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# CONSTITUTION of SOMALIA<sup>1</sup>

July 1, 1960

## PREAMBLE

*In the Name of God the Compassionate and Merciful  
The Somali People*

- *Conscious* of the sacred right of self-determination of peoples, solemnly consecrated in the Charter of the United Nations;
- *Firmly* decided to consolidate and protect the independence of the Somali Nation, and the right to liberty of its people, in a democracy based on the sovereignty of the people and on the equality of rights and responsibilities of all citizens;
- *Determined* to co-operate with all peoples for the consolidation of liberty, justice and peace in the world, and in particular with those peoples with whom they are linked by history, religion, culture and political outlook, for the building of a better future;
- *In constituting themselves* into a Unitarian Sovereign and Independent Republic, place at the base of the juridical and social order of the Somali Nation the present:

## FIRST PART

### GENERAL PRINCIPLES

#### *Article 1 – The Republic*

(1) Somalia is an independent State having full sovereignty. It is a representative democratic unitary republic. The Somali people constitute an indivisible unity.

<sup>1</sup> English translation supplied by the United States State Department.

(2) Sovereignty belongs to the people who exercise it in the forms determined by the Constitution and the laws. No part of the people and no individual may claim sovereignty for themselves nor arrogate to themselves the exercise thereof.

(3) Islam is the religion of the State.

(4) The national flag is light blue, rectangular, and bears a white star with five equal points in the center.

(5) The Emblem of Somalia, is composed of a blue shield with a star of five silver points and a gold border. The shield surmounted by a battlement with five points in Moorish style, the two lateral points halved, is borne by two leopards rampant in natural form facing each other, resting on two lances crossing under the point of the shield, with two palm leaves in natural form interlaced with a white ribbon.

#### *Article 2 – The people*

(1) The people consists of all the citizens.

(2) The law establishes the manner of acquisition and loss of citizenship.

(3) Denial and loss of citizenship may not be based on political motives.

#### *Article 3 – Equality of the citizens*

All citizens, without distinction of race, national origin, birth, language, religion, sex, economic and social status or of opinion, are equal in rights and responsibilities before the law.

#### *Article 4 – Territory of the State*

(1) The national territory is sacred and inviolable.

(2) The territorial sovereignty includes the continental territory, the islands, the territorial sea, the subsoil, the air space above and the continental shelf.

(3) Any modification of the national territory must be authorized by a law approved by a four-fifths majority of the members of the National Assembly.

(4) The law determines the parts of the territory and the property which belongs to the State and to the public bodies, establishing the legal status thereof.

#### *Article 5 – Supremacy of the law*

(1) The organization of the State and the relationships between the State and other persons, public or private, are governed by law.

(2) Administrative acts contrary to the laws and legislative acts

contrary to the Constitution may be rendered invalid through the initiative of the persons concerned in accordance with the provisions of the Constitution.

*Article 6 – The Republic in the international order*

(1) The generally accepted rules of international law and international treaties regularly concluded by the Republic and published in the manner prescribed for legislative acts have the force of law.

(2) The Republic repudiates war as a means of settling international disputes.

(3) It accepts, on conditions of equality with other States, the limitations of sovereignty necessary for an arrangement which ensures peace among nations.

(4) The Somali Republic promotes, by legal and peaceful means, the union of the Somali territories and encourages solidarity among the peoples of the world, and in particular among the African and Islamic peoples.

*Article 7. – Human Rights*

The Somali Republic will adopt wherever applicable, the provisions of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10 December 1948.

SECOND PART

FUNDAMENTAL RIGHTS AND DUTIES OF THE  
CITIZEN

*Article 8 – Right to vote*

(1) All citizens possessing the legal qualifications have the right to vote.

(2) The vote is personal, equal, free and secret.

*Article 9 – Right of access to public office*

All citizens possessing the qualifications prescribed by law are entitled to equal access to public office.

*Article 10 – Right of petition*

(1) All citizens have the right to address written petitions to the

President of the Republic, the National Assembly and the Government.

(2) All petitions which are not obviously unfounded must be examined.

*Article 11 – Right of residence*

(1) All citizens have the right to reside and travel freely in any part of the national territory and cannot be subjected to deportation.

(2) Every citizen has the right to leave the national territory and to return thereto.

*Article 12 – Right of political association*

(1) All citizens have the right to associate in political parties without prior authorization for the purpose of contributing democratically and peacefully in the determination of national policy.

(2) Political parties and associations which are secret, which have an organization of a military character or which are tribally constituted are prohibited.

*Article 13 – Right to form trade unions*

(1) All citizens have the right to form or to join trade unions for the protection of their economic interests.

(2) Trade unions organized according to democratic principles have a legal personality in accordance with the law.

(3) Trade unions having a legal personality may negotiate collective labor contracts which are binding on their members.

*Article 14 – Right to economic initiative*

(1) All citizens have the right to economic initiative within the framework of the law.

(2) The law may control the exploitation of the economic resources of the national territory.

*Article 15 – Duty of loyalty to the Fatherland*

(1) It is the duty of all citizens to be loyal to the State.

(2) The defense of the Fatherland is a sacred duty of the citizen.

(3) Military service is governed by law.

