

ACCESS TO JUSTICE FOR CHILDREN: SOMALIA

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

Somalia ratified the CRC in January 2015, however the ratification instrument has not been deposited to the UN and is thus not yet final.¹ Accordingly, this report will proceed on the premise that the Convention is not yet part of national law.

Within the last 15 years, Somalia has undergone significant territorial, social, and political upheaval,² stunting progress towards ratification since signing the CRC in 2002. In 2009, the Somali cabinet of ministers announced plans to ratify the CRC, albeit while leading a transitional government.³ However, no further action was taken, and the transitional government's term ended when a special assembly adopted a new Provisional Constitution in August 2012.⁴ This Provisional Constitution is expected to become the supreme law of Somalia.⁵

The Provisional Constitution establishes Somalia as a federal state.⁶ The Federal Government must consult with Federal Member States when negotiating treaties and international agreements.⁷ However, treaties existing before the Provisional Constitution continue to be in effect across the entire nation.⁸ Thus, Somalia's signing of the CRC eleven years prior is probably binding on all member states, though more negotiations may need to occur

¹ See <https://www.crin.org/en/home/what-we-do/crinmail/crinmail-1412#som>.

² See <https://www.cia.gov/library/publications/the-world-factbook/geos/so.html>.

³ See <http://www.reuters.com/article/2009/11/20/ozatp-somalia-children-idAFJ0E5AJ0IT20091120>.

⁴ See The Federal Republic of Somalia Provisional Constitution ("Provisional Constitution"), available at <http://unpos.unmissions.org/LinkClick.aspx?fileticket=RkJTOSpoMME%3D&tabid=9705&mid=12667&language=en-US>. Although the central pieces of the new government are in place, the Provisional Constitution will not take effect until the Federal Parliament ratifies it. See http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403274_text; <http://www.nytimes.com/2012/09/11/world/africa/parliament-selects-mohamud-as-somalias-president.html>.

⁵ The Provisional Constitution was overwhelmingly approved by the special 825-member National Constituent Assembly—by 96% of 645 votes cast. This signals a largely unimpeded ratification process. See <http://www.bbc.co.uk/news/world-africa-19075685>; http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403274_text. Hence, this report will treat the Provisional Constitution as the supreme law of Somalia, relying mainly on the Provisional Constitution, but also referring to major legal standards of regions when they are relevant.

⁶ Provisional Constitution, Article 111E. The Federal Parliament of Somalia, established by the Provisional Constitution, must decide the regions and boundaries of the member states of the federation.

⁷ Provisional Constitution, Article 53.

⁸ Provisional Constitution, Article 140.

for ratification.

Furthermore, Somaliland, a self-designated autonomous state of Somalia, has announced its intention to implement the CRC.⁹

B. Does the CRC take precedence over national law?

No, as the CRC has not been ratified, it does not take precedence, over national law.

C. Has the CRC been incorporated into national law?

No, the CRC has not been incorporated into national law. Certain provisions which appear in the CRC are reflected in the Provisional Constitution, including the right to be cared by their parents, right to name and nationality at birth, and the best interests of the child principle.¹⁰

D. Can the CRC be directly enforced in the courts?

No, the CRC cannot be directly relied on before national courts.

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

Research did not identify any cases in which the national courts cited the CRC or other relevant international instruments.¹¹

However, it should be noted that, for over twenty years, there has been no consistent national judicial system in Somalia.¹² The Provisional Constitution outlines the principles and structure for a new national judiciary.¹³ Published case law may become more easily available after this new judicial system takes effect.

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

The Provisional Constitution includes a provision on access to the courts which states that “[e]very person is entitled to file a legal case before a competent court”.¹⁴ Civil rights questions and criminal charges must be

⁹ See http://www.somalilandlaw.com/somaliland_human_rights_law.html.

¹⁰ Provisional Constitution, Articles 28 and 29.

