

Protection of Children's and Family Rights under Somali Law and International Conventions

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ABSTRACT

The protection of children and family rights in Somalia remains a significant challenge due to the pluralistic legal system combining statutory law, Shari'a, and customary law (Xeer), which has resulted in inconsistent definitions of a child, fragmented legal standards, and gaps in implementation that expose children to abuse, exploitation, child labour, and early marriage. This study examines the legal and institutional frameworks governing the protection of children and family rights in Somalia, assesses their alignment with international and regional standards, and evaluates their effectiveness in safeguarding children and supporting family welfare. The study adopts a doctrinal legal research approach based on the analysis of primary sources, including the Somali Provisional Constitution (2012), the Family Law of 1975, the Labour Code of 2025, the Juvenile Justice Law of 2025, and relevant international and regional instruments, supported by secondary literature. The findings indicate that Somalia has developed a multi-layered legal and institutional framework incorporating constitutional, statutory, and international elements. However, inconsistencies in legal definitions, particularly regarding the age of a child, and the coexistence of multiple legal systems create challenges in interpretation and enforcement. Accordingly, the study recommends the harmonization of domestic laws to establish a uniform definition of a child, strengthening institutional capacity and enforcement mechanisms, improving coordination between legal systems, and enhancing the implementation of international obligations to better protect children and families.

Keywords: Child, Protection, juvenile, Conventions, Family, Rights

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Introduction

According to the United Nations Population Fund (2025), approximately 47 per cent of Somalia's population is aged between 0 and 14, underscoring the predominance of children within the national demographic structure.¹ In such a context, the protection of children and family rights is not merely a social priority but a fundamental legal obligation grounded in constitutional principles, domestic legislation, and international legal standards.²

Somalia's legal system is characterized by a pluralistic structure comprising statutory law, Islamic law (Sharia), and customary law (*Xeer*),³ within which the regulation and protection of family relations including the rights of children and spouses are shaped by an intricate interaction of legal norms and institutional practices. While this framework provides a foundation for the protection of family rights, it also presents significant challenges in terms of consistency, coordination, and alignment with international standards. Although the justice system is formally grounded in the protection of citizens' rights, the limited application of a child rights-based approach by relevant authorities has resulted in continued vulnerabilities among children and families.⁴

These vulnerabilities manifest in various forms, including abuse, exploitation, child labour, and early marriage, thereby revealing a persistent gap between existing legal provisions and their effective implementation. Consequently, ensuring the protection of children and family rights in Somalia requires not only the existence of comprehensive legal frameworks

¹ United Nations Population Fund, 'Somalia Population 2025' available at https://www.unfpa.org/data/world-population/SO?utm_source=chatgpt.com.

² O'Mahony, Conor, Constitutional Protection of Children's Rights: Visibility, Agency and Enforceability (2019) 19 *Human Rights Law Review*, Forthcoming, Available at SSRN: <https://ssrn.com/abstract=3324280> or <http://dx.doi.org/10.2139/ssrn.3324280>

³ Human Rights Committee, 'Initial Report Submitted by Somalia under Article 40 of the Covenant pursuant to the optional reporting procedure' (2021), CCPR/C/SOM/1 at <https://docs.un.org/en/ccpr/c/som/1>.

⁴ Angura Sheila Fionah, 'Child Participation in Family and Child Protection Matters in Uganda' (2022) *The Chronicle the International Association of Youth and Family Judges and Magistrates' Journal on Justice & Children's Rights* 1(1)file:///C:/Users/previ/Downloads/CHILD+PARTICIPATION+IN+FAMILY+AND+CHILD+PROTECTION+MATTERS+IN+UGANDA.pdf.

but also their consistent enforcement, enhanced institutional capacity, and closer alignment with international legal obligations.⁵

Evolution of Family Law in Contemporary Society: The Case of Somalia

Family law constitutes the body of legal rules governing relationships within the family unit, including marriage, parenthood, guardianship, and the rights and obligations of spouses and children. In the contemporary era, this area of law has undergone significant transformation as a result of globalization and evolving social dynamics, which require legal frameworks to remain adaptable and responsive.⁶ Modern family law therefore seeks to establish a balanced system of rights and duties that aligns domestic legal structures with broader international standards. Within this framework, the roles and responsibilities of spouses are recognized as central to the stability and functioning of the family unit, requiring a fair and structured distribution of obligations. Likewise, parental responsibilities are understood as essential to the well-being and development of children, emphasizing the duty to provide care, guidance, and support necessary for their growth.⁷

Modern family law in Somalia began with the enactment of the first legislation governing family relations in 1975.⁸ However, legal protections concerning children had already been established earlier, notably through the *Children and Young Persons Ordinance (Cap. 7, Laws of Somaliland 1950)*, which provided one of the earliest formal regulatory frameworks for child welfare.