THIRD PART  
FUNDAMENTAL RIGHTS AND DUTIES OF MAN

TITLE I – RIGHTS TO LIBERTY

*Article 16 – Right to life and to personal integrity*

- (1) Everyone has the right to life and to personal integrity.
- (2) Arbitrary limitations to such rights may not be established.
- (3) The law may provide for the death penalty only for the most serious crimes against human life or the personality of the State.

*Article 17 – Personal liberty*

- (1) Everyone has the right to personal liberty.
- (2) Subjection to any form of slavery or servitude shall be punished as a penal offence.
- (3) No one may be subjected to detention or other restriction of personal liberty except when apprehended in commission of an act or in consequence of a duly authorized act of the competent judicial authorities and only in cases and under the procedure prescribed by law.
- (4) In cases of urgent necessity, expressly specified by law, the competent administrative authorities may adopt provisional measures which must be communicated without delay to the competent judicial authorities and confirmed by them within the time and in the manner prescribed by law, otherwise such measures are considered revoked and lose all effect.
- (5) In every case of detention or other restriction to personal liberty, the reasons for the measure must be immediately communicated to the person concerned.
- (6) No one may be subjected to security measures except in the cases and in the manner prescribed by law and by duly justified act of the competent authorities.
- (7) No one may be subjected to inspection or personal search except in cases under the procedure specified in the preceding paragraphs 3, 4, and 5, and in the other cases and under the procedures specified by the law for judicial, public health or fiscal reasons. In any case, the self-respect and the moral dignity of the person concerned must be safeguarded.

*Article 18 – Guarantees in cases of restriction of personal liberty*

Any physical or moral violence against persons subjected to restrictions of liberty shall be punished as a penal offence.

*Article 19 – Extradition and political asylum*

(1) Extradition may be ordered only in the cases and in the manner established by law and in any case only when required by international conventions.

(2) No one may be subjected to extradition for political offenses.

(3) A foreigner persecuted in his country for political offenses has a right to asylum in the territory of the State in the cases and under the conditions provided by law.

*Article 20 – Limitations to personal service and property levy*

No personal service or property levy may be imposed except by virtue of the law.

*Article 21 – Freedom of domicile*

(1) Everyone has the right to the inviolability of his domicile.

(2) No inspection, search or seizure may be carried out in the domicile or in any other premises for personal use except in cases and under the provisions specified in paragraphs 3, 4, and 5 of Article 17 and in the other cases and in the manner established by law for judicial reasons.

(3) Inspections made for public health, safety or fiscal reasons may not be carried out except in cases and under the procedure specified by law.

*Article 22 – Freedom of correspondence*

(1) Everyone has the right to freedom and secrecy of written correspondence and of every other means of communication.

(2) Limitations thereon may be effected only in the cases and under the provisions established in paragraphs 3, 4, and 5 of Article 17 and in the other cases and in the manner prescribed by law for judicial reasons.

*Article 23 – Equality of social dignity*

All persons are equal in social dignity.

*Article 24 – Property*

(1) Property is guaranteed by law, which specifies the means of acquisition and the limitations to the enjoyment thereof, in order to ensure its social function.

(2) Property may be expropriated only for reasons of public interest

and under the procedures provided by law, on the basis of equitable and timely compensation.

*Article 25 – Freedom of assembly*

(1) Everyone has the right to assembly peacefully and for peaceful purposes.

(2) The law may provide that previous notice of public meetings must be given to the authorities, who may forbid them only for reasons of public health, safety, morality, public order and security.

*Article 26 – Freedom of association*

(1) Everyone has the right freely to form associations without authorization.

(2) No one may be compelled to join or remain in associations of any kind.

(3) Secret associations or those having an organization of a military character are prohibited.

*Article 27 – Right to strike*

The right to strike is recognized and is exercised within the limits established by law. Any discriminatory or limiting act of the right of trade union liberty is prohibited.

*Article 28 – Freedom of opinion*

(1) Everyone has the right freely to express his opinion in any manner, subject to the limitations which may be set by law for the sole purpose of safeguarding morality and public security.

(2) Expressions of thought may not be subject to authorization or to preventive censorship.

*Article 29 – Freedom of religion*

Everyone has the right to freedom of conscience and freely to profess his own religion, to worship and teach it, subject to the limitations which may be established by law for the sole purpose of safeguarding morality, health and public order.

*Article 30 – Personal status*

(1) Everyone has the right to personal status in accordance with the provisions of law or custom.



(2) The personal status of Moslems is governed by the general principles of the Islamic Sharia.

## TITLE II – SOCIAL RIGHTS

### *Article 31 – Protection of the family*

(1) The State protects the family based on marriage as the fundamental element of society.

(2) The support, upbringing, and education of children is the responsibility of the parent under the law.

(3) The law provides for the fulfilment of the obligations contained in the preceding paragraph in case of death of the parents and whenever, for any other reason, they are unable to perform them.

(4) Children who are of age have the obligation to support their parents who are unable to provide for themselves.

(5) The State protects motherhood and childhood, encouraging the institutions necessary to this end.

(6) The State recognizes its duty to protect children of unknown parents.