¹¹ Databases searched included SomalilandLaw.com (http://www.somalilandlaw.com/somaliland_human_rights_law.html), the World Legal Information Institute (<http://www.worldlii.org/>), and GlobalLex (<http://www.nyulawglobal.org/globalex/somaliland.htm>).

¹² See <http://jurist.law.pitt.edu/world/somalia.htm>.

¹³ Provisional Constitution, Ch. 9.

¹⁴ Provisional Constitution, Article 34(1).

decided by an impartial court.¹⁵ It may be inferred that cases may be brought on behalf of a child in relation to a human rights violation, however, it is not clear under what procedures.

Puntland, a self-declared autonomous region of Somalia, has its own Constitution that grants a parallel right to “institute legal proceedings” and also reserves rights for children.¹⁶

Somaliland’s Constitution confers the right to sue and defend to every person, which states that every person has the right to institute proceedings in a competent court in accordance with the law.¹⁷ This also can be presumed to imply that cases can be brought to litigate the rights of children.

Laws that governed Somalia before the current Federal Government are available online, but it is not yet clear which of these laws will remain in effect and which will be replaced. Several of these laws including the Civil Code of Somalia,¹⁸ the Civil Procedure Code of Somaliland,¹⁹ the Somaliland Juvenile Justice Law,²⁰ and the Somaliland Juvenile Courts and Reformatories Law²¹ are not available in English translation. Developing the law continues to be a priority; in a 2008 pledge by leaders of Somaliland to reform its penal, civil procedure, and criminal procedure codes, expressly refers to the need “to provide access to justice and rule of law to the people of Somaliland.”²²

B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

Interpreting the constitutional provisions on court access cited above, cases on behalf of children may be allowed. However, nothing in the identified sources answers whether children are able to bring such cases by themselves or whether they are required to do so through a representative.

Somaliland passed the Juvenile Courts and Reformatories Law to create juvenile courts, but the law offers no explicit guidance on initiating civil actions.²³

C. In the case of infants and young children, how would cases typically be

¹⁵ Provisional Constitution, Article 34(2)(a)–(b).

¹⁶ Constitution of the Regional Puntland State of Somalia, Articles 24 and 30, available at <http://www.worldstatesmen.org/Puntland-const2010.pdf>.

¹⁷ The Constitution of the Republic of Somaliland, Article 28, available at http://www.somalilandlaw.com/Somaliland_Constitution_Text_only_Eng_IJSL.pdf.

¹⁸ See http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_isn=88091.

¹⁹ See http://www.somalilandlaw.com/CPC_105_-156.pdf.

²⁰ See http://www.somalilandlaw.com/juvenile_justice_law.html.

²¹ See http://www.somalilandlaw.com/Juvenile_Courts_and_Reformatories_1970.pdf.

²² See http://www.so.undp.org/content/somalia/en/home/presscenter/articles/2008/3/5/Stage_is_set_for_justice_reform_in_Somaliland/.

²³ Somaliland Juvenile Courts and Reformatories Law, available at http://www.somalilandlaw.com/Juvenile_Courts_and_Reformatories_1970.pdf.

brought?

Research did not identify any clear information about how legal claims may be brought on behalf of infants and young children. It must be noted that while the Provisional Constitution defines a child as a person under 18,²⁴ the Somaliland Constitution defines that age as 14, and the Puntland Constitution - at 15.²⁵

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

The Provisional Constitution states that a child “has the right to legal aid paid for by the State if the child might otherwise suffer injustice”.²⁶ The Somaliland Constitution provides “free legal defence in matters” determined by law and also creates a fee waiver “for the indigent”—though it does not specifically mention children.²⁷ Puntland’s Constitution does not refer to children directly either, but offers “access to justice . . . free of any fee or charge unless established by Law”.²⁸

E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

Lack of organisation, infrastructure, and coordination among key actors of the Somali judicial system mean unfettered access is likely difficult. Some work is being carried out by public interest groups to identify the most serious gaps and advocate for new rules to reform and improve access to justice.²⁹

III. How can children’s rights violations be challenged before national courts?

A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

A legal challenge may be brought via a civil claim. The Provisional Constitution says that “[e]very person is entitled to file a legal case before a competent court”.³⁰ This appears to be the primary option to challenge violations of human rights, as the Constitution also mandates that redress for human rights violations be available in courts which people can readily

²⁴ See Provisional Constitution, Art. 29(8).

