SOMALIA

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country’s respective Universal Periodic Reviews.

**Gender Justice & The Law**

**DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?**

<table>
<thead>
<tr>
<th>YES</th>
<th>The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.</th>
</tr>
</thead>
<tbody>
<tr>
<td>NO</td>
<td>The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.</td>
</tr>
<tr>
<td>Partly</td>
<td>Some gender justice aspects of the law have been addressed, but important gender inequalities remain.</td>
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</tbody>
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<thead>
<tr>
<th>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)</th>
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<td>Somalia has not acceded to CEDAW.</td>
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<th>Constitution</th>
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<td>Article 11 of the Provisional Constitution provides that all citizens have equal rights regardless of sex, and that the State must not discriminate against any person on the basis of gender.</td>
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<th>NATIONALITY LAW</th>
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<tr>
<td>Somali women do not have the same legal rights as men to pass citizenship to a child or a foreign spouse under the Law on Somali Citizenship of 1962.</td>
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</tbody>
</table>
**CRIMINAL LAWS**

**Domestic violence**
Somalia does not have a law that specifically addresses domestic violence.

**Abortion for rape survivors**
Abortion, with or without consent and for honour, is prohibited by Articles 418–422 of the Penal Code, including for women who have been raped.

**Female Genital Mutilation / Cutting (FGM/C)**
Article 15 of the Provisional Constitution prohibits FGM/C. A decree in Somaliland and legislation in Puntland prohibiting FGM have been drafted, but await endorsement.

**Marital rape**
Marital rape is not specifically criminalized. Women owe a duty of obedience to their husbands and are expected to fulfil conjugal duties in the marriage.

**Rape (other than of a spouse)**
Rape is criminalized by Article 398 of the Penal Code. Whoever with violence or threats has carnal intercourse with a person of the other sex shall be punished with imprisonment for five to 16 years.

**Sexual harassment**

**Human trafficking**
The Provisional Constitution provides that a person may not be subjected to slavery, servitude, trafficking, or forced labour for any purpose. The Penal Code includes some trafficking offences. However, there is no comprehensive anti-trafficking legislation addressing prevention and protection measures.

**Exonation by marriage**
There is no marry-your-rapist provision in the Penal Code. Customary law may be applied in such cases to exonerate an abductor or rapist if marrying the victim preserves honour.

**Adultery**
Adultery is an offence under Article 426 of the Penal Code.

**Sexual Orientation**
Homosexual conduct between consenting adults is criminalized by Article 409 of the Penal Code.

**Poligamy**
Polygamy is allowed by Sharia law. The Family Code allows polygamy in limited specified circumstances. The Family Code is seldom applied in legal practice.

**Right to equal pay for the same work as men**
The Private Sector Employees Law of Somaliland and Puntland require that male and female workers who do the same work should receive equal remuneration. The Provisionsal Constitution states that every labour law shall comply with gender equality.

**Domestic workers**
There are no specific legal provisions on the protection of the rights of domestic workers.

**Minimum age of marriage**
The Family Code sets the minimum age for marriage at 18 years for both males and females. However, females between the ages of 16 and 18 can marry with their guardian’s consent. The Family Code is seldom applied in legal practice. In most areas, Sharia and customary laws are used to address family matters.

**Male guardianship over women**
Muslim women require consent of a wali (male guardian) to marry. Women and girls lack legal protections from early and forced marriage.

**Marriage and divorce**
A husband can divorce by repudiation (talaq). A wife has the right to divorce on specified grounds. Although the Family Code provides that marriage is based on equal rights and duties, in practice Sharia rules apply to marriage and divorce, including the wife’s duty of obedience.

**Guardianship of children**
Fathers are the guardians of children.

**Custody of children**
After divorce or separation, the mother retains custody of her children when they are young, but she loses custody if she remarries.

**Inheritance**
Sharia rules of inheritance are applied. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

**Legal restrictions on women’s work**
Under the Labour Code of 1972, women are restricted from being employed in night work, and the specific types of work prohibited for women may be prescribed by decree.

**Labour Code of 1972**
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