### *Article 32 – Welfare agencies*

The State promotes and encourages the creation of welfare agencies for physically handicapped and abandoned children.

### *Article 33 – Protection of public health*

The State protects public health and promotes free medical assistance for the indigent.

### *Article 34 – Safeguarding of public morality*

The State safeguards public morality in the manner prescribed by law.

### *Article 35 – Public education*

(1) The State encourages education as a fundamental interest of the community and provides for the creation of state schools open to all.

(2) Primary education in public schools is free.

(3) Freedom of teaching is guaranteed by law.

(4) Groups and individuals have the right to establish, in accordance with the law, schools and educational institutions, without cost to the State.

(5) Private schools and educational establishments may be accorded

parity of status with state schools and institutions under the provisions established by law.

(6) The teaching of the Islamic religion is compulsory for pupils of the Islamic faith in primary and secondary state schools and in schools having a parity of status. The teaching of the Sacred Koran is a fundamental element for Moslems. In the state primary and secondary schools.

(7) Institutions of higher education have their own autonomous organization within the limits of the law.

#### *Article 36 – Protection of labor*

(1) The State shall protect labor and encourage it in all its forms and applications.

(2) Forced and compulsory labor of any kind shall be prohibited. The occasions when work may be ordered for military or civil necessity or pursuant to a penal conviction shall be prescribed by law.

(3) All workers shall have the right to receive, without any discrimination, equal pay for work of equal value, so as to ensure an existence consistent with human dignity.

(4) All workers shall have the right to a weekly rest and annual holidays with pay; they may not be compelled to renounce it.

(5) The law shall establish the maximum duration of the working day and the minimum age for the various types of work and shall ensure that minors and women work only in suitable conditions.

(6) The State shall protect the physical and moral integrity of the workers.

#### *Article 37 – Social security and social welfare*

(1) The State shall promote social security and assistance through legislation.

(2) The State shall guarantee to its civil and military employees the right to a pension; it also shall guarantee, in accordance with law, assistance in case of accident, illness or incapacity for work.

### TITLE III – JUDICIAL GUARANTEES

#### *Article 38 – Right to institute judicial proceedings*

Every person shall have the right to institute legal proceedings, under conditions of full equality, before a lawfully appointed judge.

*Article 39 – Protection against acts of the public administration*

Judicial protection against acts of the public administration shall be allowed in all cases and under the procedure and with the effects prescribed by law.

*Article 40 – Civil responsibility of the State for the acts of its officials and employees*

(1) Any person who suffers damages from acts or omissions in violation of his rights by officials or employees of the State or of public bodies in the performance of their duties, shall have the right to obtain compensation from the State or the public bodies concerned.

(2) The penal, civil and administrative responsibilities of officials and employees for the acts or omissions set out in the preceding paragraph shall be regulated by law.

*Article 41 – Right of defense*

(1) The right of defense is allowed at every stage of the proceedings.

(2) The State guarantees free legal assistance to the indigent under the conditions and procedures provided by law.

*Article 42 – Non-retroactive nature of penal law*

No one can be condemned for an act which was not punishable as an offense under the law in force at the time it was committed; nor may a heavier penalty be imposed than the one that was applicable at that time.

*Article 43 – Penal liability*

(1) Penal liability is personal. No collective punishment of any kind is allowed.

(2) The accused person is presumed innocent until his final conviction.

*Article 44 – Social function of punishment*

Sentences restricting personal freedom may not consist in treatments contrary to humanity or such as to be an obstacle to the moral re-education of the convicted person.

*Article 45 – Enforcement of punishments*

Supervision of the execution of sentences and of security measures is exercised by the competent judge in accordance with the law.

*Article 46 – Redress of judicial errors*

The conditions and the procedure for the redress of judicial errors is determined by law.

## TITLE IV – DUTIES TOWARDS THE STATE

*Article 47 – Duty to observe the Constitution and the laws*

Everyone has the duty to observe faithfully the Constitution and the laws of the State.

*Article 48 – Duty to pay taxes*

(1) It is the duty of everyone to contribute to public expenses according to his capacity to pay.

(2) The law establishes a system of taxation based on principles of social justice.

## FOURTH PART

## ORGANIZATION OF THE STATE

## TITLE I – THE NATIONAL ASSEMBLY

**Section I. Organization of the National Assembly***Article 49. – Legislative power*

The legislative power is exercised by the National Assembly.

*Article 50 – The Doctrine of Islam in legislation*

The Islamic doctrine is the main source of the laws of the State.

*Article 51 – National Assembly*

(1) The National Assembly consists of Deputies elected by the people

by universal, free, direct and secret suffrage and of deputies by right.

(2) The number of Deputies and the electoral system are determined by law.

(3) All citizens who have the right to vote and who are at least 25 years old in the year of the elections are eligible to be Deputies. The law specifies the grounds for ineligibility and incompatibility with the functions of deputy.

(4) Whoever has been President of the Republic becomes deputy by right and for life, in addition to the number of elected Deputies, provided that he has not been convicted of one of the crimes specified in the first paragraph of Article 76.

#### *Article 52 – Term of office and election*

(1) Each legislature is elected for a period of five years starting from the proclamation of the electoral results. Any modification of this term of office has no effect on the duration of the legislature during which such decision was taken.

