

**CONSTITUTION OF THE  
PUNTLAND STATE  
OF SOMALIA**

**December 2009**

# **Title I**

## **FOUNDING PRINCIPLES OF PUNTLAND**

### **CHAPTER 1**

#### **Article 1**

#### **NAME AND PURPOSE**

1. The name of the State shall be Puntland State of Somalia.
2. The purpose of Puntland State is the realisation of form of state founded on consultation, democracy, equality, and social justice in conformity with the Islamic Sharia; in addition to the development of conditions for the well being of all the Puntlanders oriented to ensure a peaceful, justice and productive life for all its inhabitants and to contribute to those goals for the whole Somali people.

#### **Article 2**

#### **SUPREMACY OF THE LAW**

1. The Law is above every one.
2. All State institutions and the entire population of Puntland shall be subject to the Law.

#### **Article 3**

#### **FOUNDING PRINCIPLES**

1. Except the power of the Almighty, all power shall be vested in the people and delegated to public officials in accordance with the Law; public officials are the servants of the people and shall exercise their public functions in accordance with the Law, doing only what the Law orders or allows them to do.
2. No individual, group or part of society shall exercise sovereignty exclusively to themselves.
3. The political system of Puntland State is based on the guiding principles of:
  - (a) Sharia law
  - (b) People's self-rule ,
  - (c) good governance,
  - (d) consensus building,
  - (e) promotion positive culture and Somali tradition
  - (f) supremacy of public interest over private interest,
  - (g) multi-party competition for public office and territorial decentralization of the administration.

4. Puntland recognizes the policy of self-determination for the peoples of the world.
5. Puntland promotes the principle of solving existing and future disputes, at the international level, through dialogue and peaceful means.

## **Article 4**

### **SYSTEM OF GOVERNMENT**

1. Puntland State is part of Somalia; it is her duty to contribute to the establishment and protect a Somali Government based on the Federal System.
2. The powers that Puntland State shall cede to the Federal Government of Somalia and the rights that will be preserved shall be determined through negotiation between the federal state and Puntland State and shall be stated in the Federal Constitution.
3. Pending the completion of the Federal Constitution, ratified by Puntland, and approved by a popular referendum, Puntland State shall have the status of an independent State.
4. Puntland State shall reserve the right to review the provisions in paragraphs of 1,2, and 3 of this article if:
  - (a) Somalis fail to agree on federal system;
  - (b) The instabilities and wars continue indefinitely
5. The provisions of article four can be taken only prior decision of 2/3 majority of the parliament, and reconfirmation popular referendum as stated in article 139.5 of this constitution.

## **Article 5**

### **THE PEOPLE**

1. Puntland people are all those who are Puntlanders by birth and all others who acquire status of becoming Puntlanders in accordance with the law.
2. Special law defines the pre-requisites of being Puntlander, the right of residency, and the acquisition of the status of Puntlander.

## **Article 6**

### **THE CENSUS**

1. A census shall be conducted in Puntland once every ten years.
2. A Law dealing with the timing and procedures for conducting the census shall be enacted.

## **Article 7**

### **LAND AND BOUNDARIES**

1. Puntland consists of the Regions of Bari, Nugaal, Sool, Ayn, Karkaar, Mudug, Haylan, and Sanag.
2. The territorial sovereignty of Puntland is supreme and cannot be ceded or violated.
3. Puntland shall welcome and negotiate any region or district willing to join Puntland State.
4. The Puntland territory comprises: the airspace; the soil and the subsoil; the territorial waters, its contiguous zone and the Exclusive Economic Zone at sea up to a distance of 200 nautical miles from the mean low water mark, and with the Continental Shelf.

## **Article 8**

### **LANGUAGE**

Somali and Arabic are the official languages of Puntland State

## **Article 9**

### **RELIGION**

1. Islam shall be the only Religion of the Puntland State of Somalia.
2. With the exception of Islam, no other religion can be spread in the Puntland State;
3. The Laws and culture of the people shall be based on the Islamic Religion.
4. Any law and any culture that are against Islam are prohibited.

## **Article 10**

### **THE CAPITAL CITY**

1. The capital city of the Puntland State shall be Garowe; it shall also be the seat of government.
2. Special law shall govern the administration of the capital city..

## **Article 11**

### **FLAG, SYMBOL AND ANTHEM OF PUNTLAND STATE**

1. Puntland shall have Flag, Symbol, and Anthem of its own.
2. Puntland shall co-own with the Federal State the national Flag, Symbol and Anthem, while having its own ones.
3. The Flag, Symbol and Anthem shall chosen through open competition

4. Special presidential regulation shall define the timing of the competition and shall be approved by the parliament.

## **Title II**

# **THE FUNDAMENTAL RIGHTS AND GUARANTEES OF THE PERSON**

## **Chapter One**

### **INDIVIDUAL RIGHTS AND THEIR SUSPENSION**

## **Section 1**

### **INDIVIDUAL RIGHTS**

## **Article 12**

### **EQUALITY OF THE CITIZENS**

1. All persons are equal before the Law.
2. No person shall suffer any form of discrimination based on colour, religion, birth, nationality, property, beliefs, political affiliation, language or race.
3. The constitution safeguards and respects the rights of the minorities.

## **Article 13**

### **FREEDOM OF WORSHIP**

1. A Muslim cannot renounce her/his religion.
2. A non Muslim person enjoys freedom of his/her faith and shall not be forced to accept another.

## **Article 14**

### **FREEDOM OF THOUGHT**

1. Everyone is free to have his/her thoughts and can publicise them. Prior censorship is forbidden.
2. An individual can express his/her thoughts through speech, the media, scripture, visual arts, poetry and in any manner consistent with the Law and moral standards.

## **Article 15**

### **THE RIGHT TO FORM AND JOIN SOCIAL ORGANIZATIONS**

1. Any person shall have the right to form or join organizations pursuing socio-economic, sport, cultural, or scientific objectives if such associations are not prohibited by the law.
2. The formation of an association shall be consistent with the Law and the interest of the Puntland people.
3. Associations of clan or military nature are forbidden.

## **Article 16**

### **FREEDOM OF MOVEMENT**

1. Any person shall be free to travel or settle wherever he/she wishes and also to travel out of the Puntland State and back whenever he/she wishes.
2. Only Laws and by-laws can introduce limitation to this freedom of movement.

## **Article 17**

### **RIGHT OF OWNERSHIP OF PROPERTY**

1. Every person shall have the right to own property, administer and benefit from property by lawful means.
2. The law will establish the rules and procedures which could limit this right of ownership of property..
3. The freedom to produce goods is recognized, but the producer ought to comply with the legal and administrative requirements existing in the country.
4. No person shall be charged levy/expenses or be deprived of his or her property unless it is according to the Law.

## **Article 18**

### **THE RIGHT TO LIFE AND THE PROTECTION OF THE BODY**

1. Every person has a right to his/her life; save for capital punishment imposed in accordance with the Law.
2. Every person shall have a right to protection of his/her body and self esteem.
3. Violations of the individual right to life and protection such as massacre, torture, detention, and execution unless in accordance with the law are prohibited.

## **Article 19**

### **PERSONAL LIBERTY**

1. No person shall be deprived of his/her personal liberty; any restriction by the public authorities to this right must be explicitly established by the Law.
2. Slavery and slave trade is prohibited.

3. All personal liberties should not in any way contradict/contravene the Islamic Sharia Laws, the by-Laws, moral decency, stability of the country or the rights of another person.

## **Article 20**

### **POLITICAL ASYLUM AND EXTRADITION**

1. Any foreigner who requests political asylum may be granted if he/she fulfils the terms and conditions for granting asylum and with respect to the international treaties.
2. It is prohibited to extradite a citizen of Puntland, or a Somali person living in Puntland, to another country.
3. Puntland may extradite a criminal or an accused foreigner who escaped from his/her country if an extradition treaty exists between Puntland and the country requesting the extradition.
4. No person shall be extradited on political grounds.

## **Article 21**

### **SECURITY OF THE HOMES**

1. Homes and other residential areas shall be respected.
2. Inspection of, spying on, and forceful entrance into a person's house is prohibited without a court warrant or other judicial directives. The police may enter a private house without a warrant in the immediate pursuit of a criminal or when a crime is happening inside the property.
3. It is mandatory that the court warrant is read to the owner/occupant of the house prior to inspection/entrance and the searcher should not violate the court orders.

## **Article 22**

### **THE MEDIA RIGHT**

1. The press and media shall be free and no intervention or limitation shall be applied to it unless it is specified by the Law.
2. Specific Laws shall be enacted to regulate the modus operandi of the media.

## **Article 23**

### **FREEDOM OF COMMUNICATION**

There shall be no interference in a person's letters, telecommunications, press or written material, save for judicial directives that permit their search, follow-up, or listening to, however, even then there must be a court order giving full explanation for the action taken.

**Article 24**  
**PUBLIC GATHERING**

1. Every person shall have the right to mobilize and participate in peaceful demonstrations in accordance with the law.
2. Assemblies and demonstrations shall be prohibited if they happen to be against the Islamic Religion, public health, security, decency, or stability. A Law will regulate the authority and procedures to implement these prohibitions.

**Article 25**  
**THE RIGHT TO ACCUSE AND SELF DEFENCE**

1. Every person shall have the right to institute legal proceedings in a competent court.
2. Every person shall have the right to self defence in front of court.
3. The Puntland State shall appoint a lawyer for any person unable to defend himself/herself, or devoid of means to procure one.
4. Special law shall regulate the access to justice to anyone who cannot afford to pay the court charges.



## **Article 26**

### **OFFENCE AND PUNISHMENT**

1. The punishment for any offence shall be charged solely against the person that has committed the said offence.
2. No one shall be detained or punished for an act, unless it is considered unlawful by the Law. Penal Laws cannot be applied retroactively,
3. No one can be subjected to a punishment that is not decreed by a competent court of Law.

## **Article 27**

### **THE RIGHTS OF THE ACCUSED**

1. Any person who is charged with a criminal offence shall be presumed innocent until he/she is proven guilty in a competent court of Law.
2. The accused shall have the right to protection, security and human dignity.
3. An accused person shall not be detained in a facility other than those legally recognized.
4. The accused shall within 48 hours be brought before a court of Law.
5. The offence shall be read to the accused in detail and explained to him/her by the court of Law.
6. The accused shall have the right to be visited by his/her relatives, Lawyer, doctor, and friends; he/she shall also have the right to be released on bail if permitted by the Law.
7. The accused shall have the right to engage the services of a Lawyer to defend him/her; the government shall guarantee free legal services for the accused if he/she cannot afford it.
8. An accused person shall not be forced to confess the crime against him or herself.