²⁵ Somaliland Juvenile Courts and Reformatories Law, Article 1; Constitution of the Regional Puntland, Art. 30(1).

²⁶ Provisional Constitution, Art. 29(5).

²⁷ Constitution for the Republic of Somaliland, Art. 28.

²⁸ Puntland Constitution, Article 24.

²⁹ See

http://www.so.undp.org/content/somalia/en/home/operations/projects/crisis_prevention_and_recovery/Access_to_justice.html and http://www.somalilandlaw.com/somaliland_lawyers_association.html.

³⁰ Provisional Constitution, Article 34(1).

access.³¹ Any individual or group may submit a reference application to the Constitutional Court on matters which affect the public interest,³² however, what constitutes ‘public interest’ is not expressly defined.

Puntland has a similar scheme allows citizens to pursue claims against the government.³³ Puntland’s Constitution has similar provisions, but it also restricts all constitutional interpretation to its own judiciary.³⁴

The Provisional Constitution creates a Human Rights Commission.³⁵ The Commission’s responsibilities are outlined generally: “promotion of knowledge of human rights,” “monitoring human rights within the country,” and “investigating allegations of human rights violations”.³⁶ Whether and how the Commission will be able to transform its findings into legal challenges is not described in the document, though it is empowered to “take steps to secure appropriate redress where human rights have been violated”.³⁷

Puntland details a much more elaborate system in its Constitution. Though not the exclusive method of recourse, the power to prevent, investigate, and promote awareness of human rights violations may be given to a “Human Rights Defender”.³⁸ This person must “defend the human rights, consecrated by th[e] Constitution and the Laws of the country, whenever a Puntland State authority has violated them”.³⁹ This includes the obligation to “assist the victims of human rights violations [by] defending them in court or in public”.⁴⁰

Individuals, groups or NGOs may submit complaints (known as “communications”) to the African Commission on Human and Peoples’ Rights (“African Commission”) about violations of the African Charter on Human and Peoples’ Rights (“African Charter”).⁴¹ All available domestic remedies must have been exhausted before bringing a case to the African Commission.⁴² The complaint must include, amongst other things: the name of the person filing it or, in the case of an NGO, the name of the legal representative; whether or not the complainant wishes to remain anonymous and the reasons for this; and the name of the victim, in a case where he/she is not the complainant.⁴³ The African Commission will investigate the complaint and decide on the merits of the case, and make recommendations

³¹ Provisional Constitution, Article 39.

³² Provisional Constitution, Art. 109(2)(d).

³³ Constitution of the Regional Puntland State, Art. 95(2).

³⁴ Constitution of the Regional Puntland State, Arts. 87, 95. Art. 95 states that “[t]he Constitutional Court has the power to declare any Law . . . void . . . on the grounds that it violates the Constitution. Any citizens could ask the court to do so, stating the reasons for its petition.”

³⁵ Provisional Constitution, Art. 41.

³⁶ *Id.*

³⁷ Provisional Constitution, Art. 111B.

³⁸ Constitution of the Regional Puntland State, Art. 108.

³⁹ *Id.*, Art. 108(3).

⁴⁰ *Id.*, Art. 108(5).

⁴¹ African Charter on Human and Peoples’ Rights (“African Charter”), Article 55, available at: <http://www.achpr.org/instruments/achpr>.

⁴² *Ibid.*, Article 56(5).