(2) Elections for the new Assembly are announced by the President of the Republic and take place during the last thirty days of the legislature in session.

(3) The new Assembly meets by law for the first time within thirty days of the proclamation of the electoral results.

#### *Article 53 – Dissolution*

(1) The Assembly may be dissolved before the end of its term of office by the President of the Republic, after having heard the opinion of the President of the Assembly, whenever it cannot discharge its functions or it discharges them in a way which is prejudicial to the normal exercise of legislative activity.

(2) With the decree by which he dissolves the Assembly, the President announces the new elections, which must take place within sixty days of the dissolution.

(3) Dissolution may not take place during the first year in office of the Assembly and during the last year in office of the President of the Republic.

(4) The retiring Assembly retains in all cases its powers until the proclamation of the electoral results for the new Assembly.

#### *Article 54 – Sessions*

(1) By law, the Assembly holds two annual sessions starting respectively in the months of April and October.

(2) The Assembly may be convened in extraordinary session upon the

initiative of its President or at the request of the President of the Republic; of the Government or of one fourth of the Deputies.

*Article 55 – Organization*

(1) In its first meeting, the National Assembly elects a President from among the Deputies, one or more Vice-Presidents and the other members of the office of the Presidency.

(2) The Assembly has the duty to organize its proceedings; this function is performed by the President or by whoever acts in his place, in accordance with the regulations.

(3) The meetings of the Assembly are public. In exceptional cases only, the Assembly may decide to meet in closed session on the initiative of its President or at the request of the President of the Republic, of the Government or of at least thirty Deputies.

(4) The decisions of the Assembly are not valid unless an absolute majority of the Deputies are present, not including corresponding to seats declared vacant.

(5) All decisions are adopted by a vote of the majority of those present, except when the Constitution and the laws require a special majority.

(6) A proposal rejected by the Assembly may not be re-introduced until six months have elapsed since the decision was taken.

*Article 56 – Participation of the Ministers or of the Under-Secretaries of State*

(1) Ministers and Under-Secretaries have the right to attend the meetings of the Assembly and of the committees and to take part in the discussion. Officials and experts specially appointed by the Ministers for the purpose may also attend the meetings and be heard.

(2) Ministers and Under-Secretaries must be present at the meetings if so required by the Assembly.

*Article 57 – Rules of procedure*

If not otherwise provided for by the Constitution, the Assembly is governed by rules of procedure to be approved by the Assembly on the proposal of its President or of at least five deputies.

*Article 58 – Deputies*

(1) Every Deputy represents the people and exercises his functions without being bound by a mandate.

(2) In assuming their functions, the Deputies individually take oaths of

loyalty to the State before the Assembly. The form of the oath is the following: "I swear in the name of God faithfully to perform my duties for the good of the people and to observe the Constitution and the laws."

(3) Deputies may not be prosecuted for facts cited, opinions expressed or votes given in the exercise of their functions.

(4) Without the authorization of the Assembly, Deputies may not be subjected to penal proceedings; they may not be arrested or otherwise deprived of personal liberty or subjected to search of their persons or domiciles, except when caught while committing a crime for which the warrant or order for arrest is mandatory; they may not be placed under arrest or held in detention even in execution of an irrevocable sentence.

(5) In cases other than those involving penal proceedings, actions can be brought against Deputies in accordance with the common law without authorization of the Assembly.

(6) Deputies in office receive emoluments and a daily allowance for meetings which are set by law.

#### *Article 59 – Decisions on the validity of credentials of deputies*

(1) The Supreme Court decides on claims against the validity of credentials of Deputies.

(2) Justified complaints may be presented by any citizen, provided that he is an elector, within thirty days of the proclamation of the electoral results or of the occurrence of the cause of incompatibility or ineligibility.

(3) The Supreme Court makes its decision within ninety days of the expiration of the time limit set for the presentation of claims.

(4) Should a deputy cease to exercise his functions, his seat is declared vacant by the Assembly and is filled in the manner provided by law.

## **Section II. Formation of Laws and other Functions of the National Assembly**

#### *Article 60 – Presentation and discussion of draft laws*

(1) The initiative for the presentation of draft laws to the National Assembly is vested in each deputy, in the Government and in 10,000 electors.

(2) The law governs popular initiative, which may not be exercised in matters of taxation.

(3) Before the discussion in the Assembly, every draft law is examined by a parliamentary Committee which presents one or more reports on it to the Assembly.

(4) The Assembly discusses the draft laws in accordance with the rules

of procedure and makes a decision on them article by article and in a final vote for the draft law as a whole.

*Article 61 – Promulgation und publication*

(1) Every law approved by the Assembly is promulgated by the President of the Republic within sixty days of its approval.

(2) If the Assembly declares the urgency thereof by an absolute majority of its members, a law must be promulgated within the time limit set therein, which in no case may be less than five days.

(3) Within the period set for promulgation, the President of the Republic may transmit to the Assembly a duly considered message requesting that the law be submitted to a new discussion and decision.

(4) If the Assembly approves the law again by a two-thirds majority, the President of the Republic must promulgate it within thirty days of the approval.