## **Article 28**

### **THE RIGHTS OF THE CONVICTED PERSON**

1. Any person sentenced by a court of Law shall have the right to protection, security and dignity as a human being.
2. Every prisoner shall have the right to be visited by his/her relatives, Lawyer, doctor and friends.
3. Every prisoner shall be entitled to medical attention, food and education.
4. Every prisoner shall be entitled to the universal rights granted to prisoners worldwide.
5. Every prisoner shall have the right to appeal against the court sentence.

## **Section 2**

# **STATE OF EXCEPTION OF INDIVIDUAL LIBERTIES**

### **Article 29**

## **STATE OF EMERGENCY**

1. In the event of war, invasion of the territory, rebellion, natural calamity, catastrophe, epidemic or grave disturbance of the public order, the guarantees established in Articles 14, 16, 21, 22, 23 and 24, could be suspended temporarily. In the case of the right to assemble and demonstrate, Article 24, the suspension cannot be applied to cultural, religious and sportive gatherings.
2. The state of emergency can be declared for the whole of the territory or for part of it.
3. The only competent authority to declare a state of emergency is the Council of Minister.
4. The state of emergency can only be declare for a period of not more than thirty (30) days; if the conditions that prompted it continue to affect the population, it could be renewed for further periods of not more that 30 days and only by the House of Representatives
5. If the causes disappear or there is no renewal of the decree by the House, the state of emergency will end.

## **Chapter Two**

# **SOCIAL RIGHTS**

### **Section 1**

## **THE FAMILY**

### **Article 30**

## **FAMILY RIGHTS**

The family is the basic unit of the society and is entitled to protection by the Law. It is formed by a man and a woman, both of age of adulthood and legally married, and includes their offspring.

### **Article 31**

## **THE RIGHTS OF CHILDREN**

1. A minor is any individual below the age of fifteen (15) years.
2. A minor has a right to life, name, nationality, upbringing, education, health care.
3. Any kind of labour that could have a negative impact on a child's life, fait, culture, upbringing, or education are prohibited.
4. Abortion is prohibited, save where it is medically prescribed by a medical doctor.

## **Article 32**

### **EDUCATION**

1. Each and every person has a right to education.
2. The promotion and expansion of education shall be the duty of the Puntland State.
3. It is the responsibility of the Puntland State to eradicate illiteracy.
4. Primary education is compulsory for every child. It is the responsibility of the government to provide the educational facilities and personnel to provide for it. When the circumstances allow, the government shall raise the compulsory level of education.
5. The Puntland State will encourage and improve the quality of the religious institutions of education.
6. It is the responsibility of the government to elaborate and supervise a common syllabus at primary and secondary levels of education.
7. Islamic teaching is fundamental way of learning at the primary, secondary and higher levels of education.
8. All adults have the freedom of choice to select what he/she learns and his/her trade (profession). The government shall develop specific programs to overcome adult illiteracy and to develop a policy of female education.
9. The founding of schools, technical institutes and universities by private individuals and institutions shall be encouraged, according to the needs and educational policies of the Puntland State and complying with the curriculum and other regulations established by the Government.
10. The government has the responsibility to promote culture and heritage.
11. It is the duty of the Government to set up institutions of higher education.
12. A special Law shall regulate private education.

## **Article 33**

### **HEALTH**

1. It is the Government's responsibility to provide public health, both preventive and curative, to all the inhabitants, but special care must be taken for the health condition of women and children.
2. In order to fulfil these responsibilities, the Government will set up and develop a national health system.
3. Puntland State allows private health practice as well as opening of health centres and hospitals. The practice of running private facilities shall be regulated by proper legislation and supervised by the government.

**Article 34**  
**ORPHANS, PHYSICALLY AND MENTALLY DISABLED AND**  
**ELDERLY**

1. Orphans, physically and mentally disabled, the elderly people and others that cannot sustain themselves and have nobody to sustain them, it shall be the responsibility of the Government to sustain them.
2. The Government should encourage and establish organizations that support persons referred to in the numeral 1 of this article.
3. Special law shall define the categories of people who cannot sustain themselves

**Article 35**  
**RIGHTS OF WOMEN**

1. It is the duty of the government to protect and promote the rights of women in consistence with Islamic religious norms.
2. Women has same rights as men, save the distinctions made by good between the two sexes.

**36**

**RIGHTS OF THE YOUTH AND PROMOTION OF SPORTS**

1. Puntland state shall give special importance to the care and development of the youth and sports.
2. The establishment of youth associations, the care to and development of the youth shall be regulated by special law.

**Article 37**  
**LABOUR**

1. It shall be the duty of the government to create employment opportunities and upgrade training of personnel.
2. Forced labour is prohibited unless the Law states otherwise; the Law shall explain such provisions in detail.
3. Each employee shall have a right to a salary commensurate with the work he/she performs.
4. Each worker/employee shall have the right for one day paid weekly rest, annual leave and rest in the public holidays as stipulated in the Laws, additionally women will have the right to a maternity paid leave without infringing on her salary.
5. The government shall assist the workers both physically and morally.

6. The workers shall have the right to express their grefenices through strike and/or demonstration, in consistence with the law. It is prohibited to Armed Forces personnel to strike.
7. The employees and the employer shall have the rights to form associations in defence of their interest.
8. Each worker has a right to select the employer of his/her choice.
9. The establishment, the role and obligations of the workers associations shall be established by special law.

### **Article 38**

### **SOCIAL SECURITY**

1. The Puntland State shall establish the legislation and institutions to guarantee the employees, public and private, the right to a pension.
2. Every person working for the government who is injured, falls sick, or becomes incapacitated in the work shall be granted assistance in accordance with the Law.
3. The government shall compensate the family of public employee who dies on duty at rate prescribed by the law.
4. The government will set up a social security system for public and private employees, financed by contributions from the government, the employers and the employees.

## **Chapter Three**

## **CITIZENSHIP AND ELECTORAL PROCEDURES**

### **Article 39**

### **CITIZENSHIP**

1. Any person who is Puntlander by birth or who acquired the status of Puntlander in accordance with the law is recognized as Puntland citizen.
2. A citizen shall not loose his/her citizenship even if he/she acquires the citizenship of another country.

### **Article 40**

### **THE CITIZENS DUTIES**

1. The citizen is under the obligation to:
  - (a) Respect the Islamic Religion, the Constitution, the Laws of the land, and international laws not in contravention with Islamic Sharia
  - (b) Strengthen the unity of the people and safeguard the existence of the nationhood of Puntland,

- (c) Vote in all the elections,
  - (d) Pay taxes, and
  - (e) Participate in the defence of Puntland State when called upon or when it becomes imperative.
2. The law shall describe the punishment to those who default the obligations under this Article.

## **Article 41**

### **THE CITIZENS RIGHTS**

Every citizen of age not less than 18 years has the right to:

- (a) participate in elections and to vote,
- (b) set up or to associate with political parties, and
- (c) Compete for public office in elections, if he/she fulfils the conditions.

## **Article 42**

### **THE RIGHT TO ADDRESS AUTHORITIES**

1. Every citizen has the right to write a letter of petition or of complaint to the President, the Parliament, the Cabinet or any other official authority.
2. The authority shall respond within thirty (30) days.

## **Article 43**

### **SUSPENSION OF CITIZEN RIGHTS**

The exercise of the citizen rights are suspended if:

- (a) The person has been convicted by a competent court against an offence that anyone who commits loses the political rights and public responsibilities as is stated in the penal code.
- (b) The person is deprived of its mental faculties, or the person is declared by a judge to be incapable to perform his/her responsibilities;

## **Article 44**

### **ELECTIONS**

1. All citizens that fulfil the conditions/qualifications required by Law have the right to vote and to be elected.
2. The House of Representatives and the District Councils are offices to be elected by the direct vote.

3. Voting for these offices shall be made in a democratic way regulated by the Law and conducted by an autonomous institution of the Puntland State, vested with constitutional powers.
4. The vote shall have the following characteristics: universal, equal for all the citizens, personal, secret and free of any outside interference.
5. For the House of Representatives and the District Councils, the Law will establish the electoral circumscriptions. In both elections, the number of seats will be based on the population.
6. The date for each election shall be determined by the electoral authority, but it shall not be less than two months nor more than four months before the end of the period of the elected functionaries.
7. Before holding any elections, a Law shall be put into effect in order to regulate all the aspects necessary for a democratic election.

## **Article 45**

### **PROHIBITIONS**

1. The members of the Armed Forces in active duty and the judges shall not have membership in any political parties, nor become candidates in any election.
2. Government functionaries cannot become candidates unless they resigned their post. The Law will establish the period of time for complying with this.

## **Article 46**

### **POLITICAL PARTIES**

1. The multi-party system shall be practiced in the Puntland State.
2. Any organization that fulfils the requirements shall have the right to take part in elections
3. In the first District Council election, of all the political associations participating, the three (3) getting the most votes will have the right to become Political Parties.
4. In every uneven election for local authorities, associations will be allowed to vie for becoming a political party.
5. Political parties of military or tribal character shall be prohibited.
6. Any person who wins a seat through a party and thereafter deserts the party shall automatically loose the seat.
7. Public property destined to common use like stadiums, public squares and the mass media controlled by the Government are to be used by the political parties to conduct political campaigns, on an equal basis for all. Neither other Puntland State installations nor Puntland State resources can be used for party activities or for electoral propaganda.
8. Any individual accused of using the national wealth for political party ends shall be brought before a court of Law.

9. Rules and regulations governing political parties shall be addressed in separate Laws to be introduced by the Government and approved by the House.

### **Article 47**

#### **CONDITIONS FOR OPENING A POLITICAL PARTY**

1. No party shall participate in elections if it has not been legalized by the Puntland Electoral Commission.
2. For a party to be legalized it is required to have branches in all regions of Puntland and to present a program of action and the internal by Laws that will regulate its activities.
3. The Puntland Electoral Commission shall examine these documents and could only deny the inscription if the program or internal by Laws contains violation of the constitution and other laws of the Puntland.
4. A specific Law passed by the House of Representatives shall regulate the implementation of the rule stated in Article 46. 2, as well as other requisites and procedures for legalizing a political organization, .
5. In the event of the political party disappearing or being cancelled, the leader of the political Association that got the fourth majority in the last district council election will be called by the Puntland Electoral Commission, to become a political party.

