



Shared Prosperity Dignified Life



Country matrix – Somalia 2024

The country matrix adopts and adheres to the coding standards adopted in the “Gender Justice and the Law” initiative.

General framework of the State

Has the State ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)? Does it have any reservations on the implementation of the provisions of the Convention?

Somalia has not joined the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Does the Constitution refer to gender equality and non-discrimination?

Article 11 of the Federal Republic of Somalia Provisional Constitution of 2012 provides that all citizens, regardless of sex, shall have equal rights and that the State must not discriminate against any person on the basis of sex.

If customary law is a valid source of law under the Constitution, is it valid if it violates constitutional provisions on gender equality or non-discrimination?

Customary law takes precedence where there is a contradiction or inconsistency between Shariah law and the constitutional provisions in regard to equality or non-discrimination.

If personal law is a valid source of law under the Constitution, is it valid if it violates constitutional provisions on equality or non-discrimination?

Personal law takes precedence where there is a contradiction or

inconsistency between personal law and the constitutional provisions in regard to equality or non-discrimination.

Do national laws clearly define the mandate and jurisdiction of informal justice systems, where they exist, in terms of their enforcement of formal and informal laws, both of which must conform to international standards, including non-discrimination?

The State recognizes the informal justice system. Article 52 of the Provisional Constitution confirms the protection and development of traditional law and the maintenance of cooperation between Transitional Council officials and traditional leaders in their territories. However, there is no legal framework which regulates the mandate of the informal justice system and its jurisdiction.

Is there a law on discrimination that prohibits both direct and indirect discrimination against women?

The Provisional Constitution prohibits discrimination on the basis of sex but there is no overarching law prohibiting/differentiating between direct and indirect gender discrimination.

Is there a national action plan or policy to address violence against women and girls that is overseen by a national mechanism with the

mandate to monitor and review implementation?

The National Strategy to Combat Violence Against Women and Girls has been adopted for the period 2024-2029, under the supervision of the Ministry of Women and Human Rights Development.

Are there budgetary commitments provided for by government entities for the implementation of legislation addressing violence against women and girls by creating an obligation on the Government to provide a budget or allocation of funding for the implementation of relevant programmes or activities?

There are no financial commitments to implement legislation addressing violence against women and girls.

Is there a national strategy or action plan currently in place containing measures to ensure full and equal access to the entire range of sexual and reproductive health information, services and supplies, with budgetary, human and administrative resources allocated for its implementation?

There is no national strategy in place.

Is legal aid mandated or guaranteed in criminal matters?

Provisions in the Provisional Constitution and the Code of Criminal Procedure include the

right to legal aid and its provision (including, by way of example only, legal representation, financial aid and legal advice) in criminal contexts.

Is legal aid mandated or guaranteed in civil/family matters?

Legal aid is not mandated in civil and family matters.

Are there laws that explicitly require the production and/or dissemination of gender statistics?

There is no legislation which refers to gender statistics.

Legal capacity and public life

Do women and men have equal rights to apply for passports?

Relevant legislation provides women with equal rights to men to apply for passports.

Do women and men have equal rights to obtain an identity card?

Relevant legislation provides women with equal rights to men to apply for an identity card.

In civil law matters and procedures, are women required to obtain permission from judicial or administrative authorities, spouses and other family members prior to initiating legal action?

Women are not required to obtain permission from judicial or administrative authorities, spouses and other family members prior to initiating legal action in civil law matters.

In personal/family law matters, are women required to obtain permission from judicial or administrative authorities, spouses and other family members prior to initiating legal action?

Muslim women need the consent of their guardian (male

guardian) for the marriage contract.

Does a woman's testimony carry the same evidentiary weight in court as a man's?

A woman's testimony and a man's testimony carry the same evidentiary weight in all courts (including in personal status courts, religious, civil and criminal courts, and family courts).

Can a woman enter into a contract the same way as a man?

The law provides for equal rights in entering into contracts. The civil law uses gender-neutral language in defining the legal capacity required for the performance by individuals of any civil act or entering into any contract.