(5) Laws approved by the Assembly and promulgated by the Chief of State are published in the Official Bulletin and come into force on the fifteenth day following publication, unless the laws themselves specify otherwise.

*Article 62 – Delegation of legislative power*

(1) The Assembly may delegate power to the Government to issue, on specified subjects or matters and for a limited period, regulations having the force of law. In delegating authority, the Assembly may specify standards or directive principles.

(2) The measures delegating power are issued by decree of the President of the Republic on the basis of proposals approved by the Council of Ministers.

*Article 63 – Decree-laws*

(1) In case of urgent necessity, the Government may issue temporary measures having force of law. Such measures are issued by decrees of the President of the Republic on the basis of proposals approved by the Council of Ministers and must be presented within five days of the date of their publication to the National Assembly for conversion into law.

(2) The Assembly, if in session, decides on their conversion within thirty days of the date of presentation; if it is not in session, it decides within thirty days of its first subsequent meeting.

(3) If they are not converted into law, these measures lose their effect as of their date of issue; the Assembly may decide, however, that the effects cease on a different date and may regulate by law the juridical relations arising from non-converted decrees.



*Article 64 – Amnesty and pardon*

(1) The power of amnesty and pardon may be granted to the President of the Republic by a law delegating power approved in the Assembly by a two-thirds majority of the Deputies.

(2) Amnesty and pardon may not be granted for crimes committed subsequent to the presentation of the law delegating power.

*Article 65 – Taxation and expenditures*

(1) The establishment, modification and abolition of taxes are effected only by law.

(2) Laws which involve new or larger state expenditures must specify the means for meeting these expenditures.

(3) In the case of expenditures for more than one year, the means to meet expenditures may be limited to the current budget.

*Article 66 – Budgets*

(1) Each year the Assembly approves the estimated budget, which the Government must present at least two months before the end of the fiscal year.

(2) The law approving the budget may not establish new fiscal taxes and new expenditures.

(3) Provisional application of the budget may be authorized by law for periods not exceeding a total of three months.

(4) In the first six months of each fiscal year, the Government must present to the Assembly for approval the final budget for the previous fiscal year.

*Article 67 – International treaties*

The Assembly authorizes by law the ratification of political, military, and commercial international treaties or of those which involve modification of laws or financial expenditures not foreseen in the budget.

*Article 68 – State of war*

The Assembly authorizes the declaration of a state of war and confers upon the Government the necessary powers.

*Article 69 – Committee of investigation of the Assembly*

(1) Each deputy has the right to put questions to or to interpellate the Government and to propose motions to the Assembly. The Government must reply within twenty days.

(2) The Assembly may order investigations through committees consisting of deputies from all parliamentary groups, in order to ascertain events or situations of public interest. When it decides to order such an investigation, the Assembly specifies, within the limits of the Constitution, the powers of the committee, and it may also appoint experts to collaborate with the committee.

TITLE II – THE PRESIDENT OF THE REPUBLIC

*Article 70 – Election*

(1) The President of the Republic is the Chief of State and represents the unity of the nation.

(2) The President of the Republic is elected by the National Assembly in a secret vote by a majority of two thirds of its members on the first and second ballots. In subsequent ballots an absolute majority is sufficient.

(3) Upon assuming his functions, the President of the Republic takes an oath of loyalty to the State before the National Assembly. The form of the oath is the following: “I swear in the name of God faithfully to discharge the duties of President of the Republic and to defend the Constitution with all my strength for the good of the Fatherland and the Nation.”

*Article 71 – Requisites for eligibility*

(1) Every Moslem citizen who is the son of a father and mother who are original citizens, who has the right to vote and who is forty-five years old is eligible to be President of the Republic. Consecutive re-election is permitted only once.

(2) The President of the Republic must not during his term of office be married nor contract a marriage with women who are not original citizens.

(3) The President of the Republic during his period in office may not exercise other public functions, except the right to vote, nor may he exercise professional, commercial, industrial or financial activities.

*Article 72 – Term of office*

(1) The term of office of the President of the Republic is six years

from the date of taking the oath. Any modification of this period does not apply to the President in office.

(2) The election of the new President of the Republic is established by the President of the National Assembly. It takes place during the last thirty days of the presidential mandate.

(3) When the National Assembly is dissolved or when less than three months remain before its termination, the election of the President takes place within thirty days of the first meeting of the new Assembly. During the interval the powers of the President in office are extended.

#### *Article 73 – Allowances and emoluments of the President of the Republic*

The allowances and emoluments of the President of the Republic are established by law.

#### *Article 74 – Disability, resignation, or death*

(1) In case of the death, resignation or permanent disability of the President of the Republic, the National Assembly meets to elect the new President of the Republic within thirty days.

(2) Until the elections provided for in the preceding paragraph have taken place and in cases when the powers of the President in office have been suspended under Art. 76, and in all cases of temporary disability, the functions of the President are temporarily exercised with full legal force by the President of the National Assembly or, in his absence, by the eldest Vice President.

(3) In case of resignation, the President of the Republic informs the National Assembly in writing.

#### *Article 75 – Powers*

(1) The President of the Republic exercises the functions conferred upon him by the Constitution and by law in the legislative, executive and judicial fields.