Under the 1975 Family Law, marriage is defined as a contractual union between a man and a woman, each formally accorded equal rights and duties, founded on mutual understanding and respect, and intended to establish the family as the cornerstone of society.⁹ The law further designates the husband as the legal head of the household and requires,¹⁰ for validity, the expression of offer and acceptance in the presence of two witnesses,¹¹ followed by formal registration to confer official recognition on the family unit.¹²

⁵ Dakshina Saraswathy 'Challenges in Child Rights and Child Protection in India' (2024), *International Journal Of Judicial Science Research Studies (IJJSRS)*, Volume 1, Issue 1, file:///C:/Users/previ/Downloads/Challenges+in+Child+Rights+and+Child+Protection+in+India+(2)(pdf+1).pdf.

⁶ Volodymyr Vatrás et al, 'Classification of Family Rights and Obligations: Doctrinal Foundations and Integration with the Principles of Sustainable Development' (2025), *European Journal of Sustainable Development*, 14, 3, 545-555

⁷ *ibid*

⁸ Somali Family Law No 23 of 11 January 1975

⁹ Article 4

¹⁰ Article 4 Clause 2

¹¹ Article 6 and article 9

¹² Article 5

However, this formal declaration of spousal equality is not absolute. Article 1 of the same law provides that, in the absence of explicit provisions, matters shall be governed by the doctrines of the *Shafi'i school*, the general principles of Islamic law (*Shari'a*), and considerations of social justice. Accordingly, the principle of equality between spouses must be interpreted within this broader normative framework, where applicable *Shari'a* principles may shape or qualify its practical application. Article 28 of the *Provisional Constitution of the Federal Republic of Somalia* establishes the constitutional framework governing family relations and child welfare in Somalia. It recognizes marriage as the foundation of the family and, by extension, of society, and imposes a legal obligation on the State to ensure its protection.¹³ The provision further affirms that the care of mothers and children constitutes a legal duty of the State.¹⁴ It also guarantees every child the right to parental care, including education and guidance, while extending special protection to vulnerable groups such as street children and children of unknown parentage.¹⁵ In addition, the Constitution imposes reciprocal obligations on adults to support their parents where necessary.¹⁶ Finally, it sets essential conditions for the validity of marriage, requiring the free consent of both parties and prohibiting marriage where either party has not attained the age of maturity.¹⁷

Who is a Child under Somali Law?

The determination of who qualifies as a child under Somali law is not uniform, but rather reflects a plurality of legal sources and evolving normative frameworks. Contemporary statutory developments, influenced by regional and international standards, generally define a child as any person under the age of 18. In contrast, Islamic (*Shari'a*) law adopts a different approach, identifying a child as a person who has not yet attained puberty (*bulugh*), with 15 years often regarded as the maximum threshold in the absence of physical signs of maturity.¹⁸

This divergence reveals a fundamental disconnect within Somalia's legal framework, as statutory laws do not always correspond with the interpretations advanced by Sharia scholars and religious leaders, thereby generating inconsistencies in legal interpretation and

¹³ Provisional Constitution of the Federal Republic of Somalia (adopted 1 August 2012) art 28(1).

¹⁴ *ibid* art 28(2)

¹⁵ *ibid* art 28(3)

¹⁶ *ibid* art 28(4)

¹⁷ *ibid* art 28(5)

¹⁸ Muhammad Zia ul Haq, 'Legal Status of Children in Islamic Law: A Comparative Study' (2018), *The Islamic Culture- Journal*, (10), 1-29 at <https://theislamicculture.com/index.php/tis/article/view/63>.

enforcement, particularly with regard to the definition of a child as discussed below; -*Juvenile Courts and Reformatories Law No. 13 of 8 March 1970*

The *Juvenile Courts and Reformatories* defined a 'Child' under Article 1, as any person below the age of fourteen (14) years, thereby reflecting the earlier statutory threshold for childhood within Somali law.

Somali Juvenile Justice Law of 2025

In contrast, the Somali Juvenile Justice Law, enacted as a reform of prior juvenile justice legislation, expands this definition to include any person below the age of fifteen (15) years, pursuant to Article 4, thereby reflecting a progressive, albeit limited, development in the legal recognition of childhood.