### **Title III**

#### **ECONOMY**

### **Article 48**

#### **THE ECONOMIC ORDER PURPOSE**

The economic order will be oriented to give all the inhabitants of Puntland a way of life in accordance with their dignity as human beings, satisfying the basic material and spiritual needs of all the persons in the society, in consonance with the principles of social justice.

### **Article 49**

#### **SOCIO-ECONOMIC SYSTEM OF A FREE ENTERPRISE**

1. Puntland's economic order shall be based on the socio-economic system of a free enterprise; it shall encourage and guarantee investment in the country, be it that of foreigners or local entrepreneurs.
2. Commercial activities shall be practiced based on free competition.
3. A Law shall be enacted to promote and regulate free competition and restriction of monopolies.

### **Article 50**

#### **THE ROLE OF THE STATE IN THE ECONOMY**



1. The Puntland State shall promote sustainable economic development and will cooperate with the private sector to increase production and business. Support to the small producers and cooperatives shall be Puntland State priority.
2. The Puntland State shall protect the country's resources, ensuring that a rational and sustainable use of the resources is made for all the participants in the economic process.
3. It is a direct responsibility of the Puntland State to defend the consumer's interests, in particular the low income groups.

## **Article 51**

### **JOINT VENTURE COMPANIES**

1. The Government may set up or enter into joint venture companies with the participation of private or public investors, be they national or foreigners.
2. The head of such company shall jointly be appointed by the minister under whose docket it falls and the private shareholders.
3. The organizational structure, the administration and profit sharing arrangements shall be defined by special law.

## **Article 52**

### **TRANSACTION OF PUBLIC PROPERTY**

1. Any transfer of Puntland State's property shall be done according to procedures contained in the Law.
2. It is prohibited to transact public property if the government is not a party to such transactions.
3. The transfer of public property of a value of 50,000 \$ can be authorized by the Council of Ministers, while a transfer property above 50,000 \$ value shall be approved by the House of Representatives.
4. The transfer of public property could be done only through open auction.

**Article 53**  
**NATIONALISATION OF PRIVATE PROPERTY**

1. A person's legally acquired property cannot be expropriated except for public interest in exchange for equitable and timely compensation.
2. A Law shall define the private property that can be expropriated for public interest.

**Article 54**  
**NATURAL RESOURCES**

1. Puntland natural resources belong to Puntland people and can be exploited in conformity with the Law.
2. The Puntland State is responsible for the protection and exploitations of the natural resources.
3. The Puntland State may make agreements with national or foreign companies and give them the exploitation of natural resources.
4. The concession shall be arranged by the Council of Minsters and approved by the House of Representatives.
5. The formula for sharing the benefits from the exploitation of natural resources shall be defined by a law initiated by the Council of Ministers and passed by the House of Representatives.

**Article 55**  
**PROTECTION OF THE ENVIRONMENT**

1. It is the responsibility of the Puntland State and of all its inhabitants to restore and protect the environment.
2. Desertification/extermination is prohibited as well as contaminating the environment.
3. Export of charcoal, female animals and wildlife is prohibited
4. Settlements can not be developed in non-suitable areas.
5. Enclosures at the pastoral grazing lands are prohibited.
6. The state shall protect the seas and define fishing off-seasons
7. Special law shall regulate the protection of the environment.

**Title IV**  
**THE STRUCTURE OF THE STATE**  
**CHAPTER ONE**  
**FUNDAMENTAL ORGANS OF THE STATE**

**Article 56**  
**THE FORM OF REGIME**

The form of government of Puntland shall be parliamentary; the President and Vice-President shall be elected by the parliament.

**Article 57**  
**THE ORGANS OF THE STATE**

The three fundamental organs of the state in which the power is vested are as follows:

- (a) The House of Representatives;
- (b) The Executive branch;
- (c) The Judiciary.

**Article 58**  
**SEPARATION OF ORGANS**

1. Each organ is independent in the exercise of its functions and is not subordinated to the other organs, except in the specific cases that this Constitution explicitly establishes.
2. Delegation of the functions and responsibilities from one organ to the other is forbidden.
3. No individual shall be allowed to be a member of more than one of the three organs of the Puntland State at the same time.

**Article 59**  
**COOPERATION OF ORGANS**

Cooperation among the three Organs of the Puntland State is constitutional obligation, and shall be executed in accordance with the law.

**Title V**  
**THE STRUCTURE OF THE GOVERNMENT**

## **Chapter TWO**

### **THE LEGISLATURE**

#### **Article 60**

#### **HOUSE OF REPRESENTATIVES**

1. The legislative powers of Puntland shall be vested in the House of Representatives which represent the people of Puntland as a whole.
2. Pending the execution of census, the House of Representatives shall consist of 66 Deputies directly elected by the people by universal suffrage,
3. The term of the House of Representatives shall be five (5) years; the tenure shall commence from the date the election results are announced. A member of the House of Representatives may be re-elected.
4. The functions of the House of Representatives shall officially commence within 30 days from the date of the election results are announced.

#### **Article 61**

#### **ELIGIBILITY CRITERIA FOR MEMBERSHIP OF THE HOUSE OF REPRESENTATIVES**

The criteria for eligibility as a member of the House of Representatives are as follows:

- (a) He/She must be Puntlander, Muslim, practising his/her religion obligations, responsible and with sound mind, and not less than 30 years of age.
- (b) He/She shall have not suspended his/her citizen's rights in the previous 5 years due to a judicial sentence.
- (c) He/She must possess a secondary school certificate or its equivalent in experience.
- (d) Before a candidature is accepted, the Puntland Electoral Commission will make sure that he/she complies with these requisites.

#### **Article 62**

#### **CRITERIA FOR LOSING MEMBERSHIP OF THE HOUSE OF REPRESENTATIVES**

1. A member shall lose his/her seat in the House of Representatives if:
  - (a) the member dies;
  - (b) the member becomes permanently incapacitated
  - (c) the member submits a letter of resignation and the House of Representatives accepts;
  - (d) failure to attend two ordinary and subsequent sessions without valid cause; or
  - (e) The member's citizenship rights are suspended.

2. If a member loses his/her seat in the House of Representatives he/she shall be replaced by the person who, in conjunction with the previous elections, happens to legally merit the position.
3. The electoral Law will detail the procedures for choosing the substitute and that person must be sworn into office within 30 days.

### **Article 63**

#### **INTERNAL REGULATION OF THE HOUSE**

1. At the first opening meeting the House of Representatives shall elect the Speaker of the House and two deputy speakers: a 1st Deputy Speaker and a 2nd Deputy Speaker.
2. At the first session of the House of Representatives, the internal by-laws organizing the legislative work shall be approved.
3. The House of Representatives shall elect from its members a standing committee entrusted to compile and execute the work of the House during recess.
4. The voting modalities of the House Representatives will be secret, raising hand and electronic.
5. The plenary sessions of the parliament are open to the public, however the plenary will vote in favor or against a motion by the government or the leadership of the house to conduct the plenary behind closed doors.
6. The House of Representatives shall have a Permanent Secretary appointed by the chair of the House, who is not a member of the House.

### **Article 64**

#### **THE POWERS OF THE HOUSE OF REPRESENTATIVES**

The House of Representatives has the following powers and responsibilities:

1. To review, approve, reject, reform, or derogate the Laws of the Puntland State;
2. To approve/reject state of war and peace treaties proposed by the government;
3. To ratify by a majority of half plus one ( $1/2 + 1$ ) of its members any monetary obligation that the Puntland State contracts with a foreign lender;
4. To ratify by a majority of half plus one ( $1/2 + 1$ ) of the members any international treaty or agreement to which the Puntland State is to be party to.
5. To approve new districts or regions proposed by the government.
6. To discuss, monitor, criticise and contribute to the Government's policies and programs.
7. To follow-up the implementation of the Laws approved by the House of Representatives.

8. To elect the President and Vice president of the Puntland State in a secret ballot or hand raising with a 2/3 majority in the first two rounds and by a half plus one majority in the third.
9. To elect the following High Officials: the Human Rights Defender, three (3) members of Puntland Electoral Commission and two Judges of the Constitutional Court, in accordance with the parliamentary proceedings in electing public officials.
10. Approval/rejection of officials of executive branch that are entitled to immunity.
11. To approve/reject the government program.
12. To approve the annual budget presented by the government or any subsequent modification of the allocations between the expenditure heads.
13. To approve/ reject the closing of the accounts on the implementation of the budget of the previous year.
14. To decree taxes and any other contribution that the government is going to collect from the inhabitants.
15. To approve/refuse, within 30 days, emergency decrees issued by the Government. If the emergency decree is rejected it shall become null and void, however, the activities already implemented based on the emergency decree should be valid, unless declared unconstitutional by the Constitutional Court.
16. To approve the cabinet by half plus one (1/2+1) majority of its members, individually, in, in group or in block.
17. To summon public officers holding higher positions to answer questions on respective responsibilities. If the functionary does not observe the summons by the plenary or by house's sub-committees, without a valid reason, the house shall notify the president and vote on a no confidence resolution against the functionary.
18. To withdraw immunity of prosecution to any public official elected or confirmed by the House of Representatives.
19. If a public official entitled with immunity is caught red handed, the House of Representatives shall be notified and asked for authorizations for institution of court proceedings.
20. Approval/ Reject printing of banknotes.
21. Approval/ rejection of government proposal with regard to the institution or dissolution of state institutions.
22. To submit to the Council of Ministers recommendations on the execution of the budget and reforms of the financial regulation following the hearing of report of the General auditor by the house.

## **Article 65**

### **SESSIONS OF THE HOUSE OF REPRESENTATIVES**

1. The House of Representatives shall hold two (2) ordinary sessions annually, in June and October.
2. Extraordinary sessions may be convened by the Speaker of the House at the request of the President or upon requisition by one quarter of the members of the House of Representatives subject the presentation of request accompanied with the justifications for the calling of the extraordinary session.

## **Article 66**

### **DISSOLUTION OF THE HOUSE**

1. The House of Representatives may be dissolved:
  - (a) when a majority of the members of the House resign;
  - (b) when the House fails to seat two ordinary consecutive sessions, without any valid reason;
2. The President shall request, in writing, the Constitutional Court to investigate if one or several of these conditions exist.
3. If the Constitutional founds that, beyond any reasonable doubt, there are evidences for violations stated in numeral one of this article exist, shall submit its findings to the president.
4. Following the ruling by the Constitutional Court, the President shall issue a decree dissolving the House of Representatives, and, in the same decree, setting the date for the election of a new House to take place within forty-five (45) days.