Do women and men have equal rights to own, access, control and use property?

In civil law there is a legislative property regime that asserts the equality of men and women in their rights to own, access and control property.

Does the law allow for women to register

businesses the same way as men?

There are no gender-specific legal restrictions imposed on women's registration of businesses.

Do women and men enjoy equal rights and access to hold public and political office (legislature, executive, judiciary)?

There are no laws preventing women from holding public and political office but there are no positive measures of this right.

Are there quotas for women (reserved seats) in the national parliament?

The electoral law of 2020 reserves 30 per cent of seats in parliament for women. Previously, 30 per cent of seats were allocated for women, but women were denied this percentage because of tribal preference for nominating men. The Somali Women's Quota Law of 2020 seeks to address this loophole by providing that only women can compete for the seats allocated for their representation so as to ensure that women receive their full quota.

Is there a law that explicitly prohibits violence against

women in politics and elections?

There is no law that explicitly prohibits violence against women in politics and elections.

Protection from violence against women and girls in the public and private spheres

Is there legislation on domestic violence that includes all forms of physical violence?

There is no law in Somalia that specifically addresses domestic violence.

Is there legislation on domestic violence that includes all forms of sexual violence?

There is no law relating to domestic violence.

Is there legislation on domestic violence that includes all forms of psychological/emotional violence?

There is no law relating to domestic violence.

Is there legislation on domestic violence that includes financial/economic violence?

There is no law relating to domestic violence.

Are there criminal and civil protection orders available for victims of violence for which a breach (constitutes a criminal offence) has legal consequences?

There are no provisions to implement protection orders in cases of domestic violence.

Does the law allow mitigating circumstances for femicide?

Article 443 of the Penal Code reduces the punishments imposed on a person who kills his relative (wife, daughter or sister) or her sexual partner in the event of sudden rage "for the offence caused to his or her honour and to the honour of his or her family" after finding her involved in a sexual act.

Does the law criminalize female genital mutilation (FGM) or cutting if practised?

Article 15 of the Provisional Constitution prohibits FGM/female circumcision. There is a draft Federal Law prohibiting this mutilation practice. There is also a draft decree in Somaliland and legislation in Puntland prohibiting FGM but they are both under consideration.

Does the law criminalize adultery?

Adultery is deemed a crime under article 426 of the Penal Code.

Do laws that criminalize rape act based on absence of consent without requiring proof of the use of physical force or penetration?

Article 398 of the Penal Code criminalizes rape, which is punishable by 5 to 15 years' imprisonment for anyone who has sexual intercourse with a person of the opposite sex by the use of violence or threats.

Does the law criminalize marital rape?

Marital rape is not specifically criminalized. According to the Family Law, a woman owes a duty of obedience to her husband, and it is expected that she performs her marital duties in the marriage.

Does the law include exoneration if the offender marries his victim?

There is no provision in the Penal Code related to the marriage of a victim by her rapist. However, customary law may be applied in such cases to exonerate the rapist if marrying the victim would protect her honour.

Is sexual harassment defined in any legislation?

Article 24 of the Provisional Constitution prohibits sexual harassment at a place of work. The Puntland Law of 2016 on sexual crimes prohibits sexual harassment. The draft Federal Law on sexual crimes prohibits sexual harassment.

Is there a provision in the law that criminalizes cyberviolence against women and girls?

There is no provision in the law that criminalizes cyberviolence against women and girls.

Are sex work and prostitution criminalized?

Articles 405 to 408 of the Penal Code prohibit prostitution.

Are there comprehensive provisions (punitive, protective and preventive) on human trafficking in any law?

The Provisional Constitution provides that no one may be subjected to slavery, servitude, trafficking or forced labour for any purpose. The Penal Code addresses certain crimes of trafficking, enforced prostitution and kidnapping, but there is no comprehensive anti-trafficking legislation that provides prevention and protection measures.

Employment and economic benefits

Does the law mandate non-discrimination against women in employment?

