts the probability that the proposed amendment or bill will induce its prescribed behaviours, and that those behaviours will ameliorate the social problem at which the proposed amendment or bill aims;</p> <p>(c) Accomplish the necessary legal and factual research required to fulfil the tasks mentioned in Paragraphs (a) and (b);</p> <p>(d) In terms of Article 137 (7), submit the completed proposed amendment or draft bill accompanied by the report mentioned in Paragraph (b) to the Oversight Committee;</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |
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| <p>(e) Report every three (3) months to the Oversight Committee, or upon request by the Oversight Committee, on progress in the review and implementation of this Constitution and any impediments to the review and implementation process;</p> <p>(f) Work with the Chief Justice of the Constitutional Court to ensure the constitutionality of the proposals; and</p> <p>(g) Subject to budgetary limitations, employ staff sufficient to accomplish its duties under this Constitution.</p> |  |  |
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| Article 135. Mandates and Prescribed Timelines for Priority Institutions and Independent Commissions the Federal Parliament Shall Establish                                                                                                                                                                                                                                                                                                                                                              |  |                                                                                                                                                                                                             |
| (1) Unless otherwise stated in this Constitution, the Federal Parliament of the Federal Republic of Somalia shall appoint no more than nine (9) members to serve on Independent Commissions.                                                                                                                                                                                                                                                                                                             |  | <i>It is suggested to delete this Article as all the timelines for the establishment of these priority institutions have already expired. This Article therefore is perceived to be no longer required.</i> |
| <p>(2) The Federal Parliament shall establish the following Institutions and Independent Commissions within the following timeframes applicable after the Council of Ministers is formed:</p> <p>(a) The Judicial Service Commission - 30 days;</p> <p>(b) Constitutional Court - 60 days;</p> <p>(c) The Human Rights Commission, Ombudsman, the National Security Commission and the</p> <p>Civilian Oversight Sub-Committee - 45 days;</p> <p>(d) The Parliamentary Service Commission - 15 days;</p> |  | <i>See comment on Paragraph (1) above.</i>                                                                                                                                                                  |

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| <p>(e) The National Independent Electoral Commission and the Boundaries and Federation Commission - 60 days;</p> <p>(f) The Interstate Commission - 1 year;</p> <p>(g) The Truth and Reconciliation Commission - 30 days.</p>                                                                                                                                                                                                |  |                                                   |
| <p>(3) In order to facilitate the work of the Federal Parliament in accomplishing these tasks, the Technical Facilitation Committee shall prepare the draft legislation required to establish such commissions under this Constitution for the Oversight Committee and the Review and Implementation Commission to finalize and submit to the Federal Parliament to consider as soon as practicable in order to meet the</p> |  | <p><i>See comment on Paragraph (1) above.</i></p> |

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| deadlines established in Clause 2 above.                                                                                                                                                                                                                                                                                                                                        |  |                                                                                                                                                                                                                                                                                                                                                   |
| Article 136. Adoption of a Constitutional Amendment During the First Term of the House of the People; Adoption of the Final Constitution.                                                                                                                                                                                                                                       |  |                                                                                                                                                                                                                                                                                                                                                   |
| (1) During the first term of the Somali Federal Parliament, it shall adopt a proposed amendment to the Provisional Constitution only after approving it in a final vote in the House of the People by at least two-thirds (2/3) of the existing Members, and in a final vote in the Upper House of the Federal Parliament by at least two-thirds (2/3) of the existing members. |  | <i>This Article is suggested to be deleted since it provides for the official review of the constitution and adoption by public referendum to be organised during the first term of the Federal Parliament. This term is coming to an end. Instead it is suggested to have an ordinary constitutional amendment procedure provided for above.</i> |