⁴³ Rules of Procedure of the African Commission on Human and Peoples’ Rights of 2010, Rule 93, available at: <http://www.achpr.org/instruments/rules-of-procedure-2010/>.

to the State, which may include compensation to the victim(s) and measures to prevent recurrence of the violation.⁴⁴ If the case relates to serious or massive human rights violations or if the Commission considers that the State is unwilling to comply with its recommendations in the case, the Commission may refer the complaint to the African Court on Human and Peoples' Rights.⁴⁵

B. What powers would courts have to review these violations, and what remedies could they offer?

The major constitutions reviewed for this survey state or largely infer that remedies are available, but do not specify the type. The Provisional Constitution ambiguously states that “redress . . . must be available” for human rights violations through the judicial system.⁴⁶ The authority to review legislation for constitutionality suggests that courts might be able to overturn legislation or provide some remedy akin to declaratory relief.⁴⁷ The Constitutional Court has the power to void legislation.⁴⁸

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

None of the legislation referenced here gives a specific answer to this question.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

Challenges without an identifiable victim could be framed as “public interest” cases under the Provisional Constitution.⁴⁹ The State has an obligation to provide free legal defence to individuals of communities pursuing the public interest.⁵⁰ Any individual or group may submit a reference application to the Constitutional Court on matters which affect the public interest.⁵¹

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been

⁴⁴ War Resisters' International, Quaker United Nations Office Geneva, Conscience and Peace Tax International and the CCPR Centre, 'African Commission on Human and Peoples' Rights: communication procedure', 2012, available at:

<http://co-guide.org/mechanism/african-commission-human-and-peoples-rights-communication-procedure>.

⁴⁵ Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights, Article 5, available at:

<http://www.achpr.org/instruments/court-establishment>; Rules of Procedure of the African Commission on Human and Peoples' Rights of 2010, Rules 84(2) and 118, available at:
<http://www.achpr.org/instruments/rules-of-procedure-2010>.

⁴⁶ Provisional Constitution, Article 39.

⁴⁷ Provisional Constitution, Article 109.

⁴⁸ Provisional Constitution, Article 109C.

⁴⁹ Provisional Constitution, Art. 109(2)(d).

⁵⁰ Provisional Constitution, Art. 34(5).

⁵¹ Provisional Constitution, Art. 109(2)(d).

filed?

It appears that non-governmental organisations (NGOs) may initiate court cases on behalf of children, as the Provisional Constitution permits a person or organisation to “go to court to protect the rights of others who are unable to do so for themselves”.⁵²

Besides the constitutional provisions regarding access to the court described in other sections of this report, no special institutional standing requirements were found in any official texts. Whether the organisation itself must suffer harm or just share a similar interest with an injured party is unknown.

IV. Practical considerations. Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

The Provisional Constitution describes a new national court system where human rights challenges may be brought at the lowest level of the hierarchy.⁵³ The Provisional Constitution grants to “every person the right to administrative decisions that are lawful, reasonable and conducted in a procedurally fair manner”.⁵⁴

None of the major constitutions referred to herein make distinctions between civil, criminal, or administrative courts. However, along with the court structure already mentioned, some language hints at where else children will turn for judicial resolution. The Provisional Constitution mentions criminal matters several times, often coupled with rules for civil claims, indicating that the two may be heard before the same body.⁵⁵

The Puntland Constitution broadly states that “the Judiciary organ of the [state] . . . [may] order the execution of its rulings in constitutional, civil, criminal, commercial, administrative and labour matters, as well as in any other matters established by Law”.⁵⁶ This power appears exclusive to the courts.

Furthermore, Somaliland has made legal provision for specialised juvenile courts.⁵⁷

B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants

⁵² Provisional Constitution, Art. 39.

⁵³ Provisional Constitution, Art. 108.

⁵⁴ Provisional Constitution, Art. 33.

⁵⁵ Provisional Constitution, Art. 34.

⁵⁶ Constitution of the Regional Puntland State, Art. 87(2).

⁵⁷ Somaliland Juvenile Courts and Reformatories Law.

or their representatives be expected to pay court costs or cover other expenses?