There are specific provisions in the Labour Law/labour legislation that directly prohibit discrimination on the basis of sex or stipulate non-discrimination.

Does the law mandate equal pay for the same work as men?

Private sector employee laws in Somaliland and Puntland stipulate that male and female workers undertaking the same work receive equal pay. The Provisional Constitution provides that all labour laws comply with gender equality.

Does the law mandate equal remuneration for work of equal value?

The law grants women and men the right to receive equal remuneration for work that is "of equal value, or ability, or type of work or duration of service".

Does the law allow women to do the same jobs as men?

There are gender-specific legal restrictions in relation to arduous work or other specific occupations. The nature of the prohibited work is defined in more detail in a regulatory decree from the Secretariat.

Does the law allow women to work the same night hours as men?

There are gender-specific legal restrictions for night work in manufacturing, commercial and agricultural enterprises, excluding enterprises in which only individuals from single-parent families work.

Do national labour and civil service-related laws (labour codes, civil retirement acts, etc.) discriminate between men and women in terms of retirement age?

The Civil Service Law stipulates that the minimum age for retirement for female workers is

55, whereas the minimum age for male workers is 60.

Do national labour and civil service-related laws grant men and women equal rights to pass on their pensions to their spouses?

The Civil Service Law and the Labour Code stipulate equal treatment for beneficiaries of a partner's bonus or pension after death.

Does the law prohibit dismissal during pregnancy and maternity leave?

Under the Private Sector Employees Law in Somaliland and Puntland, employers are prohibited from dismissing women due to pregnancy.

Does the law provide for maternity leave that meets the International Labour Organization (ILO) standard of 14 weeks?

Under the Civil Service Employees Law of 2006, women

are entitled to receive four months' maternity leave on full pay and a two-hour break for breastfeeding for 12 months. According to the Labour Code of 1972, women are entitled to receive 14 weeks' maternity leave on half pay. In Somaliland and Puntland, the Private Sector Employees Law stipulates that women are entitled to receive 16 weeks' maternity leave and breastfeeding breaks.

Does the law provide for paid paternity leave available to fathers?

No, fathers are not entitled to paid paternity leave.

Does the State provide or subsidize childcare facilities?

There is no publicly or privately provided or subsidized childcare.

Does legislation tackle sexual harassment in the workplace?

The Labour Law does not include a specific provision prohibiting sexual harassment in the workplace. However, such acts are illegal pursuant to the Constitution (article 24), which includes an explicit clause on sexual exploitation and discrimination against women in the workplace. It stipulates that all related laws must comply with the laws on non-discrimination and gender equality and may also take into consideration the Penal Code.

Are there provisions allowing for civil claims/remedies for sexual harassment in the workplace?

There are no legal provisions regarding civil claims/remedies for sexual abuse and sexual harassment cases or for penalizing revenge by employers who dismiss their employees.

Does the Labour Law provide protection for domestic workers?

There are no specific legal provisions for the protection of domestic workers' rights. The draft Federal Labour Law of 2019 that uses a broad definition of workers is waiting to be submitted to Parliament.

Is there a public entity that can receive complaints on gender discrimination in employment?

There is no public entity that can receive complaints on gender discrimination in employment.

Family matters (personal status)

Is 18 the minimum age at marriage, with no legal exceptions, for both women and men?

The Family Law defines the minimum age for marriage as 18 for both men and women. However, girls may get married between the ages of 16 and 18 with the consent of their legal guardian. The Family Law is rarely applied in legal practice. The Ministry of Justice has been working on proposals for new family laws since 2018. Most regions apply Shariah law and

customary law instead of the Family Law.

Is marriage under the legal age void or voidable?

Marriage under the legal age is not a reason to void the marriage.

Do women and men have equal rights to enter marriage (i.e. consent) and initiate divorce?

The husband may divorce by pronouncing it outside of court. The wife has the right to divorce for specific reasons based on a

convincing argument presented to the court.

Does the law prohibit polygamy?