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| (2) In a referendum held concerning the Provisional Constitution as amended, held before the end of the first term of the House of the People, the electorate of the Federal Republic of Somalia may adopt the new Constitution by a majority vote in favor of the final version of this Constitution.                                                                                              |  | <i>See comment on Paragraph (1) above.</i>                                                                                                                                                                                                                                          |
| Article 137. Review of the Constitution of the Federal Republic of Somalia After Ratification by Referendum                                                                                                                                                                                                                                                                                         |  |                                                                                                                                                                                                                                                                                     |
| (1) At the expiry of the first term of the Federal Parliament of Somalia, the Federal Parliament shall establish a Commission to review the implementation and operation of the Constitution of the Federal Republic of Somalia, as ratified in terms of Article 136 on adoption of the final Constitution, and to consult the Federal Member States and members of the public on possible changes. |  | <i>This Article is suggested to be deleted since it provides for another official review of the adopted constitution after the first term of the Federal Parliament. Instead it is suggested to have an ordinary constitutional amendment procedure only as provided for above.</i> |
| (2) Within six months after its appointment, the Commission shall submit a report to the Federal                                                                                                                                                                                                                                                                                                    |  | <i>See comment on Paragraph (1) above.</i>                                                                                                                                                                                                                                          |

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| Parliament, the Federal Member States and the public.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |                                            |
| (3) After collection and consideration of the views of the Federal Member States, the public, and monitoring and evaluating the implementation and application of the final Constitution and not less than six (6) months before the expiry of the second term of the Somali Federal Parliament, the Commission, in consultation with the Chief Justice of the Constitutional Court to ensure that the letter and spirit of the Constitution is respected, shall revise its report and submit to the Federal Parliament its proposals, if any, for amending the Constitution in terms of Article 132. |  | <i>See comment on Paragraph (1) above.</i> |
| (4) If the Federal Parliament approves one or more proposed amendments in terms of Article 132, the Federal Parliament shall follow the procedures set forth in Article 132 on the proposed revised Constitution of the Federal Republic of Somalia as amended.(5) If a majority of those voting in the referendum mentioned                                                                                                                                                                                                                                                                          |  | <i>See comment on Paragraph (1) above.</i> |

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| in Clause 4 vote to approve the final Constitution as amended, that Constitution becomes the Constitution of the Federal Republic of Somalia.                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Title Two: Miscellaneous Provisions                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Article 138. Coming Into Effect of this Constitution                                                                                                                                                                                                                                                 | <b>Article: 127 Coming Into Effect of the Constitution</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>(1) This Constitution comes into effect on the first day after approval by a National Constituent Assembly convened in terms of the Roadmap Agreement, the Garowe 1 and Garowe II Principles, the Galkayo and the Addis Ababa Agreements, the Presidential Decree and the relevant Protocols.</p> | <p>(1) This Constitution came into effect after adoption of the National Constituent Assembly on 2 August 2012.</p> <p>(2) The amendments to the originally adopted constitutional text following the official constitutional review process during the first term of the Federal Parliament took effect after adoption by the Federal Parliament on the date of .....</p> <p>(3) The amended Constitution remains provisionally in force upon final approval by the Somali people in a public referendum to be organised once full unity has been achieved.</p> | <p><i>It is suggested to include here that the Constitution will remain provisional until approved by the Somali people in a public referendum once full unity has been achieved. This is perceived as giving enough flexibility to organize a referendum to adopt the constitution, when the time is right so as to avoid the constant need for postponing such a referendum as experienced in recent years.</i></p> |

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| <p>(2) The effect of provisions and Articles related to the Upper House of the Federal Parliament wherever cited in this Constitution, shall be postponed until such time when all Federal Member States are formed and their representatives sworn into office as members of the Upper House of the Federal Parliament. Pending the establishment of the Upper House of the Federal Parliament, the House of the People shall perform all duties and functions provided for the Upper House in this Constitution and function as a unicameral federal legislature, faithfully taking into account the founding principle of power sharing in a federal system as stipulated in Article 3 (3) of this Constitution and the interests of Somalia's regions when taking its decisions.</p> |                                                                             | <p><i>See comment on Paragraph (1) above.</i></p> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p><b>Article 128. Joint Committee for Constitutional Harmonization</b></p> |                                                   |

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|  | <p>(1) The House of the People and the House of Delegates shall establish a Joint Committee consisting of one (1) member from each Regional State and fifteen (15) members from the House of the People to develop recommendations for the amendment of the Federal Constitution or Regional State Constitutions.</p> <p>(2) The Joint Committee of the two Houses may present proposals aimed at the harmonization of the Federal Constitution and the Regional States Constitutions.</p> <p>(3) Any proposed amendments to the Federal Constitution or the Constitution of a Regional State need to be adopted in accordance with the procedures provided in the respective Constitution to be amended.</p> | <p><i>In order to reflect the new federal character of the Republic and political realities requiring harmonization of Regional State constitutions with the Federal Constitution, it is suggested to provide for an Joint committee comprising members of the House of the People and the Regional State Delegates to develop common suggestions for constitutional harmonization of Federal and Regional State Constitutions.</i></p> |
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| <b>Article 139. Continuation of the Laws</b> | <b>Article 129. Continuation of Laws</b> |  |