## **Article 67**

### **NO CONFIDENCE VOTE AGAINST MINISTERS.**

1. A vote of no confidence can be passed against one or more ministers or the whole Cabinet.
2. At least 6 deputies shall be required to table a motion to debate a vote of no confidence against the ministers.
3. At least one third ( $\frac{1}{3}$ ) of the members of the House of Representatives must agree to the motion of the vote of no-confidence against the ministers in order for the motion to be debated.
4. Half plus one ( $\frac{1}{2}+1$ ) of the members of the House of Representatives must vote against the minister(s) for a vote of no confidence.
5. If the no confidence motion is passed, the Cabinet or the affected minister(s) will be replaced by the President. If no confidence vote is passed against the entire cabinet it will continue with its responsibilities until a new cabinet is formed, however, they cannot initiate new programs.
6. The president can re-table to the parliament only at once the same council of ministers against which a motion of no confidence have been passed.

7. If no confidence vote is passed against the entire cabinet, the President shall submit a new cabinet to the House of Representatives for ratification within no more than one 21 days from the day the vote of no confidence was passed.

## **SECTION TWO**

### **THE PROCESS OF LAW FORMATION**

#### **Article 68**

#### **LAW INITIATIVE**

The capacity to present a Law to the House of Representatives is restricted to:

- (a) any member of The House of Representatives;
- (b) The Council of Ministers
- (c) A group of no less than five thousand (5,000) citizens.

#### **Article 69**

#### **RULES ON THE CITIZENS' INITIATIVE**

1. In the written initiative, every petitioner has to be properly identified, with an official document of identity, or at least by name, age, signature and a declaration of being citizens of the Puntland State.
2. The petition ought to be accompanied by the text of the proposed Law and the name and address of at least two (2) persons with whom to communicate.
3. No Laws on taxation, Puntland State expenditure, national defence or internal security may be presented by petitioners.
4. The House of Representatives is under obligation to consider this type of initiative in the session that they are presented with the initiative, or in the next one and to give a response to the petitioners

#### **Article 70**

#### **DISCUSSIONS OF LAWS IN THE HOUSE**

1. Any Law that is brought before the House of Representatives shall be debated article by article and voted on.
2. Any Law passed by the House of Representatives will be signed by the leadership of the House in three (3) exemplars and sent to the President.
3. Any project of Law rejected by the House cannot be reintroduced in the same session.

#### **Article 71**

#### **PRESIDENTIAL SIGNATURE AND PUBLICATION**



1. The President has up to thirty 30 days to sign or reject any law passed by the House of Representatives..
2. If the President has no objection he must sign the Law and order its publication in Official Bulletin while three signed copies shall remain in custody at the archives of the president, House of Representatives, and State Attorney, respectively.
3. Once published at the official, the Law shall come into effect in 15 days.

## **Article 72**

### **PRESIDENTIAL VETO**

The president has the powers to refuse to sign any Law passed by the House of Representatives thereby submitting a memorandum to the House in which he indicates the reasons for his refusal.

## **Article 73**

### **VETO REJECTION**

1. The President's veto can be rejected by the vote of two-thirds (2/3) of the majority of the House.
2. The leadership of the House will send the Law to the president with a note officially communicating the rejection.
3. The President upon receipt in writing the communication of the rejection of the presidential veto, shall sign the law and order the State Attorney to issue it in Official Bulletin within 15 days.

## **CHAPTER THREE**

### **THE EXECUTIVE**

## **Article 74**

### **COMPOSITION**

1. The Executive organ of the Puntland State is composed of the President, the Vice President, the Ministers, the Vice Ministers and all the higher functionaries and employees that work under their direct authority.
2. The Executive organ of the Puntland State shall be directed by the President or by the Vice President in the absence of the President.

## **Article 75**

### **COUNCIL OF MINISTERS**

The Council of Minister or Cabinet shall consist of the President, Vice president, Ministers and Assistant ministers.

## **Article 76**

### **POWERS AND RESPONSIBILITIES OF THE EXECUTIVE COUNCIL**

The Council of Ministers has the following responsibilities.

1. To set, coordinate and implement the political strategy related to the security, and economic and social development.

2. To set the order of the powers of different institutions of the executive branch of the state.
3. To introduce new taxes, modify the rate of taxes that were introduced previously, in accordance with the needs of the people, and ask the House of Representatives for approval.
4. To approve the proposal of annual government budget containing the estimate of resources the government plans to receive and detailing all the expenditures the government and all the public offices are expected to use during the fiscal year and the roll of all the public employees with their corresponding salaries and present it to the House of Representatives, no less than three months before the beginning of the fiscal year.
5. To approve the decree declaring the State of Emergency and submit it to the House of Representatives within 30 days for approval.
6. To approve and propose to the House of Representatives the creation of parastatal and autonomous agencies and subsequently submit respective laws to House of Representatives for approval.
7. To present the proposals of the Supreme Court Judges, two (2) additional Judges at the Constitutional Court, the Attorney General, the Auditor General, and the President of the Central Bank to the House of Representatives for confirmation.
8. To consider and decide on all the matters submitted to the Council by the President.

## **Article 77**

### **INTERNAL REGULATIONS**

1. The eligibility criteria for Minister or Vice Minister are the same as for members of the House of Representatives and, additionally, the person shall have university level education as well as specific experiences of the fields related to the ministry.
2. The President, Vice President, Ministers and senior government officials shall not engage in private business while they hold office.
3. The President, Vice President, Ministers and senior government officials shall declare their wealth to the Accountant General in the first month of holding office.
4. All decrees and by-laws have to be signed by the president, while the corresponding minister has to sign executive orders.
5. All decisions taken by the Council of Ministers by majority, are collective responsibility of the council.
6. The Executive Council shall prepare the handover to the newly elected Council prior the last two months of its term.

## **Article 78**

### **CRITERIA FOR ELECTING THE PRESIDENT**

1. Every citizen of Puntland could aspire to be nominated to the post of President or Vice President provided that such a person fulfils the following requirements of the office:
  - (a) He/she must be: a Puntland citizen, a practicing Muslim, of sound mind, not less than 40 years of age, and not married to a foreigner, nor marry a foreigner during his/her term of office.
  - (b) He/she must possess a level of education corresponding to higher education, have experience in leadership, knowledge of Somali culture and traditions, and present in the country for the last two years.
  - (c) His/her citizen rights had not been suspended in the previous five (5) years due to judicial sentences.
  - (d) He/she had not previously committed acts treason, or offences against human rights.
2. Members of the House of Representatives as well as non members have the right to run for president and vice president.

## **Article 79**

### **PERIOD OF OFFICE**

The President and Vice-President shall hold office for a term of five (5) years, from the day of enunciation of the results, and can be elected only 2 times to office.

## **Article 80**

### **THE POWERS AND RESPONSIBILITIES OF THE PRESIDENT**

1. The President is the head of the Executive. He is the symbol of the unity of the people of Puntland.
2. The President is responsible to protect the Islamic religion, the Constitution, the defence of the country and other Laws of Puntland.
3. The President is the General Commander of the Armed Forces.
4. The President, in consultation with the Vice President, shall form the government within twenty-one (21) days of being elected by the House. The president can form the government from within the House of Representatives as well as from without.
5. The President has the power to appoint or dismiss, in consultation with the Vice-President, the Members of the Cabinet, heads of autonomous institutions as well as all others functionaries that this Constitution or the Laws call on him to do so.
6. The President shall devise or approve, according to the Constitution and all Laws of the Puntland State, the policies that his government is going to implement in the different fields of the public administration and to oversee their implementation, with the objective to provide to the inhabitants socio-economic developments in all fields.
7. The President shall negotiate the terms of participation of the Puntland State in the Somalia Federal Republic and sign agreements with the federal authorities, such

agreements require ratification by the Council of Ministers and by the House of Representatives.

8. The President shall direct and develop the international relations of the Puntland State and negotiate and sign international agreements.
9. The President shall receive official visit of foreign dignitaries, and declare them Guest of the Puntland State.
10. The President shall confer honours and distinctions to foreign personalities or to Puntlanders that merit it.
11. The President shall grant amnesty for political and non-political after consultation with the judiciary. A person condemned on capital punishment or other punishments in reference to Sharia law cannot be pardoned by the President.
12. The President shall address the opening sessions of the House of Representatives.
13. The president shall issue emergency decrees to counteract the negative consequences of:
  - (a) the occurrence of disasters such as cyclones,
  - (b) inter-armed aggression or declaration of war by the Puntland State, or
  - (c) Internal chaos/upheaval aimed at the destruction of the existence of the Puntland State.
14. The President is under obligation to submit emergency decrees to the House of Representatives within thirty (30) days for its approval as stated in article 28 of this constitution.
15. The President shall announce officially the date that the Electoral Authority has established for the election.
16. The President shall issue by-Laws as the legal instrument for the implementation of the Laws passed by the House of Representatives. No by-Law shall contradict any Law passed by parliament.
17. The President will act on all the others responsibilities and powers conferred to him by the Laws of the Puntland State.
18. The president, after consultation with the Vice President shall nominate the Chief Justice and other Judges of the Supreme Court.
19. Appoints the chairman, the judges and the attorneys of tribunal of the Armed Forces.

## **Article 81**

### **THE POWERS AND RESPONSIBILITIES OF THE VICE PRESIDENT**

1. The Vice President shall assume the responsibilities of the President when he is out of the country, or temporarily incapacitated.
2. The Vice President shall advise the President on the appointment and dismissal of Ministers, Vice Ministers and other senior functionaries of the State.

3. The Vice President shall carry out the duties assigned to him by the President which does not fall outside the presidential docket.
4. If the President dies, resigns, is permanently incapacitated or impeached, the Vice President shall be sworn in as President for the remainder of the term.
5. In the event referred to in clause 4 of this article, the House of Representatives shall elect a new Vice President within 30 days.
6. If both the president and the vice president die, resign, dismissed at once, the Speaker of the House of Representatives shall assume their responsibilities until new president and new vice president are elected within 30 days.