Islamic Shariah law permits polygamy. The Family Law also permits this but within fixed and limited circumstances. The Family Law is rarely applied in legal practice. Women can insert a clause into their marriage contract that they do not consent to polygamy.

Do women and men have equal rights to be legal

guardian of their children during and after marriage?

Fathers are the legal guardians of the children. Mothers rank second after men in terms of priority.

Does the law grant women and men equal custody rights of their children?

The mother retains custody of her children while they are young after divorce or separation but she loses custody if she remarries.

Do women and men have equal rights to choose where to live?

There are general legal provisions confirming equality of legal capacity between women and men which include choosing where to live (their residence and domicile) but only in specific cases. The Provisional Constitution guarantees freedom of movement and freedom to choose where to live. In the context of the customary and Shariah laws, women do not have freedom to choose where to live.

Do women and men have equal rights to choose a profession?

Women and men have equal rights to choose a profession with no restrictions on the types of professions women can engage in.

Do women and men have equal rights to own, access, control and use marital property including upon divorce?

There is a legislative marital property regime that asserts the equality of men and women in their rights to own, access and control marital property, including upon divorce.

Where rights to inheritance are enshrined by law, do women and men have equal rights?

Article 158 of the Family Law stipulates that women and men have equal rights to inheritance. However, Shariah rules are applied to inheritance instead of the Family Law such that women are entitled to inheritance but in many cases they receive less than the man's share.

Are there specialized civil courts or civil court processes for family law matters that provide for the equal rights of men and women?

There are specialized civil courts or civil court processes, but they do not guarantee equal rights for men and women.

Do women have equal rights as men to pass their nationality to children?

Somali women do not have the same legal rights as men to grant nationality to their children under Law No. 28 of 22 December 1962 on Somali Citizenship. The draft law on children's rights will address this issue by stipulating that women can pass their nationality to their children.

Do women have equal rights as men to pass their nationality to a foreign spouse?

Somali women do not have the same legal rights as men to grant their nationality to their foreign spouse pursuant to Law No. 28 of 22 December 1962 on Somali Citizenship.

Sexual and reproductive health and rights

Do law(s) or regulation(s) exist that guarantee access to maternal health care for all women and girls, irrespective of marital status and without third-party authorization?

There are no laws or regulations addressing the possibility of accessing maternal health care.

The national development plan contains a clear vision for providing maternal health care but no law exists confirming this right.

Do law(s) or regulation(s) exist that guarantee access to contraceptive services for all women and adolescent girls, irrespective of marital

status and without third-party authorization?

No law or regulation addresses the provision of contraceptive services.

Do law(s) or regulation(s) exist that guarantee access to emergency contraception for all women and

adolescent girls, irrespective of marital status and without third-party authorization?

No law or regulation addresses the possibility of accessing emergency contraception.

Is induced abortion legal at least when the life or health of the pregnant woman is at risk and in cases of rape, incest or severe fetal impairment, and is abortion decriminalized in any case for both the pregnant woman as well as health-care providers performing it (when consent is fully given)?

According to the Penal Code, abortion is punishable in all cases and no provision exists that permits it in the event of concerns relating to a woman's health or fetal health. However, article 15 (5) of the Constitution states that

abortion is legal if the pregnancy endangered the mother's life.

Irrespective of the legal status of abortion, do law(s) or regulation(s) exist that ensure access to post-abortion care for all women and girls, independent of their marital status and without third-party authorization?

Access to post-abortion care is not addressed in any law(s) or regulation(s).

Do law(s), regulation(s) or national policies exist that make comprehensive sexual health education a mandatory component of the national school curriculum?

Comprehensive sexual health education is not mandated as a component of the national

school curriculum by any law(s) or regulation(s).

Do law(s) or regulation(s) exist that guarantee access to voluntary HIV testing and counselling services for all women and girls, irrespective of marital status and without third-party authorization?

HIV testing and counselling services are not addressed by any law(s) or regulation(s).

Does the law criminalize consensual same-sex sexual conduct?

Article 409 of the Penal Code criminalizes consensual homosexual conduct between adults.