In addition, he exercises the following functions:

- (a) he authorizes the presentation to the National Assembly of draft laws originating from the Government;
- (b) he addresses messages to the National Assembly;
- (c) he grants pardons and commutes sentences;
- (d) he accredits and receives diplomatic representatives;
- (e) he ratifies international treaties with previous authorization, when necessary, from the National Assembly;
- (f) he is the commander of the Armed Forces;

- (g) he declares the state of war, after authorization of the National Assembly in accordance with Article 60;
- (h) he confers the honors of State.

#### *Article 76 – Responsibility*

- (1) The President of the Republic is not responsible for acts performed in the exercise of his functions, except for crimes of high treason or attempts against the constitutional order, as provided by law.
- (2) The responsibility for acts issued by the President is assumed by the Prime Minister and by competent Ministers who sign them.
- (3) In cases of high treason and attempts against the constitutional order, the President of the Republic is brought before the Supreme Court, constituted as a High Court of Justice, by a decision of the National Assembly upon the initiative of at least one fifth of its members and approved in a secret vote by a majority of two thirds of the deputies.
- (4) Aside from the possible cases mentioned in the paragraph above, the President of the Republic may not be tried for any penal offense except when the Assembly gives its authorization approved in a secret vote by a majority of two thirds of the deputies.
- (5) Approval of impeachment for high treason or for an attempt against the constitutional order and the authorization to take legal proceedings for other offenses have the effect automatically of suspending the President from his functions.

### TITLE III – THE GOVERNMENT

#### **Section I. Organization of the Government**

##### *Article 77 – Executive power*

The executive function is exercised by the Government.

##### *Article 78 – The Government*

- (1) The Government is composed of the Prime Minister and the Ministers.
- (2) The joint meeting of the Prime Minister and the Ministers constitutes the Council of Ministers.
- (3) The Prime Minister is appointed and dismissed by the President of the Republic.
- (4) Ministers are appointed and dismissed by the President of the Republic on the proposal of the Prime Minister.
- (5) Before assuming their functions, the Prime Minister and the

Ministers take an oath of loyalty to the State before the President of the Republic. The form of the oath is the following: "I swear in the name of God faithfully to perform my duties for the good of the people and to observe the Constitution and the laws."

*Article 79 – Under-Secretaries of State*

(1) Ministers may be assisted by Under-Secretaries of State who are appointed and dismissed by the President of the Republic on the proposal of the Prime Minister after having heard the opinion of the Council of Ministers.

(2) Under-Secretaries assist the Ministers and exercise the functions delegated to them.

(3) Before assuming their functions, the Under-Secretaries take an oath of loyalty to the State before the Prime Minister. The form of the oath is the following: "I swear in the name of God faithfully to perform my duties for the good of the people and to observe the Constitution and the laws."

*Article 80 – Requisites for appointment of Ministers and Under-Secretaries*

(1) Citizens who possess the qualifications to be elected Deputies may be appointed Ministers and Under-Secretaries.

(2) Ministers and Under-Secretaries, during their period in office, may not exercise other public functions, except the electoral vote and the function of Deputy in the National Assembly, nor may they engage in professional, commercial, industrial or financial activities. They may not directly or indirectly lease or acquire property belonging to the State or to public bodies except houses to be used as their personal residence. Furthermore, they may not alienate or lease goods belonging to the State or to public bodies, or participate in a personal capacity in State enterprises or enterprises controlled by the State.

*Article 81 – Presidency of the Council of Ministers and Ministries*

(1) The functions of the Presidency of the Council of Ministers as well as the number and the functions of the Ministers are established by law.

(2) The organization of the Presidency of the Council of Ministers, of the Ministries and subordinate organs is established in regulations issued in the form of a decree by the President of the Republic.

*Article 82 – Confidence of the National Assembly.*

(1) The Government must have the confidence of the National Assembly within thirty days of its formation. The Government presents itself to the Assembly and requests its confidence. Subsequently, the Government may ask the Assembly to express its confidence at any time.

(2) The National Assembly expresses its confidence or no-confidence by means of a considered motion approved by a simple majority in an open vote.

(3) The motion of no-confidence may also be proposed at any time for considered reasons by at least ten deputies and may not be examined until five days after its presentation. It is approved by an absolute majority in an open vote.

(4) A vote of no-confidence by the Assembly causes the collective resignation of the Government.

(5) The resigning Government remains in office for the necessary work of routine administration until the appointment of the new Government.

**Section II. Activity of the Government and its subordinate organs**

*Article 83 – Powers and responsibilities of the Prime Minister and the Ministers*

(1) The Prime Minister determines the general policy of the Government and is responsible therefor. He maintains the unity of the Government's policy by co-ordinating and promoting the activity of the Ministers.

(2) The Ministers direct the affairs within the competence of their respective Ministries and are individually responsible therefor.

(3) The Prime Minister and the Ministers are jointly responsible for the acts of the Council of Ministers.

*Article 84 – Penal responsibility of the Prime Minister and the Ministers*

(1) The Prime Minister and the Ministers are responsible for crimes committed in the exercise of their functions.