## **Article 82**

### **ACCUSATION AND IMPEACHMENT OF THE PRESIDENT AND VICE PRESIDENT**

1. To accuse the President and or the Vice President of violation of the constitution, national treason, and incompetence the following procedure shall be observed:
  - (a) At least one fourth (1/4) of the members of the House of Representatives or the Attorney General have to initiate the procedures, asking the House to impeach the functionary and offering proof of the charges.
  - (b) For the House of Representatives to discuss the motion of the impeachment against the president and Vice President, it is required that at least half (1/2) of its members are in favour of the examination of the charges.
  - (c) The House will examine the charges, offering the accused the opportunity to exercise his or her right of defence;
  - (d) The House will vote on the accusation and shall approve it only if a majority of two thirds (2/3) of its members vote for impeachment in a secret vote.
2. The President and Vice President cannot be outside Puntland more than sixty (60) days.

## **Article 83**

### **RESPONSIBILITIES OF THE MINISTER**

1. The Minister is the political and administrative head of his/her respective Ministry.
2. The Minister implements the Government's policies in the area of his/her Ministry.
3. The Minister, in consultation with the Assistant Minister, will decide on the policies related to performance of ministry and personnel.

## **Article 84**

### **RESPONSIBILITIES OF THE ASSISTANT MINISTER**

1. In the absence or temporary incapacity of the Minister, the Assistant Minister assumes all of the responsibilities of the Minister.
2. The Assistant Minister shall advise the Minister on the activities of the Ministry.

3. The Assistant Minister shall carry out the duties assigned to him/her by the Minister which is within the context and responsibilities of the Minister.

**Article 85**  
**SPECIAL AGENCIES**

1. The Council of Ministers can create special agencies entrusted to certain defined duties.
2. The special agencies shall have specific law passed by the House of Representatives

**Article 86**  
**THE SECURITY FORCES**

1. The forces of Puntland consist of:
  - (a) Border Police (Darawish)
  - (b) The police
  - (c) Intelligence force , and
  - (d) The Custodian Corps.
2. Special law defines the structure and duties of each forces

**Article 87**  
**TRIBUNAL OF THE ARMED FORCES**

1. The tribunal for armed forces adjudicates the offences committed by members of the armed forces or any other one commits offence while simulating as member of armed forces.
2. The tribunals for the armed forces and their attorneys are regulated by special law

**Article 88**  
**Committee of Religious Scholars**

Puntland government shall appoint a committee of Islamic religious scholars:

1. The committee shall be composed of nine members well-known for their advanced knowledge of Islamic Sharia.
2. The responsibility of the committee shall consist to advice government on issues concerning Islamic Sharia, particularly when there is a need to harmonise sharia and laws of Puntland.
3. The committee shall consult on the nomination of the judges of Islamic Sharia in different courts of Puntland according the needs.
4. To make clarification on religious matters if asked for.
5. In order not to damage reputation the members of the Committee of Religious Scholars shall not be members of political powers while in office.



5. Special Law shall guide the activities of the committee

## **CHAPTER FOUR JUDICIARY**

### **Section one The judiciary system**

#### **Article 89 STRUCTURE AND PRINCIPLES**

1. The Judiciary Organ of the Puntland State is composed of:
  - (a) the Supreme Court of Justice,
  - (b) the Constitutional Court,
  - (c) the Regional Appeal Courts,
  - (d) the Magistrate Courts,
  - (e) the Judiciary Council.
2. Only the Judiciary organ of the Puntland State has the faculty to judge and to order the execution of it's rulings in constitutional, civil, criminal, commercial, administrative and labours matters, as well as in any other matters established by the Law.
3. Any controversy related to agreements entered by Puntland with foreign investor shall be adjudicated by neutral court agreed upon by the two parts.
4. In the exercise of their functions, the Judiciary will have complete independence from the Legislative and Executive organs of the Puntland State, and shall be subject only to Sharia Law, the Constitution and the Laws.
5. The structure, branches, jurisdiction and functioning of the judiciary will be established by a Law proposed to the House of Representatives by the government.
6. Military tribunals shall have jurisdiction only over offences committed by military personnel established by the law.
7. Judges shall not perform duties incompatible with their functions.
8. Judicial proceeding shall be open to the public; however the Law or the judge may decide, for reasons of morality, protection of minors or witnesses, hygiene or public order to hold the proceeding via camera.
9. No judicial decision shall be taken unless all the parties have had the opportunity to present their case, unless the Law states otherwise.

10. No one can nullify, modify or cease to obey a ruling by a Court, unless it is modified or revoked by a Higher Court.
11. The Court shall explain to the accused the crime for which he/she is being punished.
12. Puntland Judiciary recognises mediations, settlement of cases, and social agreements based on traditional norms.

## **Article 90**

### **THE SUPREME COURT OF JUSTICE**

1. The Supreme Court of Justice is a collective body composed of five (5) members: the president, the Vice president and 3 judges.
2. The tribunal shall have two (2) alternate judges that will be called by the President of the tribunal, to make rulings whenever a judge is under leave of absence or a judge excuses himself or herself in a specific case. Alternate members of the Court, will be elected in the same way as the judges and *shall have* the same requisites.
3. Both the standing and alternate Judges of the Supreme Court shall be proposed by the cabinet, and approved by the House of Representatives.
4. The Supreme Court judges shall be elected for a period of five (5) years, except in the first election which will be done as the following:
  - (a) Three Judges and one alternate judge shall be elected for five years term;
  - (b) two judges and one alternate will serve only four (4) years;
  - (c) in the successive election each group will be elected for five years by re-electing the previous ones or election of new.
5. The seat of the Court shall be the capital of Puntland; while it could hear cases anywhere in the territory of Puntland.
6. Dismissal of the Supreme Court judges can only be made by half plus one ( $1/2+1$ ) of the House and in accordance with Article 100 of this constitution.

## **Article 91**

### **CRITERIA FOR ELECTING A SUPREME COURT JUDGE**

To become a judge of the Supreme Court it is necessary:

- (a) to be a citizen of Puntland and have the citizens rights not been suspended in the previous 5 years;
- (b) to be at least forty (40) years of age;
- (c) to hold a legal university degree in Law;
- (d) to have experience as a judge for at least five (5) years, or to have been accepted as a Lawyer for at least six (6) years;
- (e) to be of honest character and competent in legal matters.

## **Article 92**

### **RULES FOR THE DECISIONS OF THE SUPREME COURT**

1. In its ruling the Court will take decisions by the majority of its members; the judge or judges that did not concur on the ruling, may state their dissenting vote.

2. The rulings of the Court shall be communicated directly by the Court Secretary to the involved parties.

### **Article 93**

#### **POWERS AND RESPONSIBILITIES SUPREME COURT**

1. The Supreme Court is the highest tribunal of the land and has jurisdiction over the whole territory of the Puntland State.
2. The Supreme Court shall propose to the House of Representatives the creation of new tribunals.
3. The Supreme Court shall solve the controversies over jurisdiction among tribunals.
4. The Supreme Court shall make final rulings in cases that have been sentenced by the lower Courts but not to the satisfaction of one or more of the contending parties.
5. The Supreme Court shall solve the legal controversies that are not in the competence of other authorities for adjudication.
6. The Supreme Court shall rule on all the procedures that have to be carried out outside the country and to grant permission to carry on procedures or execute sentences in Puntland dictated by a foreign tribunal.
7. The Supreme Court shall rule in all requests of extradition.
8. The Supreme Court shall oversee the lower court's exercise of justice and to take the measures necessary to achieve an efficient and impartial ruling by judges.
9. The Supreme Court shall judge public functionaries in the cases required by the Laws.
10. The Supreme Court's powers and responsibilities shall include all others powers and responsibilities established by the Laws.
11. The supreme court announced the final results of elections

**Article 94**  
**THE CONSTITUTIONAL COURT**

1. Puntland State shall have Constitutional Court formed when four judges selected from outside the judiciary, are added to the members of the Supreme Court.
2. The four judges from outside the judiciary shall be in office within thirty (30) days from the date of the establishment of the Supreme Court.
3. Two of the judges shall be elected by the House of Representatives and the other two by the Council of Ministers and confirmed by House.
4. The four judges shall have the same rights as the judges of the Supreme Court.
5. The chairman of the Supreme Court shall be the chairman of Constitutional Court.
6. The Constitutional Court shall be answerable only to the Law, be it in its execution of legal proceedings or in its management,
7. The Secretary of the Supreme Court shall also be the Secretary of the Constitutional Court.
8. If one or more vacancies arise within the ranks of the Constitutional Court for whatever reason, it must be filled within forty-five (45) days.
9. The seat of the Constitutional Court shall be the capital of the Puntland State.
10. The government shall propose of a special Law shall define the structure, the proceedings and the powers of the Constitutional Court.

**Article 95**  
**POWERS AND RESPONSIBILITIES OF THE CONSTITUTIONAL COURT**

1. The Constitutional Court has the power to declare null and void any Law, by-law or executive decree of the Executive council, totally or partially, on the grounds that it violates the Constitution. Any citizen could ask the Court to do so, stating the reasons for its petition.
2. The Constitutional Court shall rule the cases in which a citizen is alleging that his constitutional rights are violated.
3. The Constitutional Court shall harmonize in its rulings the Islamic Sharia and the Constitution.
4. The Constitutional Court shall resolve any controversy among the different organs of the Puntland State, about respective constitutional powers and responsibilities.

5. The Constitutional Court shall give, upon request by the House of Representatives, a reasoned opinion on the constitutionality of a project of Law they are discussing.
6. The constitutional Court secures that the rights of any citizen are not violated. A special law shall define the procedures through which the Constitution court shall fulfil such obligation.

### **Article 96**

#### **RULES FOR THE DECISIONS OF THE CONSTITUTIONAL COURT**

1. The Constitutional Court will take its decisions by a simple majority of its members.
2. The rulings of the Court shall be public statements registered in writing and made known to the public. They must be printed in the official Government Bulletin.
3. The rulings must be communicated directly by the Court Secretary to the involved parties.

### **Article 97**

#### **CRITERIA FOR SELECTING THE JUDGES OF THE CONSTITUTIONAL COURT**

The four judges who are not members of Supreme Court shall fulfil the criteria's stated in article 91 of this constitution.

### **Article 98**

#### **DISQUALIFICATION FROM MEMBERSHIP OF THE CONSTITUTIONAL COURT**

Disqualification from membership of the Constitutional Court take effect if:

- (a) the member loses one of the criteria of his/her election;
- (b) dies or becomes incapacitated because of illness;
- (c) violates the sharia law, the constitution and other laws of country;
- (d) is convicted by a court on serious crime.