The transition from the *Juvenile Courts and Reformatories Law No. 13 of 8 March 1970* to the *Somali Juvenile Justice Law of 2025* reflects a modest but notable shift in the statutory understanding of childhood. The earlier law defined a child as a person below the age of fourteen (14) years, whereas the 2025 Law extends this threshold to fifteen (15) years. This change represents a limited but discernible adjustment in the statutory definition, indicating a gradual development in the legal categorization of childhood rather than a fundamental redefinition.¹⁹ *The legislation recognizes challenges associated with age verification and stipulates that, where documentary evidence is unavailable or uncertain, the Juvenile Court may rely on medical evaluation to ascertain age, in accordance with Article 23 of the Juvenile Justice Law of 2025.*

Somali Labor Code Lr. 36 of 30 May 2025

The Labour Law establishes that individuals under eighteen are classified as children and therefore subject to special regulation, including restrictions on hazardous work and mechanisms for age verification to ensure compliance with legal standards. The labour code provides that a child means any person who has not attained eighteen (18) years of age.²⁰

The Penal Code of Somalia

The Penal Code establishes fourteen (14) years as the minimum threshold of criminal responsibility, thereby indicating that individuals who have attained the age of fifteen (15) may be subject to legal accountability for criminal acts. It further reflects an absolute legal presumption that persons below this age lack the capacity of understanding and volition necessary to incur criminal liability, irrespective of their actual awareness or intent.²¹

Presidential Decree No 29 of 1981 Family Law Regulations

¹⁹ George Kapama, 'Understanding Laws Relating to Children in Conflict with the Law in Tanzania' (2025), *East African Journal of Law and Ethics*, Vol 8 No 1 available at <https://journals.eanso.org/index.php/eajle/article/view/3616>.

²⁰ See, Article 1(5) of the Somalia Labor Code of 2025

²¹ Somali Penal Code (Legislative Decree No 5 of 16 December 1962) art 59.

In the absence of a clear statutory definition of a child within Somali family law, this instrument assumes interpretative significance, as it establishes relevant age thresholds by permitting marriage at eighteen years, subject to limited exceptions below that age. This provision implicitly distinguishes between childhood and legal maturity, thereby offering guidance on the age at which individuals are considered capable of entering into legally recognized family relationships. It further reflects the role of age-based criteria in structuring rights and responsibilities within the family framework, even in the absence of an explicit definition of a child.²²

Somali Civil Code of 1973

*The Civil Code of Somalia clearly defines the legal threshold of adulthood by providing that a person ceases to be a minor upon attaining eighteen years of age. The determination of this age is made in accordance with the Gregorian calendar, ensuring a consistent and standardized method for establishing legal capacity. Upon reaching this age, an individual is deemed to possess full legal capacity to act independently and assume legal responsibilities. In this regard, Article 44 of the Civil Code of 1973 provides that an individual attains the age of majority upon reaching eighteen (18) years, as calculated in accordance with the Gregorian calendar.*²³

Somali Provisional Constitution (2012)

Article 29(8) of the Somali Provisional Constitution provides a clear and authoritative definition by stating that a child is any person under the age of eighteen (18) years. This constitutional provision establishes the highest normative standard within the domestic legal hierarchy, offering a uniform benchmark that contrasts with the fragmented age thresholds found in other statutory instruments. In this regard, while earlier and sector-specific laws adopt varying definitions ranging from fourteen to fifteen years the Constitution consolidates the legal understanding of childhood by aligning it with a broader and more inclusive age criterion.²⁴ However, the continued coexistence of divergent statutory provisions indicates that, notwithstanding the constitutional clarity, the practical application of this definition remains inconsistent, thereby reflecting an unresolved tension between formal constitutional norms and sectoral legislative frameworks within Somali law.

²² Presidential Decree No. 29 of 10 February 1981 on the Regulations for the Implementation of the Family Law, article 5

²³ Somali Civil Code, Law No. 37 of June 1973 (*entered into force on 1 July 1973*).

²⁴ *Supra* note no. 15

Legal Framework for Child Protection in Somalia

Constitutional Protection

The protection of children in Somalia is grounded in constitutional principles that affirm the inherent dignity and equality of all individuals. Article 10 of the *Constitution* establishes that human dignity is inviolable and must be protected at all times, forming the foundation upon which all human rights including the rights of children are based. This provision imposes a binding obligation on the State to ensure that its actions do not undermine the dignity and well-being of children.²⁵ Furthermore, Article 11 reinforces the principle of equality before the law, prohibiting discrimination on various grounds, including age, and thereby ensuring that children are entitled to equal protection and legal recognition. Together, these provisions provide a constitutional framework for child protection by emphasizing dignity, non-discrimination, and the duty of the State to safeguard vulnerable groups, including children, within its jurisdiction.²⁶ Article 29 of the *Constitution* establishes a comprehensive framework for the protection of children by recognizing a range of fundamental rights. It affirms that every child is entitled to a name and nationality from birth, as well as protection from all forms of mistreatment, neglect, abuse, and degrading treatment.²⁷

The provision further prohibits the engagement of children in work that is inappropriate to their age or harmful to their health and development. In addition, it guarantees that deprivation of liberty shall be used only as a measure of last resort, subject to appropriate conditions and safeguards, including separation from adults and notification of the child's family. The Constitution also ensures access to legal aid where necessary to prevent injustice and provides explicit protection against involvement in armed conflict. