

**Transitional National Charter,
Delegates to Peace Conference,**

Introduction

The general principles of the National Assembly,

The structure of the Transitional Government,

Regional Autonomy,

The provisional Judiciary,

Miscellaneous Provisions,

Introduction

WE, the representatives of the entire Somali people, carry their power, departing from the decision of the traditional leaders at Arta villaga, Republic of Djibouti on June 6, 2000; consciously feeling the destructions and devastations, which befell the Somali nation and the desire to rebuild national government.

Are hereby laying down the foundation for unity, maintain a national government and the sovereignty of the Somali Republic based on democratic system, attesting the supremacy of the power of the people, rule of law, respecting the freedom of the person, social justice and equality and social justice;

We are affirming to strengthen the cooperation with the world community in order to achieve a sustainable peace, respecting human rights, good neighborhood with the peoples and governments, pursuing socio- economic development;

We are drafting a Transitional National Charter.

General Principles

Article 1:

The System of the Republic

1. The new government of the Somali Republic is transitional, independent, democratic based on the Islamic Shari'ah, justice and equality, peace, hard work and development, observing the law, the dignity of the individual and the social protection.

2. All powers are vested to the people, and can exercise it directly or through their representative institutions in accordance with the Charter and the laws. No person or a section of the public can claim it, nor it be can abuse individually.
3. The Somali Republic will establish a federal system, but during the transitional period, it will form an autonomous regional administration. Based on justice, the power and the leadership of the country will be shared fairly. The federal system and other related laws will be prepared by the transitional government, and will be incorporated into the constitution to be designed for the Somali Republic.
4. The Flag of the Somali Republic is a light blue rectangle in the centre of which is a white star with five equal points.
5. The National emblem of 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.
6. Mogadishu is the capital of the Republic and it will have a boundary and will be determine by special law.

Article 2:

The people, Religion and the Language:

1. The people of the Somali Republic are one.
2. Islam is the Religion of the State and no other religion can be propagated in the country and also other ideology that contradicts with Islam.
3. A law will define on how to lose or obtain the Somali citizenship. A citizen who lives to other country and obtains another citizenship, he/she and his/ her siblings will not lose their Somali citizenship.
4. The official languages of the Republic are Somali and Arabic.

Article 3:

The Territory of the Somali Republic

1. The territory of the Somali Republic is inviolable, indivisible.
2. The territory of the Republic of Somalia consists of the land, the islands, territorial sea, the subsoil and the air space.
3. The boundaries of the Republic of Somalia are: To the West: Ethiopia, to the North West: Djibouti Republic; To the North: Gulf of Aden; East: Indian Ocean; South : Kenya.

Article 4:

Supremacy of the Law

1. The law is above everyone else.
2. The law will regulate the system of the government and the relationship between the law and the legal person and the individuals.
3. The international law which is generally recognized and the international agreements of which Somalia is a party, and implemented in accordance with the law, will have legal force in the country.
4. The Islamic Shari'ah is the basic source of the national legislation, and every law or by-law, which contradicts with the Shari'ah, is null and void.
5. Any legislation or regulation that contradicts with this Charter is null and void.

Article 5:

Human Rights

1. The Republic recognizes the Universal Declarations of Human Rights, which the United Nations adopted on December 10, 1948, the Civil and Political Rights on December 10, 1984 and Economic, Social and Cultural Rights and other International Human Rights of which Somalia is a part of it.
2. In particular, the citizen has a right to:
 - a) Safeguard personal security, dignity, properties; capital punishment can be carried out on the crimes that stipulated in the criminal law only.
 - b) To live, work and travel freely to anywhere in the country; and can not be deported; can leave and return the country:
 - c) Organize, establish and participate political organizations, labour unions, professionals and/or social organization in a lawful way without prior authorization, but any secret organizations or military, or tribal in nature are all prohibited.
 - d) Every citizen has a right to elect and to be elected.

Article 6:

Equality of citizens in front of the law

1. All citizens, regardless gender, religion or political views, social or economy status, nationality or language shall have equal rights and duties before the law and by always observing the principles of Islamic Shari'ah and good manners.
2. All citizens have equal rights for government employments and services.
3. Other people who live in the country have equal rights with citizens in front of the law.

Article 7:

Press Freedom and Mass Media

Freedom of press, media and expression of opinion and special law will regulate it.

Article 8:

Personal Liberty

1. The law protects the rights and fundamental freedoms of the person.
2. Everybody has a right personal liberty.
3. Nobody can be arrested, detained unless the person has been caught in the act of committing a crime that calls for compulsory detention or a warrant from competent judiciary authority.
4. Every person arrested or detained has the right to be informed promptly of the reason for their arrest or detention and should be brought before competent court within 24 hours
5. Nobody can be searched except in the circumstance referred in the third paragraph of this article and other restriction related to judiciary issue such as health or taxation in accordance with the law, and at the same time it has to be protected the dignity and of the person.
6. The person whose liberty taken cannot be harm physically or psychologically.

Article 9

Private Ownership

1. The government guarantee for the protection of the private ownership and the law specifies its contents and the limit of its use.
2. Copy Rights from creativity of arts and science are protected, and law limits its contents and limit of its use.
3. The private property can be compulsory acquire for public interest and the owner should be compensated reasonably as soon as possible; and if the property confiscated is not anymore necessary for the propose, the property confiscated will be returned to the original owner or to the inheritor.

Article 10

The Right to Accuse and defending

1. Every person is entitled to file a legal case before a competent court.
2. Every person is entitled to defend him or herself from the case he or she is party to, whatever the level or stage of the proceedings may be and can use a lawyer for his/her own choose;
3. Everybody has a right to present on his/her complaint to the government and has to be heard.

Article 11

Criminal Liability and the Political Asylum

1. Criminal liability is a personal matter and the accused is presumed innocent until proven guilty in a final manner by a court of law.
2. Any person who committed a crime from his/her country or from another country and fled to Somali Republic can be extradited to his/ her country if there is an extradition agreement between Somalia and the country asked for the extradition. The government, however, may grant political asylum to the person fled from political persecution from his own country or from another country or for the protection of his/her life or to safety his/her relatives from danger, provided that he/she did not commit crime against humanity.

Article 12

Duty of the Citizen

1. Every person has the duty to faithfully observe the Charter and the laws of the country.
2. Every citizen must:
 - a. Promote the development and the protection of the public property; and the protection of the private property.
 - b. Defend the country and protect internal security, strengthen the unity of Somalia and protection of national secrets.
3. Pay the taxes in accordance with the law.

Article 13

Economy

1. The economic system is based on free market.
2. The natural resources of the country such as minerals, water, forestry and wildlife are national treasure. Special law will outline in the best way the resources can be utilized.
3. The government welcomes and gives full guarantee for foreign investment in the country, and special law will regulate it.

Article 14

Education:

1. The government shall give priority to the development, expansion and dissemination of public education.
2. Education is a basic right for all citizens and has to be disseminated to the whole country.
3. The government guarantees basic education up to high school and is free of charge and develops higher education and technology.
4. Private schools and institutes are permissible and shall be established according to law and in line with the educational program and academic curricula of the country.

5. The government 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 government will develop unified program and curriculum for all schools in the country.

Article 15

Social Welfare

1. The government assumes the responsibility for the general welfare of the public, in particular for mother and child, prevention of infectious diseases and maintaining of general hygiene.
2. Establishment of private clinics is permissible and a special law will regulate it.
3. Parents should take care of their children and educate them; adults have a duty to support their parents if the parents are unable to care for themselves.
4. The government will protect the good manners of the society in general.
5. The government will provide good care for:
 - a. Orphans, the orphaned families and for those who sacrificed their lives for the defense of the country,
 - b. Disabled, orphans and parents that have no one to assist them.
6. The government promotes the establishment and development of civil society organizations such as NGOs, women, youth, students, professionals and the human right advocates.
7. The government operates on the development of the rural community.
8. The government will create opportunities for women enabling them to effectively take part in the political life, and the socio-economy of the country.
9. The employees without distinction have the right to earn a salary commensurate to their work, one day rest in each week, annual leave and other holidays as specified by laws and not to be forced to abandon their rights.
10. It is prohibited for any mandatory work except special cases stated by the law.
11. The government will guarantee to all its employees for the eligibility of retirement, and the law will specify how other employees will also get their rights.
12. Special law will regulate the relations between the former employees and the Transitional government.

Article 16

Environmental Protection

1. The government will give special priority to the protection of the environment, and prohibits anything that may cause disaster to the natural life.
2. The government will immediately take measures of how to clean away the poisonous deposits (Nuclear waste) dumped into coasts and land and will demand compensation from any side proved to be the doer of those deeds.

3. The government will immediately confront erosion, deforestation, poisoning of the environment, export of charcoal and female livestock and games and trees in a state of extinction.

The House of the People

Article 17

Members

1. The transitional House of the People is the highest legislative organ and shall represent all the people, and consist 225 members elected by the tribal through the approved of national conference.
2. The number mentioned above includes 25 members reserved for the women on clan based distribution.
3. The house of the people shall elect a speaker, deputies, and parliamentary committees among its members.
4. Every member of the House of the people before assuming the office shall take:
“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 Charter and the other law of the Country”.
5. For every member of the House of the People has to full fill the following requirements:
 - a. Is a citizen of Somali Republic;
 - b. Is a sound mind;
 - c. Have at least a minimum of high school certificate or equivalent.

Article 18

The responsibility of the House of People

1. To elect the Speaker of the House of the People and his deputies;
2. To draft and approve legislations of the Country;
3. Establish their rules of procedure;
4. To give vote of confidence to the Government;
5. Approved the annual budget and the closure of the annual account;
6. Setup a revenue law of the Country;
7. To approve international treaties;
8. To approve state of emergency of the recommendation council of ministers;
9. To appoint commissions investigating organs of the Government if required;
10. Approve Supreme Court chief, accountant general, auditor general, attorney general, governor of central bank, solicitor general, and members National commissions.

Article 19

Member of the Parliament

1. Member of the House of the People cannot be prosecuted for a criminal offence, interrogated

for any offences, and search his /her domicile and his body, unless the member caught in the commission of a crime that calls for compulsory arrest. The member can only be arrested after getting the authorization of the Parliament;

2. All decisions of the House of the People can be attained by a simple majority, unless the law provides otherwise. The sittings of the House of the People can only take place with the presence 2/3 of its members;
3. The House of the People shall meet in its first session within 30 days from the day its members take the oath;
4. The House of the People must hold two regular sessions each year;
5. The House of the People shall be convened for special sessions , call by the Speaker, the President of the Republic, 1/3 of the House of the People;
6. The members of the House of the People cannot take another office which can cause conflict of interest during his/her mandate House of the People;
7. Special rules of procedure shall determine duties and economical rights of the members of the House of the People.

Article 20

Tenure and requirements

1. The term of the House of the People is three years, without extension, it cannot be dissolved during the transitional period;
2. The first meeting of the House of the People shall be presides the oldest member of the Parliament until the Speaker is elected;
3. A member can be disqualified from being member of the House of the People:
 - a. Submit a written resignation, death or permanent inability to perform his/ her duties;
 - b. As being convicted for crime offences;
4. A vacant position shall be filled by the same procedure which the member was selected. The member will be selected from the reserved list whose number is same as that of the House of the People.
5. Structure of the Transitional Government

Article 21

System of the Government

6. The Government shall be based on a decentralized system consist of:
 - a. Central Government;
 - b. Regional states and districts;
 - c. Auxiliary organs.

Article 22

State

1. The State power is based on the principle of separation of the three powers ;
 - a. Legislative organ (House of the People);
 - b. Executive organ;

c. Judiciary organ.

Article 23

The President

The president shall be elected by members of the house of the people in a secret vote. Any person who is fulfill the following conditions shall be elected as a president:

1. Is a practicing Muslim whose parents are Somali origin, is not married to foreigner nor marry a foreigner during his term of office;
2. Is a citizen of the Republic of Somalia, of at least 40 years of age;
3. Is a sound mind, no criminal conviction;
4. Cannot hold any office or business which can cause conflict of public interest of his position;
5. Have a relevant knowledge or experience for the role.

Article 24

Responsibilities and Power for the President

1. The President has the highest status of the Country;
2. The President is the custodian of this Charter and other laws of the Country, and protects the sovereign and unity of the Country;
3. Before assuming the office, the president shall take the following oath
“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 Charter and the other law of the Country”.
4. Assent and signed into law, legislations passed by the Parliament, and regulations and decrees approved by the Council of Ministers
5. The President presents to House of the People legislations that has been approved by the Council of Ministers;
6. The President appoints the Chief Justice of Supreme Court;
7. The President shall appoints senior officials and heads of Governments organs on the recommendation of the Council Ministers;
8. The President shall appoint persons to be ambassadors representing foreign countries;
9. The President shall confer state honors;
10. The President gives general and special amnesty on the recommendation of relevant organs
11. The President shall serve as Commander in Chief of the armed forces;
12. The President declares a state of emergency and war after the approval of the House of the People;
13. The President presides supreme council of justice;
14. Carry out any other duties that the law authorize;
15. The term of office of the TNG President is three years;
16. If the President resigns, death or unable to perform his duties permanently, Speaker of the House People shall assume office for the 30 days until a new President is elected.