The constitutional systems analysed in this survey provide for free legal aid, sometimes attaching standards or conditions to assistance. Children “shall have the right to legal aid paid for by the State if the child might otherwise suffer injustice” as stated in the Provisional Constitution.⁵⁸ Aid may take form as “free legal defence to the people who do not have the means of doing so themselves”.⁵⁹

Somaliland’s juvenile legislation has options for children who are “destitute and exposed to moral danger,” such as unconditional discharge, conditional discharge for good behavior, or commitment to a reformatory.⁶⁰

Puntland’s constitution states “access to justice is free of any fee or charge unless established by Law.” It also grants “free legal services” to a person accused in criminal court.⁶¹

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practising lawyers on a pro bono basis, through a children's rights organisation, or under an agreement that does not require the payment of legal fees up front?

Several international and domestic organisations in Somalia provide help to children and other persons in accessing the court system. The Somaliland Lawyers Association provides legal aid assistance to vulnerable groups, such as children, including services such as legal analysis, guidance, and research.⁶² Somali Rights offers pro bono legal representation to Somali victims of war crimes and crimes against humanity inside Somalia and globally.⁶³

The Somalia NGO Consortium’s website includes an extensive list of NGOs active in the country.⁶⁴

- D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

Research did not uncover information about the timing of legal claims.

- E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence

⁵⁸ Provisional Constitution, Art. 29.

⁵⁹ Provisional Constitution, Art. 34.

⁶⁰ Somaliland Juvenile Courts and Reformatories Law, Article 6.

⁶¹ Constitution of the Regional Puntland State, Art. 26(7).

⁶² One group is the Somaliland Lawyer’s Association. See http://www.somalilandlaw.com/somaliland_lawyers_association.html.

⁶³ See http://www.somalirights.com/p/about-us_24.html.

⁶⁴ For a list of consortium members, see <http://somalianoconsortium.org/about/members>.

that is produced or presented by children?

Research did not uncover information about the admissibility of evidence.

- F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

Research did not uncover information about the length of time for resolution.

- G. Appeal. What are the possibilities for appealing a decision to a higher court?

Somalia's new national judicial system will have three levels: a Constitutional Court, Federal Government level courts, and Federal Member State level courts.⁶⁵ The Constitutional Court will serve as the first and last stop for constitutional matters,⁶⁶ but the Constitution does not appear to allow an appeals process for constitutional challenges. It must be noted that the Constitutional Court may eventually serve a very central part in crafting children's rights obligations because of the prevalence of special human rights language in the Constitution.⁶⁷

Puntland's Constitution sets forth a tiered system of Magistrate Courts, Regional Appeal Courts, and the highest tribunal of the land, the Supreme Court.⁶⁸ Operating alongside the Supreme Court is the Constitutional Court, composed of four judges selected from outside the judiciary and added to the Supreme Court.⁶⁹ The Constitutional Court has "the power to declare any Law . . . null and void, totally or partially, on the grounds that it violates the Constitution".⁷⁰ Any citizen is invited to petition the court to review a law.⁷¹ Otherwise, the Magistrate Courts "are the courts where hearings of all types of cases start, with the exception of Government cases, which are heard by the Supreme Court".⁷²

Somaliland's courts are similarly structured, but its Constitution assigns less authority to each court. Notably, Somaliland seems to have left to the judicial branch the responsibility for delegating roles: it is "[t]he Judiciary" which has "the power to interpret . . . the laws passed by the Constitutional bodies".⁷³ Appeals courts are part of the design, but the structure of the lower courts is left to a "special law," later passed as the Organisation of the Judiciary Law.⁷⁴

⁶⁵ Provisional Constitution, Article 108. This article indicates that the Provisional Constitution spells out, at least partially, the court system of the future member states. Whether each member state's high court feeds into the Federal Court system, or whether the member states' courts will be further subdivided, may determine where and how children can bring challenges.

⁶⁶ Provisional Constitution, Articles 109(2) and 109C.