### **Article 99**

#### **THE COURTS OF APPEAL**

1. The seat of the Courts of Appeal shall be in the capital cities of the Regions.
2. The Courts of Appeal shall hear cases whose judgments were appealed against the ruling of a Magistrate's Court.

3. The Powers of the Court of Appeal is confined to its region.
4. Each Court of Appeal shall have at least three (3) judges.
5. The criteria of becoming Judge of the Appeal Court are similar to the criteria of becoming judge of Supreme Court judged as provided in article 91 of this constitution. The Judge must possess recognised legal certificate or great understanding of Islamic Sharia.

## **Article 100**

### **THE MAGISTRATES COURTS**

1. The Magistrates Courts of the Districts are the courts where hearings of all types of cases start, with the exception of Government cases, which are heard by the Supreme Court.
2. The number of judges in the Magistrates Courts shall be determined by the Law.

## **Article 101**

### **THE JUDICIAL SERVICE COUNCIL AND ITS COMPOSITION**

1. The Judicial Service Council is the highest organ for the administration of the Judiciary and protection of its independence.
2. The Judicial Service Council shall be composed of:
  - (a) the President of the Supreme Court, as the chairman of the Council,
  - (b) the Attorney General,
  - (c) three judges from the supreme Court,
  - (d) two (2) lawyers selected from the public, proposed by the Government and confirmed by the House of Representatives.
3. In the absence of the chairman or in case he fails to fulfil his duty, his deputy shall assume the responsibility of the council
3. The Judicial Service Council shall function under special Laws.

## **Article 102**

### **THE POWERS AND RESPONSIBILITIES OF THE COUNCIL**

The Council shall have the following powers and responsibilities:

1. To appoint, dismiss, transfer, promote, and discipline all judges of the Appeal and Magistrate courts and the all other employees of the judiciary.
2. To prepare the legal norms for the establishment of the administrative careers of the judiciary employees, to be forwarded to the Minister of Justice for approval by the Council of Ministers.

3. Drafting of proposals of new laws or reform of existing laws related to the administration of justice and system of the judiciary and submit to the Minister of Justice for presentation to the council of ministers.
4. To set and administer a judiciary training centre for developing the juridical and technical capacity of the judges and secretaries of the Courts.
5. The criteria used by the Council in employing judges and other employees of the judiciary shall be explained in the Laws of the Judiciary.
6. The decisions of High Council of the Administration of Justice related to the appointment, dismissal, and promotion of the appeal and magistrate courts, and deputies of the Attorney General, shall be decreed by the President.

### **Section 3**

## **THE OFFICE OF THE ATTORNEY GENERAL**

### **Article 103**

#### **THE ATTORNEY GENERAL OFFICE**

1. The office of the attorney General is part is of the judiciary
2. The office of the attorney General is subject only to the law
3. The seat of the office of the Attorney General is the capital city of Puntland
4. The Attorney General has jurisdiction on the whole of the Puntland State.
5. The institution of the Attorney General shall consist of:
  - (a) the Attorney General;
  - (b) Deputies of the attorney general shall be regional attorneys.
6. The deputies of the attorney general shall have the same status of the judges of the appeal court and both their appointment and dismissal shall be enacted by the Higher Judiciary Council.
7. The deputies of the attorney shall have the same rights and immunity as the judges

### **Article 104**

#### **APPOINTMENT OF THE ATTORNEY GENERAL**

1. The Cabinet will appoint the Attorney General and present him or her to the House of Representatives for confirmation.
2. To be selected as Attorney General the following conditions must be fulfilled:
  - (a) he/she must be a Puntlanders;
  - (b) he/she must be at least forty (40) years old;
  - (c) he/she must graduate from faculty of law with at least five (5) years of experience of judge or six (6) years of defence lawyer.

- (d) he/she must be of good behaviour and recognized as a capable person in his/her field of expertise.

3. The Office of the Attorney General has jurisdiction over entire territory of Puntland

### **Article 105**

#### **THE POWERS AND RESPONSIBILITIES OF THE ATTORNEY GENERAL**

1. To institute legal proceedings and prosecute senior government officials in a court of Law.
2. The office of the Attorney General shall have the following responsibilities:
  - (a) observe the application of the laws and pre-empting of the negative cultures
  - (b) direct the investigation of crimes, and institute and prosecute criminal charges in front of the court.
  - (c) To oversee the conditions of prisons and rehabilitation centres.
  - (d) To safeguard and protect the rights of the family, the orphans, the children, the mentally disabled and all those who require legal protection.
3. All the other powers and responsibilities that the Laws order him/her to fulfil

### **Article 106**

#### **DISMISSAL OF THE ATTORNEY GENERAL AND DEPUTY ATTORNEY GENERAL;**

1. The dismissal of the Attorney General and deputy attorney general will be only possible if based on legal cause.
2. Like if caught in flagrante and convicted by competent court on serious crime.
3. In the occurrence of the provisions of the numerals 1 and 2 of this article the Council of Ministers shall propose the dismissal of the Attorney General to the House of Representatives for confirmation of the dismissal and arrest.

### **Article 108**

#### **RECOGNITION OF TRADITIONAL NORMS AND USES**

1. The Constitution recognizes the traditional norms that do not contravene Islamic Sharia, the Constitution and the Laws of the Puntland State.
2. The recognised titled elders are the depositaries of the authority of chieftaincy.
3. In order to protect the dignity and impartiality of the traditional leaders it is forbidden for them to participate in political association and parties.



4. In cases of disputes and misunderstanding that threaten the peace among clans or sub-clans, the traditional leaders will be called upon in order to give advice or to find a peaceful solution.
5. The decision for reconciliation, mediation or agreement in solving disputes, which traditional leaders achieve using traditional norms and methods, shall be recognized as valid by all authorities and should offer their help to traditional leaders in the implementation of their decisions.
6. Once a decision has been reached by traditional leaders, using traditional norms, the content of the decision must be registered at the Magistrate Court in the district where the case was settled.

## **CHAPTER FIVE**

### **OTHER FUNDAMENTAL INSTITUTIONS OF THE STATE**

4.

#### **Section 1**

#### **THE AUDITOR GENERAL**

##### **Article 109**

##### **THE OFFICE OF AUDITOR GENERAL**

1. The office of the Auditor General is an independent institution and subject only to the Law.
2. The office of the Auditor General is located in the capital but its authority covers the entire territory of the Puntland State.
3. The Auditor General shall be appointed for a period of five years by the Council of Ministers and can be dismissed but only by causes explicitly stated in the Law; in both cases confirmation of the House of Representatives is required.
4. The requisites to become Auditor General include being a Puntlander, being at least forty (40) years old, possess university decree, having technical knowledge of the field of public accounting and having no less than five (5) years experience in accounting.
5. Except for the Auditor General, all other staff members of the office shall be recruited in accordance with civil service Law of the Puntland State.
6. The organization and procedures of this office will be developed in specific legislation.

##### **Article 110**

##### **THE RESPONSIBILITIES AND THE POWERS OF THE AUDITOR GENERAL**

The Auditor General has the following responsibilities and powers:

1. To fight corruption in the public administration at all levels.

2. To exercise the control of legality on all expenditures made with public funds by any public institution, ensuring that the expenditures are done in conformity with the Puntland State budget.
3. To scrutinize whether the government acts that involve expenditures of public funds match with the level of the corresponding expenditure.
4. The Auditor General has the power to investigate, at any time, the Puntland State institutions, local governments, companies co-owned by the government, and any other place or entity that administers public resources, in accordance with financial Laws and accounting procedures of the Puntland State.
5. The Auditor General has the power to judge any functionary that has improperly used public funds and to impose fines according to the gravity of the misdeed; if the investigation determines that a crime has been committed, the Auditor General will refer the case, with the corresponding documentation, to the Attorney General for penal prosecution.
6. The Auditor General has the power to demand or sequester any document from any public institution if he/she considers it necessary for the investigation of fraud or mishandling of Puntland State property.
7. The Auditor General must submit an annual report dealing with the budgetary performance of the state in the previous year.
8. The Auditor General has the power to issue instructions and procedures regulating the execution of different responsibilities of the office.
9. All the other powers and responsibilities ordered by Puntland laws

## **Section 2**

### **Article 111**

## **THE CENTRAL BANK**

1. The Central Bank is an autonomous institution of the Puntland State and is responsible for:
  - (a) implementing the monetary policy of the government;
  - (b) issuing currency as the sole source;
  - (c) the central bank is the treasury of state
  - (d) authorizing private financial enterprises, and
  - (e) supervising public or private financial institutions operating in Puntland;
1. The Central Bank will be directed by a board composed of seven (7) members:
  - (a) the Governor General of the Bank,
  - (b) the Director General of the Ministry of Finance,
  - (c) the director General of the Ministry of Commerce,
  - (d) the Director General of the Ministry of Labour.
  - (e) three (3) members appointed by the Chamber of Commerce, and

- (f) a non-voting secretary that will be the Director General of the Bank.
- 2. The Governor General of the Central Bank will be appointed by the Council of Ministers for a period of five years; during such period, he/she can only be dismissed by the causes established in the Law and the appointment or the dismissal must be ratified by the House of Representatives.
- 3. The organization and functioning of the Central Bank will be stated in a Law approved by the House of Representatives.

## **Section 3**

### **ELECTORAL AUTHORITY**

#### **Article 112**

#### **PUNTLAND ELECTORAL COMMISSION**

- 1. The Puntland Electoral Commission is an independent institution, which is subject only to the Law and will fulfil its responsibilities in accordance to the electoral laws
- 2. In electoral matters the Commission is the highest authority in the country and its decisions in this field cannot be contradicted or invalidated by any other Puntland State authority, save the constitutional court.
- 3. The Puntland Electoral Commission shall be composed of nine (9) members, elected for a period of six (6) years, and can be re-elected.
- 4. In the event of vacancy or vacancies in the commission for any reason that it occurs, but in accordance with the law, a substitute or substitutes shall be elected or confirmed by the House of Representatives to complete the period that the substituted member or members were elected or conformed for the office

#### **Article 113**

#### **ELECTION PROCEDURE OF THE COMMISSION**

- 1. The Speaker of the House of Representatives will call for nominations at least three months before the day set for the election, as per the following:
  - (a) Each political party will nominate one commissioner;
  - (b) The President will nominate three commissioners,
  - (c) The House of Representatives will nominate three commissioners
  - (d) The House of Representatives will approve the nominees by president, the House of Representatives, and political parties. If a nominee is not approved by the House, the Speaker of the House shall inform the party or the president and ask for a new name to be presented within 15 days. If the nominee for replacement is not presented in time the position will remain vacant until it is filled.