Article 25

Duties and Responsibilities of the Council of Ministers

1. The Council of ministers is the executive power of the Government;
2. The Council of ministers consists of the Prime Minister, Ministers not more than 25. Deputy Ministers may be appointed if it deemed necessary;
3. The Prime Minister shall have one or more deputies;
4. The Prime Minister, his deputies and Ministers may be selected from The House of the People or outside the House, the member of the House of the People appointed to the Council of Ministers shall lose his/ her membership of the House of the People;
5. The President shall appoint and dismiss the Prime Minister if he/she does not get the vote of confidence of the House of the People. The President shall dismiss the Ministers on the recommendation of the Prime Minister;
6. The council of Ministers with its program have to get the vote of confidence from the House of the People within 30 days;
7. The Prime Minister and the Ministers shall take the oath in Art. 24 (3);
8. The Council Ministers is responsible for developing the National and economic policy.
9. The Council of Ministers Is also responsible for preparing draft legislations and tables to the House of the People;
10. The Council of Ministers proposes appointment senior public officials of the Government such as director generals, CEOs, army force generals and etc.

Article 26

Duties and Responsibilities of the Prime Minister

1. Together with the President signs regulations and orders approved by the Council of Ministers that comes under no ministerial portfolio;
2. The Prime Minister is responsible for the implementation of Government policy and administration;
3. The Prime Minister is responsible for submitting the annual budget to the House of the People;
4. The Prime Minister presides the Council Ministers meeting;
5. The Prime Minister appoints Ministers and submits to the President;

Article 27

Criteria

The Prime Minister and Ministers have to fulfill the following conditions:

1. Be a citizen of Republic of Somalia;
2. The Prime Minister no less than 40 years of age, and Ministers not less than 35 years of age;
3. Having not below a recognized university level education or equivalent, with high level administrative experience;
4. Every Minister must be a practice Muslim;
5. The Ministers cannot be prosecuted for a criminal offence, interrogated for any offences, and search his /her domicile and his body, unless the member caught in the commission of a crime

that calls for compulsory arrest. The member can only be arrested after getting the authorization of the Parliament;

Article 28

Rebuilding security force and National Defense

1. The Country shall have armed forces that consists of military and police force;
2. Every regions have police force that can maintain the security of the region;
3. Special law will regulate structure of the army force and their work relations;

Article 29

Auxiliary Organs

1. Auditor General;
2. Attorney General;
3. Accountant General;
4. Solicitor Genera

Article 30

National Commissions

The Country shall have following independent commissions who appoint and supervise by the Council of Ministers and regulate by a special law:

1. National reconciliation and restitution of properties commission;
2. National Commission for Review Constitution and reorganizing the law;
3. National census commission;
4. National civil servant commission;
5. National Commission for recover National Asset and registration public properties;
6. National commission for resettlement;
7. National electoral Commission;
8. Somali Olympic Commission;

Article 31

Council of Elders

The council of elders will advise the government on the following issues:

1. Peace building and conflict resolution among the clans;
2. Promote the interest and wellbeing of society;
3. Support disarmament, rehabilitation of militia and registration of the people;
4. Promote the good culture and customs that existed ;
5. To advise regional and district administrations;
6. Assist any other issue that the government may need ;
7. Members of Council of Elders cannot be arrested without approval from the Minister Interior;
8. Special law shall regulate the number and rights of the council Elders.
9. Regional Administration

Article 32

Regions and Districts

1. While the TNG prepares the Federal system, the Country shall continue to have a power full independent regional administration elected by its members;
2. The regions shall have the decentralized system of administration that manage their internal affairs in accordance with the law;
3. The number of regions of the country will be 18 that existed before the civil war;
4. A law will regulate the structure, the power of the regions and the relationship between the central government and regional administration;
5. Members of regional council consist of representatives from districts;
6. The council shall elect committees. The regional governor will coordinate the relationship between the regional administration and the central government;
7. Members of district council are elected by representative of district community ;
8. Members of regional and District Council shall fulfill the Following requirement:
 - a. Be Somali Citizen, not younger than 25 years;
 - b. Has a sound mind;
 - c. Has a experience to perform his/her duties;
 - d. Has not been convicted serious crime which cannot exceed up to one year.
9. A Member can lose membership from the Regional and District council the same condition that a member of the house of the people loses membership of the house.
10. The allowance of the members of the councils and their employees shall be decided and provided by the regions and districts they belong.
11. The Regions and districts shall establish their own regulations, to the extend the law permits. The number of the regional and district members shall be determined by the law.
12. Regional autonomy cannot mistreat the rights of the citizens as stipulate the constitution.