⁶⁷ Provisional Constitution, Chapter 2; Constitution of the Regional Puntland State, Section 2; Constitution of the Republic of Somaliland, Article 24.

⁶⁸ Constitution of the Regional Puntland State, Art. 87.

⁶⁹ Constitution of the Regional Puntland State, Art. 94.

⁷⁰ Constitution of the Regional Puntland State, Art. 95.

⁷¹ Id.

⁷² Id., Art. 93.

⁷³ Constitution of the Republic of Somaliland, Art. 98.

⁷⁴ A copy of the Organisation of the Judiciary Law in Somali is available at:

- H. **Impact.** What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

It is difficult to imagine a legal regime more in flux and susceptible to manipulation than Somalia's. The ideas of 'political backlash' or 'negative impacts' presuppose, to some extent, a well-functioning legal system, which Somalia does not currently have. It is, therefore, very difficult to answer this question with any certainty.

- I. **Follow up.** What other concerns or challenges might be anticipated in enforcing a positive decision?

Somalia faces challenges that may inhibit enforcing positive decisions, such as the lack of societal order and the fragile legitimacy of the rule of law. Disrespect for fundamental human rights still manifests through radical groups that exploit the territorial disorganisation and the absence of protective mechanisms.⁷⁵ Within the last decade, even areas controlled by the Transitional Federal Government are not sure to be safe.⁷⁶

- V. **Additional factors.** Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

Somalia is in many ways reeling from a 20 year civil war which began in 1991 and is still viewed by many as ongoing even after the Provisional Constitution was passed.⁷⁷

Somalia has not signed other relevant children's rights agreements such as the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts⁷⁸ or the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.⁷⁹ These may be pieces of legislation to revisit as the new Federal Government takes hold.

If the Provisional Constitution becomes permanent, an important initial task will be navigating the dynamics of autonomy between the Federal Government and the Federal Member States.⁸⁰ The framers foresaw this issue, writing, "[p]rincipally, the Constitution of the Federal Republic of Somalia and those of the Federal Member States shall be harmonised".⁸¹

http://www.somalilandlaw.com/Xeerka_Nidaamka_Garsoorka_iyo_Dik_Mwyne_FINAL_49arts.pdf.

⁷⁵ See <http://www.hrw.org/world-report/2013/country-chapters/somalia?page=1>.

⁷⁶ Id.

⁷⁷ See

<http://www.foreignaffairs.com/articles/137085/afyare-abdi-elmi-and-abdi-aynte/negotiating-an-end-to-somalias-war-with-al-shabaab>.

⁷⁸ See <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>.

⁷⁹ See <http://www1.umn.edu/humanrts/instree/ilo182.html>.

⁸⁰ Provisional Constitution, Art. 49.

⁸¹ Provisional Constitution, Art. 121. In Schedule One (D), the Provisional Constitution lays out the "Priority Laws to be Enacted in the First Term of the Federal Parliament," consisting of laws that ought to

Also, many constitution passages pay respect to Islam and its principles without always dictating what those principles are.⁸² Islamic philosophies that speak to the child's social role will probably have at least an underlying effect on their rights.

Other current laws may have auxiliary effects on child wellbeing. The Marriage and Family Relations Act of 2004 and the Family Violence Prevention Act of 2008 help to address sensitivities about corporal punishment, however, these laws do not prohibit all corporal punishment.⁸³

Finally, many of the ideas in this survey have been only conjecture as the Provisional Constitution has yet to receive a vote by the new Federal Parliament.

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be passed “in conformity with agreements negotiated between the Federal Government and the existing Federal Member States and new Federated States.” This demonstrates the targeted interplay that will exist between the states and federal government.

⁸² Provisional Constitution, Art. 2; Constitution of the Republic of Somaliland, Preamble and Article 10(6); Constitution of the Regional Puntland State, Art. 8(2).

⁸³ See <http://www.endcorporalpunishment.org/pages/progress/reports/somalia.html>.