2. The dismissal or loss of membership of the Electoral Commission shall be similar to Supreme Court as stated in article 101 of this constitution.

### **Article 114**

#### **POWERS AND RESPONSIBILITIES OF THE PUNTLAND ELECTORAL COMMISSION**

1. The Puntland Electoral Commission has the following powers and responsibilities:
  - (a) to conduct and administer the referendum and the electoral processes ordered by this Constitution.
  - (b) to exercise jurisdictional powers in electoral matters, solving disputes, adjudicating rights and imposing penalties on any person that violates the electoral legislation;
  - (c) to authorize political parties, oversees the legality of their actions and adjudicate disputes within a party whenever a member or groups within a party demands the commission's rulings.
  - (d) to follow the procedural matters that are necessary for conducting elections.
  - (e) To announce the official results of election or referendum and to extend credentials to elected citizens.
2. Special law shall regulate the activities and the responsibilities of the commission.

### **Article 115**

#### **INTERACTION WITH POLITICAL PARTIES**

1. The political parties have the right to oversee all steps of the electoral processes. The Law will institutionalize the forms and limits of their participation.
2. The political parties have the right to place their observers in all of the organisms conducting the electoral process at the national, regional and local level in all of the polling stations. Similarly, the observers of political parties shall accompany the transportation of polling boxes and counting of the votes.
3. Puntland Electoral Commission will take special care to ensure that the organs conducting the electoral process, at all levels, are not dominated by persons of the same political tendency.
4. The Law will regulate campaigning by parties and candidates and must impose limits on private donations to them, as well as on the amount of money they may expend in the election.
5. The political parties competing in an election have the right of access, on equal terms, to the media owned by the Puntland State during the electoral campaigns.
6. The Puntland Electoral Commission is responsible for the enforcement of the interactions between the commission and political parties provided in this article.
7. Pending the institution of the official Electoral Commission, a Transitional Electoral Commission composed of nine members, as provided in Annex 1 to this constitution.

## **Section four**

### **THE DEFENCE OF THE HUMAN RIGHTS**

#### **Article 116**

#### **THE OFFICE FOR THE DEFENCE AND PROMOTION OF HUMAN RIGHTS**

1. The Office for the defence and promotion of human rights shall consist of:
  - (a) the Human Rights Defender,
  - (b) the regional representatives of the Human Rights Defender, and
  - (c) the personnel assigned to the offices.
2. The seat of the Human Rights Defender shall be the capital of the Puntland State.
3. The Human Rights Defender has jurisdiction on the whole of the Puntland State territory.

#### **Article 117**

#### **APPOINTMENT OF THE HUMAN RIGHTS DEFENDER**

1. The Council of Ministers shall submit to the plenary of House of Representatives a list of candidates for the post and the House will elect the Human Rights Defender.
2. The Human Rights Defender shall fulfil the following conditions to be elected:
  - (a) he/she must be a Muslim and Puntlander;
  - (b) he/she must be at least 40 years old;
  - (c) he/she must have training and experience in human rights issues;
  - (d) he/she must be of good behaviour and recognized as a capable person in his/her field.
3. The Human Rights Defender will be appointed for a period of five (5) years and can be re-elected.

#### **Article 118**

#### **THE POWERS AND RESPONSIBILITIES OF THE HUMAN RIGHTS DEFENDER**

The Human Rights Defender has the following responsibilities and powers:

1. To prevent violations of human rights, giving advice to the corresponding authorities.

2. To promote awareness and respect, among the population and the authorities, of the human rights consecrated in the Constitution, the Laws of the country, and stated in the international protocols and conventions of Human Rights.
3. To defend the human rights, consecrated by this Constitution and the Laws of the country.
4. To investigate any claim levelled by citizens or social organizations regarding violations of human rights in the country, to present to the corresponding authorities and the public the result of those investigations and to make the corresponding recommendation to guarantee the observation of human rights in the Puntland State.
5. To assist the victims of human rights violations, defending them in court or in public.
6. To name special commissions in order to fulfil his/her duties.
7. To carry out inspections in any place in which he/she suspects human rights violations have been or are being committed.
8. To campaign for the reform of Laws or administrative practices in order to increase the observance and respect for human rights.
9. To present to the House of Representatives and to the public an annual report on the condition of Human Rights in the Puntland State.
10. To present to the House of Representatives with the necessary considerations and observations on any project of law that is related to human rights.
11. All the other powers and responsibilities that the Laws of the country give to this office.

### **Article 119**

### **DISMISSAL OF THE DEFENDER OF HUMAN RIGHTS**

The Human Rights Defender can be dismissed but only with the approval of two thirds (2/3) majority of the House of Representatives according article 101 of this constitution.

## **Chapter six**

## **REGIONAL AND DISTRICT ADMINISTRATION**

### **Section 1**

### **REGIONAL ADMINISTRATION**

### **Article 120**

### **DECENTRALIZATION OF REGIONAL AND DISTRICT ADMINISTRATIONS**

1. The Puntland State's system of administration shall be based on decentralization.
2. For administrative purposes the Puntland State is divided into Regions and Districts.

3. The Government is responsible for the reorganization and the demarcation of the boundaries of the Regions and Districts of Puntland.
4. Special Laws shall be instituted to regulate these activities to be approved by the House of Representatives.
5. The demarcation of the administrative and fiscal powers between the Puntland central government, regions and districts shall be defined in special law.

## **Section two**

### **REGIONAL ADMINISTRATIONS**

#### **Article 121**

### **THE POWERS AND RESPONSIBILITIES OF THE REGIONAL GOVERNOR**

1. In each region the government will appoint a Governor and deputy governors for the Region.
2. The powers and responsibilities of the Regional Governors are:
  - (a) is the highest authority of the state departments at regional level and chairs the meetings of the regional development and regional security committees;
  - (b) to oversee the government services and operations in the region;
  - (c) to chair the joint meetings of the executive committees of district councils in the region; and
  - (d) The Regional Governors are the chain of connection between the Puntland central administration and the District administrations in its Region.

## **Article 122**

### **REQUISITES TO BE APPOINTED GOVERNOR**

To be appointed governor it is necessary:

- (a) he/she must be a Puntlander;
- (b) he/she must be at least 30 years old;
- (c) he/she must have maintained his or her citizens rights for the previous 5 years to the appointment.
- (d) Must have high level of education and administrative experience
- (e) he/she must have knowledge of the conditions and problems of the Region.

## **Section three**

### **DISTRICT ADMINISTRATIONS**

## **Article 123**

### **DISTRICT COUNCILS**

1. Each Region of Puntland, for the purpose of local administration, is divided into Districts. A Law will determine the number, name and boundaries of the Districts and will classify them according to the resident population of the territorial extension of each District.
2. Each District shall enjoy autonomy on economic and administrative affairs, and shall be ruled by a District Council. The Districts Law will establish the general principles for its organization, functioning and the exercise of its autonomous powers, as well as the number of councillors for each District, based on the population living in it.
3. The District Council shall be elected by the citizens of each district for a period of five (5) years. Its members can be re-elected.
4. the dissolution of district council and loss of membership of district council shall be defined by the law of the district councils of Puntland.

## **Article 124**

### **INTERNAL ORGANIZATION**

1. The members of the District Council, in their first meeting, will elect a chairperson and a vice chairperson that will be presiding over the Council.
2. The District Council will elect a Mayor and a Vice Mayor, from among the members of the Council.
3. The Mayor will be the chief executive of the local government and will be the link between the Council and the regional authorities.



4. The Mayor will present to the Council, for discussion and approval, the members of the Executive Committee of the District, composed of Councillors in a number not exceeding one third (1/3) of the Council.
5. The standing committee, presided over by the Mayor, will be responsible for implementing the decisions of the Council and the day to day administration of the District.

## **Article 125**

### **THE POWERS AND RESPONSIBILITIES OF DISTRICT COUNCIL**

1. The district councils shall have the responsibility to implement state plans at district level concerning primary education, health, animal husbandry, agriculture, security, water, power, communication, environmental protection and in general developmental projects of the district.
2. To introduce, modify or suppress the payments that the community has to make for the services the Council provides, and to establish specific contributions for the financing of specific public works in its jurisdiction.
3. To approve and make known to the public the annual budget of its administration, containing all the income that is expected to be received and all of the expenditures the Council plans to carry out.
4. To employ, promote or dismiss all of the public employees working for the District.
5. To decree by-laws or instructions regulating public activities in the territory of the District.
6. To prepare the decree on local taxes and to present it to the line ministry for the discussion and approval by Council of Ministers and House of Representatives.
7. To set the local development plan and to request the cooperation of central administration of Puntland for its implementation.
8. To administer the patrimony of the District as well as any other income and give detailed account of it to Auditor General the Ministry of internal affairs.
9. To collaborate with other public institutions in the implementation of development plans, be they at the National, State, or Regional level.
10. All other powers and responsibilities invested in them by this Constitution and the Laws.

## **Article 126**

### **ELIGIBILITY CRITERIA FOR MEMBERSHIP OF THE DISTRICT COUNCIL**

1. Any citizen who is Muslim, responsible, of sound mind, a citizen of Puntland, and is at least twenty-five (25) years old can be elected to the District Council.
2. Must have at least intermediate level education or equivalent.

3. He/she shall not have suspended his/her citizen's rights in the previous 5 years.
4. He/ She Puntland citizen and have deep knowledgeable of the social context of the district

#### **Article 127**

### **POWERS AND RESPONSABILITIES OF THE MAYOR**

1. The Mayor is the highest authority of the state departments of the district and chairs the meetings of the development and security committees.
2. The Mayor supervises all the activities of the state in the district,
3. Chairs the joint meetings of the committees rural settlements;
4. The Mayor is the head of the district executive council and chain of connexion with the region.
5. is responsible for implementation decisions of the district council and administrative tasks of the district.
6. The criteria for becoming District Mayor are stated in article 122 of this constitution.

# **Title V**

## **THE ADMINISTRATIVE REGIME OF PUNTLAND**

### **Chapter One**

#### **THE CIVIL SERVICE**

#### **Article 128**

##### **CIVIL SERVANTS**

1. Puntland State functionaries and civil service employees are at the service of the people and the Puntland State and not to any particular political fraction or interest group; they must exercise their functions in accordance with the Constitution and the Laws of the country. It is prohibited to use public offices for political objectives or personal interests.
2. The functionaries and employees will be recruited based on the merits and capacities of the aspirant for the job, and no consideration of political affiliation, clan pretence or family and friendship relations shall be taken into consideration.
3. It is recognized the Civil Servant career. A special Law will deal with recruitment procedures, grading, promotions, training, dismissals, benefits and all the others aspects of the bureaucratic career.
4. The Law will determine the restrictions of certain functionaries to assume positions of leadership in the political parties.