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| <p>All laws in force immediately before the effective date shall continue to be in force and shall be construed and applied with such alterations, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution until such time as such laws are amended or repealed.</p> | <p>(1) All laws before the effective date of this Constitution shall continue to be in force in so far as such laws do not contradict the Constitution and the national interest.</p> <p>(2) In accordance with Article ..., the House of the People and the House of Regional State Delegates shall establish an Independent Law Reform Commission to reform all the laws of the country, and to advise the House of the People on the laws that need to conform with the Constitution and on the laws that need to be repealed.</p> | <p><i>Only technical refinements suggested for the first Paragraph. A new Paragraph is suggested to be added that gives Parliament the power to establish an Independent Law Reform Commission.</i></p> |
| <b>Article 140. International Obligations</b>                                                                                                                                                                                                                                                                                    | <b>Article 130. International Obligations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                         |
| <p>Until the treaty imposing a treaty obligation in effect on the date that this Constitution comes into force expires or is amended, that treaty obligation remains in effect.</p>                                                                                                                                              | <p>The treaties signed before the adoption of this Constitution shall remain in force subject to a revision and must be applied in conformity to the Constitution and national interests.</p>                                                                                                                                                                                                                                                                                                                                         | <p><i>It is suggested to provide that all international treaties are subject to a review in order to conform with the constitution and national interests.</i></p>                                      |
| Article 141. Referendums                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                         |

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| <p>(1) Whether required by this Constitution, by law, or for another reason, in conducting a referendum, including the referendum to validate this Provisional Constitution, in conducting a referendum the authority conducting that referendum shall ensure that all eligible voters have opportunity to express their views in a free, direct and secret manner and in accordance with a law that the Federal Parliament shall enact establishing the procedures for referendums.</p> |  | <p><i>It is suggested to delete this Article and leave matters related to the organisation of national referenda to Parliament to regulate through ordinary legislation.</i></p> |
| <p>(2) The authority conducting a referendum shall ensure that:</p> <p>(a) The referendum asks a question clearly, in a manner designed to elicit the genuine view of the voter and does not obscure the nature of the choice that the voter faces; and</p> <p>(b) That neither a question, the design of the ballot paper nor the procedure suggests a particular answer to the question.</p>                                                                                           |  | <p><i>See comment on Paragraph (1) above.</i></p>                                                                                                                                |
| <p>Article 142. Existing Federal Member States in Somalia</p>                                                                                                                                                                                                                                                                                                                                                                                                                            |  |                                                                                                                                                                                  |

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| (1) Until such time that all the Federal Member States of Somalia are established and the adopted Federal Member State Constitutions are harmonized with the Somali Federal Constitution, the Federal Member States existing prior to the provisional adoption of this Provisional Constitution by a National Constituent Assembly shall retain and exercise powers endowed by their own State Constitution. |  | <i>It is suggested to delete this Article and merge its contents with the regulations in CHAPTER 5 and with the suggested Article on the Inter-Parliamentary Constitutional Harmonization Committee above.</i> |
| (2) Existing Federal Member States must be consulted in the decision-making process regarding the federal system, and security arrangements.                                                                                                                                                                                                                                                                 |  | <i>See comment on Paragraph (1) above.</i>                                                                                                                                                                     |
| Article 143. Repeal of the Transitional Federal Charter                                                                                                                                                                                                                                                                                                                                                      |  |                                                                                                                                                                                                                |
| The Transitional Federal Charter ceases to exist upon the dissolution of the National Constituent Assembly.                                                                                                                                                                                                                                                                                                  |  | <i>This Article is perceived to be no longer required. Therefore the suggestion to delete it.</i>                                                                                                              |
| SCHEDULES                                                                                                                                                                                                                                                                                                                                                                                                    |  |                                                                                                                                                                                                                |
| SCHEDULE ONE (A) – THE SOMALI                                                                                                                                                                                                                                                                                                                                                                                |  |                                                                                                                                                                                                                |