(2) For such crimes, the Prime Minister and the Ministers are brought for trial before the Supreme Court, constituted as a High Court of Justice, by a decision of the National Assembly, upon the initiative of at least one-fifth of its members, approved in a secret vote by a majority of two-thirds of the Deputies.

(3) Aside from the possible cases mentioned in the preceeding para-

graph, the Prime Minister and the Ministers may not be tried for any penal offense except by authorization of the Assembly approved in a secret vote by a majority of two-thirds of the Deputies.

(4) The Prime Minister and the Ministers brought for trial before the High Court of Justice are automatically suspended from exercising their functions.

#### *Article 85 – Regulatory power*

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

#### *Article 86 – Administrative decentralization*

Whenever possible, administrative functions are decentralized to the local organs of the State and to public bodies.

#### *Article 87 – Appointment of high officials*

High officials and commanders of the military forces required by law are appointed by the President of the Republic on the proposal of the competent Minister, approved by the Council of Ministers.

#### *Article 88 – Officials and civil servants*

(1) Officials and civil servants must exercise their functions in accordance with the law and solely in the public interest.

(2) Officials and civil servants may not be the leaders of political parties.

(3) The categories of civil servants who may not belong to political parties or engage in other activities incompatible with their functions are established by law.

(4) Any civil servant temporarily suspended from his functions for any reason whatsoever may not be promoted except for seniority.

(5) The status of civil servants is established by law.

(6) Permanent appointment to public service is made only through competitive examination, except in the cases provided by law.

#### *Article 89 – Civil Service Commission*

(1) A Civil Service Commission will be instituted by a law which will establish its composition and powers.

(2) The law establishing the Civil Service Commission must guarantee the independence of its functions.

### Section III. Auxiliary bodies

#### *Article 90 – Magistrate of Accounts*

(1) The Magistrate of Accounts exercises a prior control on the legitimacy of Government acts involving financial obligations and a review control on the management of the State budget.

(2) The Magistrate of Accounts participates, in the manner established by law, in the control of the financial management of the agencies to which the State makes a substantial contribution, either as an ordinary or as an extraordinary expenditure.

(3) He reports to the National Assembly on the results of his control.

(4) The law regulates the organization of this body and guarantees the independence of its functions; it ensures to the controlled organs and agencies the right to raise objections.

#### *Article 91 – National Economic and Labor Council*

The National Economic and Labor Council is composed, in the manner prescribed by law, of experts and representatives of productive groups in such a way as to take into account their numerical and qualitative importance.

It is the advisory body of the National Assembly and of the Government for those matters and in accordance with those functions which are assigned to it by law.

### TITLE IV – THE MAGISTRATURE

#### *Article 92 – Judicial function*

The judicial function is exercised by the Magistrature.

#### *Article 93 – Independence of the judiciary*

The judiciary is independent of the executive and legislative powers.

#### *Article 94 – Supreme Court*

(1) The Supreme Court is the highest judicial organ of the Republic. It has jurisdiction over the whole territory of the State in civil, penal,



administrative and accounting matters and in any other matter specified by the Constitution and the laws.

(2) The rules concerning the organization of the Supreme Court and of the other judicial organs are established by law.

*Article 95 – Unity of the judicial system*

(1) No extraordinary or special judicial organs may be created.

(2) There may only be created specialized sections for specific matters to be attached to ordinary judicial bodies, also with the participation of qualified citizens from outside the Magistrature.

(3) Military tribunals may be established only in time of war.

(4) The people participates directly in the courts of assize in the manner prescribed by law.

*Article 96 – Judicial guarantees*

(1) In the exercise of their judicial function, Magistrates are subject only to the law.

(2) The rules concerning the judicial status and the appointment of Magistrates are established by law.

(3) Magistrates are irremovable except in the cases specified by law.

(4) Magistrates may not hold office, perform services or engage in activities incompatible with their functions.

(5) Administrative and disciplinary measures concerning Magistrates are issued, in accordance with the law, by decree of the President of the Republic on the proposal of the Minister for Justice, after having heard the opinion of the Higher Judicial Council.

*Article 97 – Judicial procedure*

(1) Judicial proceedings are public; the judge may decide, however, for reasons of morality, health or public order, that the proceedings will take place behind closed doors.

(2) No judicial decision may be taken unless all the parties have had the occasion to present their arguments and defense.

(3) All judicial decisions and all measures concerning personal liberty must be substantiated and are subject to appeal in accordance with the law.

(4) The public force is at the direct disposal of the judicial organs for the fulfilment of acts pertaining to their functions.

FIFTH PART  
CONSTITUTIONAL GUARANTEES

TITLE I – CONTROL OVER THE CONSTITUTIONALITY OF  
LEGISLATIVE ACTS

*Article 98 – Constitutionality of laws*

(1) Laws and acts having force of law must conform to the provisions of the Constitution and to the general principles of Islam.

(2) The question of the constitutional legality, in form or substance, of a law or an act having force of law may be raised in the course of judicial proceedings at the request of the interested party of the public prosecutor or *ex officio* when even a partial decision depends on the application of the disputed legislative provision.

(3) If the request of the interested party or the public prosecutor is presented when the case is before a judge of the first or second grade, provided that the petition is not obviously unfounded, the court will suspend judgment and submit the case to the Supreme Court for a decision which will be binding.