#### **Article 129**

##### **PRINCIPLES OF GOOD ADMINISTRATION**

All functionaries and public employees will adjust his or her behaviour to the following principles:

- (a) taking all decisions solely in terms of public interest and not for private gain;
- (b) avoiding any situation that might influence him/her in the performance of his/her official duties, or where his/her integrity might be questioned;
- (c) making decisions solely on merits;
- (d) being held accountable for his/her decisions and actions and cooperating with any scrutiny that is appropriate to his/her office;
- (e) making decisions in an open and transparent manner and making information as accessible as possible;
- (f) Declaring any private interest and taking steps to resolve any conflict of interest.

## **Article 130**

### **MISMANAGEMENT OR MISAPPROPRIATION OF PUBLIC FUNDS**

Any functionary or public employee that mismanages or misappropriates public money or resources, or participates in any such misdeeds, commits serious offence and phase trial.

## **Article 131**

### **IMMUNITIES**

1. The granting of immunity to the holders of certain public offices is a way to protect the office holder against misguided accusation or unlawful pressures in the exercise of his/her responsibilities. There are different levels of immunity.
2. The President and Vice President of the Puntland State cannot be detained nor accused by any authority; criminal procedures against them shall follow what is established in the Article 81 of this Constitution addressing Impeachment.
3. Members of the House of Representatives or Council of Minsters cannot be neither detained nor their body, office, means of transport that carrying him, and domicile, and cannot be accused of any serious crime from the day they are elected or appointed until the end of their constitutional period or their resignation, unless the House waives their immunity. For less serious crimes and faults committed during this period they cannot be detained, nor called to declare in court until they have finish their period as members of the House or resigned the office, with exception of civil cases.
4. The immunity granted to all the functionaries elected or confirmed by the House of Representatives will protect them from being detained by any authority or accused of a serious crime unless the Attorney General request the House of Representatives to wave the immunity; if the House of Representatives, after analyzing the case, concludes that there are merits for exercising penal action, the officer will be automatically suspended from office and will be tried in a competent Court; if the House considers that there is no merit, the case will be sent to the archives.
5. Judges serving at the Supreme Court shall not be arrested, their domicile, the means of transport carrying, and domicile, shall not be subject to search, and cannot be accused unless the Attorney General requests the House of Representatives to waive the immunity. If the House of Representatives, after analyzing the case, concludes that there are merits for exercising penal action, the officer will be automatically suspended from office and will be tried in a competent
6. Judges of Appeal and Magistrate courts cannot be arrested unless caught in flagrance, their domiciles and vehicles cannot be subject to search, nor accused unless the Higher Judiciary Council accepts request from the Attorney General to the immunity.
7. If any of the functionaries mentioned in the numerals 2, 3, 4 of this article caught in flagrance, the case shall be reported to the speaker and the leadership of House of the Representatives will decide what to do until the procedure for waving the immunity is completed. If the person is a judge, he/she will be handed over to the President of the Supreme Court.

8. Members of District Councils cannot be detained, their body, domiciles and vehicles transporting them, unless the district councils approves request of waiving the immunity from the office of the attorney general, or caught in flagrante of serious crime.
9. The Regional governors and their deputies are entitled of immunity of responsibility and as such cannot be detained, their bodies, domiciles, and vehicles transporting them, unless the president approves request of waiving from the office of the attorney general, or caught in flagrante of serious crime.

## **Article 132**

### **CONSTITUTIONAL OATH**

Any person who shall assume high office in the State of Puntland shall have to swear/take oath in front of the Supreme Court before assuming office, the oath shall read as follows:

“In the name of Allah I swear I shall honour the Islamic Religion, the Constitution of the Puntland State and its Laws, shall protect, discharge faithfully the duties entrusted to me, to serve loyally the land and people”

## **Chapter Two**

### **PUBLIC FINANCES**

## **Article 133**

### **THE STATE PATRIMONY**

The Puntland State patrimony is composed of:

- (a) all the liquid financial assets own by the State;
- (b) all the credits in favour of the State; (active credits)
- (c) all the properties and goods acquired by the State based on a legal title;
- (d) all the rights that could be derived from the application of all the fiscal Laws of the country, as well from any contribution established by Law; and
- (e) the obligations charged to the public finances are all the debts recognized by the State as well as any public expenditure that has been lawfully authorized.

## **Article 134**

### **RESPONSIBILITY TO CARE FOR THE STATE PATRIMONY AND PUBLIC FINANCES**

1. All the inhabitants of the Puntland State have the obligation to care for the conservation of the state patrimony.
2. The functionaries and civil servant shall take special care to maintain in good order the part of the Puntland State Patrimony at his or her disposal to perform public duties.
3. The administrative head of any national, regional or local dependency of the Puntland State, will respond legally for the fulfilment of this obligation.

4. The Minister of Finance and the Auditor General will have the responsibility to legally enforce this obligation.
5. The Executive branch of the Puntland State, through the Ministry of Finance will be responsible for managing the public finances.

## **Article 135**

### **THE STATE BUDGET**

1. The Puntland State budget is the Law containing the estimate of all the income the State hopes to relieve during the fiscal year and the authorization for all the expenses considered necessary by the government to fulfil the State goals.
2. The financial year of Puntland State starts on the first day of January of every year and ends on the last day of the same year.
3. The autonomous institutions of the Puntland State, as well as any other that is financed totally or partially with public funds, will have special budgets that have to be incorporated into the State budget and approved by the House of Representatives.
4. A special Law will order all the matters concerning the preparation, approval, execution and reporting of results of the budget.
5. If for any reason, at the end of the fiscal year the new budget has not been approved by the House of Representatives, the budget of the immediate previous fiscal exercise will continue to operate until the new budget is approved by the House.

## **Article 136**

### **BUDGETARY PROCEDURES**

1. The budget is initiated by the Minister of Finance on the basis of the financial projections presented by Ministers, other state institutions, and data compiled and processed by financial experts and other staff of the budgeting department of the same ministry; and shall be submitted to the Council of Ministers no later than September 30 of the preceding year.
2. The budget proposal approved by the Council of Minister shall be presented to the House of Representatives for final approval two months before it is put into operation.

## **Article 137**

### **CLOSING OF ACCOUNTS OF A FINANCIAL YEAR**

1. The report on the closing of the accounts of the previous fiscal year shall be submitted to the House of Representatives by the Minister of Finance, no later than June 30, after studying and discussing it the House will endorse or reject it.
2. If the House rejects the closing of the accounts submits its findings to the Attorney General for investigation and prosecute any person charged with miss-appropriation or miss-management of public funds.

## **Title VI**

# **SUPREMACY AND REFORM OF THE CONSTITUTION AND PRIVISIONAL ENFORCEMENT**

### **Article 138**

#### **PRE-EMINENCE OF THE CONSTITUTION**

1. The Constitution is the supreme Law of the Puntland State, save the Islamic sharia and the Federal Constitution of the Federal Republic of Somalia.
2. Any Law, by-law or administrative decree which contradicts this Constitution is null and void.

### **Article 139**

#### **CONSTITUTIONAL REFORMS**

1. A proposal to amend the Constitution requires such amendment to be presented by:
  - (a) at least one fifth (1/5) of the Members of the House of Representatives, or
  - (b) by the Council of Ministers, or
  - (c) by no less than 5000 citizens.
2. Once the proposal has been received by the plenum, it will be analyzed by a special committee and with the recommendations of such Committee, will be discussed by the plenum and approve by a simple majority.
3. A campaign of information and discussions over the reforms shall be launched by the House of Representatives, to ensure the widest participation of the citizenship in the process.
4. No less that one month later, the House will submit the proposal for ratification and it will be ratified by a majority of two thirds (2/3) of the members.
5. Reforms related to Articles 1, 2, 3, 4, 9, and 13 of Chapter one of Title one of this constitution, after the fulfilment of the procedures provided in the paragraphs of this articles, can be only done by popular referendum.
6. A Constitutional Amendment will be publicized in the Official Bulletin and cannot be subject to presidential veto.

### **Article 140**

#### **HARMONIZATION OF THIS CONSTITUTION WITH THE FEDERAL CONSTITUTION**



1. Once the Federal Constitution of Somalia is approved but not yet accepted by people in referendum, the House of Representatives will set up a special Committee that will review Puntland constitution in order harmonise it with the federal constitution.
2. In this process the Special Committee will hear the opinions of the Executive, the Supreme Court and the Attorney General on the changes needed or proposed. The Committee will call any other functionary or person it considers relevant to illustrate the points under consideration.
3. The Committee will present its finding to the plenum of the House of Representatives, who will discuss and vote, approving amendments with a simple majority (half +1).
4. The leadership of the House shall submit immediately to the president the change made on Puntland constitution, for signature and publication on the official bulletin.
5. It is forbidden to use this procedure for any other reform to the Constitution that are not directly related to the harmonization of the Puntland State Constitution and the Federal Constitution.

### **Article 141**

#### **ENFORCEMENT OF THE CONSTITUTION**

1. The Puntland State Constitution will be officially enforceable after the referendum confirming the acceptance of it by the Puntland citizens; such referendum could either popular plebiscite or in the form of delegates.
3. Pending the holding of the referendum, this constitution shall be applied provisionally from the day the House of Representatives of Puntland Approves in place of the current provisional constitution.

## **Annex 1**

### **TRANSITORY DISPOSITIONS**

1. The first Puntland Electoral Commission will be elected for a five (5) year period, for the execution of the referendum on this Constitution and the first district council elections. The Commission will be composed of nine (9) members, five (5) nominated by the President and approved by the House of Representatives and four (4) elected by the Council of Representatives.
2. The Transitional Electoral Commission is responsible for conducting the referendum and the election of the first districts councils, and its mandate shall expire after the announcement of the results of the election of district councils, and certification of political parties.
3. In the fulfilment of its mandate, the transitional Puntland Electoral Commission shall have the powers stated in Article 114 of this constitution.
4. Following the expiry of the mandate of transitional Puntland Electoral Commission, a new Puntland Electoral Commission shall be instituted in conformity with section three of chapter V of title IV of this constitution.