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| SCHEDULE ONE (B) – THE SOMALI EMBLEM                                                                                        |  |  |
| SCHEDULE ONE (C) – TRANSITION:<br>PROPOSED AMENDMENTS TO THE<br>CONSTITUTION IN THE FIRST TERM<br>OF THE FEDERAL PARLIAMENT |  |  |

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| <p>In terms of Article 133 and 134, the Somali Federal Parliament shall propose and enact amendments to this Provisional Constitution, in conformity with agreements negotiated between the Federal Government and the Existing Federal Member States and new Federal Member States, including but not limited to the following:</p> <p>(1) To Article 22, prescribing detailed methods of exercising the right of political participation; (2) To Article 32, concerning the right of access of information;</p> <p>(3) To Article 39, prescribing procedures for redress for violations of human rights; (4) To Article 41, establishing a Human Rights Commission;</p> <p>(5) To Article 43, concerning dispositions of federal land;</p> <p>(6) To Article 47, concerning political parties and the electoral system;</p> <p>(7) To Articles 110 and 113, prescribing the obligations, duties, number of members, and procedures of Independent Commissions;</p> <p>(8) To Article 111 J, concerning the</p> |  | <p>This schedule is suggested to be deleted as it is perceived to be no longer required due to its reference to the first term of the Federal Parliament, which is coming to an end.</p> |
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| <p>Ombudsman; (9) To Article 130, prohibiting private militias;</p> <p>(10) To Article 130, regulating private security companies; (11) To Articles 131, concerning states of emergency.</p> |  |  |
| <p>SCHEDULE ONE (D) – PRIORITY LAWS TO BE ENACTED IN THE FIRST TERM OF THE FEDERAL PARLIAMENT</p>                                                                                            |  |  |

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| <p>The Drafting Commission shall prioritize drafting projects concerning new laws, in conformity with agreements negotiated between the Federal Government and the existing Federal Member States and new Federated States, including but not limited to the following:</p> <p>(1) A law in terms of Article 8, prescribing how to obtain or lose citizenship in the Federal Republic of Somalia;</p> <p>(2) A law in terms of Article 9, prescribing the status of the capital city;</p> <p>(3) A law in terms of Article 30, concerning the establishment of private schools, institutes and universities;</p> <p>(4) A law in terms of Article 34, concerning the right to free legal aid to defendants in criminal cases; (5) A law in terms of Article 36, concerning the extradition of accused persons and criminals;</p> <p>(6) A law in terms of Article 37, concerning refugees and asylum;</p> <p>(7) A law in terms of Article 39, prescribing procedures for redress for</p> |  | <p>This schedule is suggested to be deleted as it is perceived to be no longer required due to its reference to the first term of the Federal Parliament, which is coming to an end.</p> |
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| <p>violations of human rights;</p> <p>(8) A law in terms of Article 45, concerning the dumping of waste;</p> <p>(9) A law in terms of Article 49</p> <p>concerning the number and boundaries of Federal Member States, and the resolution of boundary disputes;</p> <p>(10) A law in terms of Article 51, prescribing rules concerning collaborative relationships between the several levels of government;</p> <p>(11) A law in terms of Article 68, prescribing rules of procedure for the House of the People;</p> <p>(12) A law in terms of Article 70, defining the immunity of Members of the Somali Federal Parliament;</p> <p>(13) A law in terms of Article 75, prescribing rules of procedure for the Upper House of the Federal Parliament;</p> <p>(14) A law in terms of Article 123, establishing the Central Bank of the Federal Republic of Somalia; (15) A law in terms of Article 130,</p> |  |  |
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| <p>concerning the security forces;</p> <p>(16) Laws in terms of Article 130, establishing specialized bodies as necessary to deal with anti-terrorism, anti-piracy, human trafficking and other organized crime;</p> <p>(17) A law in terms of Article 130, regulating the structure and functions of the federal police;</p> <p>(18) A law in terms of Article 130, regulating the relationships between the federal police service and the police services of the Federal Member States;</p> <p>(19) A law in terms of Article 130, to clarify the issue of obedience to illegal orders;</p> <p>(20) A law in terms of Article 130, concerning the establishment and operation of the special parliamentary committee for the armed forces;</p> <p>(21) A law in terms of Article 130, concerning the involvement of civilians in the oversight of the federal police service;</p> <p>(22) A law in terms of Article 141, concerning the conduct of a</p> |  |  |
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