(4) If the petition is presented when the case is already before the Supreme Court, provided that the petition is not obviously unfounded, the Court suspends judgement and proceeds according to Article 99.

(5) Judges of the first and second grade and the Supreme Court proceed respectively in the same manner if a question of constitutional legality is raised *ex officio*.

*Article 99 – Constitutional Court*

(1) The question of constitutional legitimacy is decided by the Supreme Court constituted into a Constitutional Court, with the addition of two members appointed for a period of three years by the President of the Republic on the proposal of the Council of Ministers, and of two members elected for the same period by the National Assembly by an absolute majority.

(2) The qualifications of the additional members are specified by law.

*Article 100 – Judgment*

The decision that a law or an act having force of law is unconstitutional is communicated *ex officio* to the President of the Republic, the President of the National Assembly and the Prime Minister and is published in the manner provided by the laws.

TITLE II – PENAL JUDGMENTS CONCERNING THE PRESIDENT  
OF THE REPUBLIC AND MEMBERS OF THE GOVERNMENT

*Article 101 – Impeachment*

(1) The act of impeachment of the President of the Republic and of members of the Government, approved by the National Assembly under Article 76 and Article 84 respectively, must contain a description of the charges and must indicate the accomplices, if any.

(2) The National Assembly appoints, from among its members, one or three prosecuting commissioners to act as public prosecutors in the trial before the Supreme Court constituted as the High Court of Justice.

*Article 102 – High Court of Justice*

The Supreme Court constituted as the High Court of Justice conducts such trials with the adjunction of six members drawn by lot by the President of the Court in a public hearing from a special list of twelve citizens qualified to be elected as Deputy and elected by the National Assembly at the beginning of each term from persons not members of the Assembly.

*Article 103 – Organization*

(1) The rules governing the Supreme Court in prosecution and constitutional legitimacy proceedings are established by law.

(2) The Court establishes its own internal rules of procedure for hearings.

TITLE III – REVISION OF THE CONSTITUTION

*Article 104 – Amendments and additions*

Amendments and additions to the provisions of the Constitution are decided by the National Assembly on the proposal of at least one fifth of its members, of the Government, or of 10,000 electors, in two successive votes at intervals of not less than three months, and are approved by an absolute majority of the deputies in the first ballot and by a two-thirds majority in the second.

*Article 105 – Limitations to amendment*

The procedure for amendment provided for in the preceding article cannot be applied for the purpose of modifying the republican and

democratic form of the State nor for restricting the fundamental rights and freedoms of the citizen and of man sanctioned by the Constitution.

## TRANSITIONAL AND FINAL PROVISIONS

### *I - Transitional exercise of power*

(1) Until the appointment of the provisional President of the Republic, which must take place not later than 1 July 1960, the powers and functions entrusted by the Constitution to the President of the Republic will be exercised by the President of the Legislative Assembly acting as provisional President of the Republic with the exception of the power specified in paragraph 1 of Article 53.

He will promulgate the present Constitution.

(2) Immediately after signing the act of unification of the two Somali territories (Somalia and Somaliland), the new National Assembly will elect, in the manner specified in paragraph 2 of Article 70, a provisional President of the Republic who will remain in office until the election of the final President or of another provisional President in the case provided for in paragraph 1 of provision No. IV.

### *II - Provisional President*

The provisional President will exercise all the powers attributed by the Constitution to the President of the Republic, with the exception of the power specified in Article 53, and will establish, by his own decree, the referendum provided for in the following articles.

### *III - Entry into force of the Constitution and Referendum*

(1) The present Constitution will provisionally come into force on 1 July 1960 and must, within one year of such date, be submitted to popular referendum in which all the electors will be called upon to participate.

(2) Every elector shall have the right to express his approval or disapproval of the Constitution in a free, direct and secret manner and in accordance with a special law to be issued on the referendum.

(3) It will be the duty of the Supreme Court to confirm the regularity of the referendum, on which subject it will decide at the earliest ten days and at the latest thirty days after the conclusion of the voting; furthermore, it will give final rulings on any complaint or appeal which may be presented.

With the act of confirmation, the Court shall proclaim the results of the referendum.

(4) In the event of non-confirmation, the referendum must be repeated within three months of the date of the Court's decision.

#### *IV – Result of the referendum*

(1) If the results of the referendum are contrary to the adoption of the present Constitution, the National Assembly, within fifteen days of the proclamation of the results by the Supreme Court, shall elect a new provisional President of the Republic and declare the previous one to be no longer in office; and the Constituent Assembly shall provide for the adoption of a new Constitution which will also have to be submitted to a referendum within the six months following the appointment of the new provisional President.

The present Constitution shall remain provisionally in force until the Constituent Assembly has adopted the new Constitution.

(2) If the results of the referendum are favorable, the present Constitution will be considered final and, within fifteen days, the National Assembly will elect the President of the Republic under the terms of the Constitution.

#### *V – Final provision*

(1) Until its proclamation, the text of the Constitution will be posted in town halls and district commissioners' offices of the Republic so that every citizen may take cognizance of it.

(2) The Constitution must be faithfully observed as fundamental law of the Republic by all organs of the State and by all persons under its sovereignty.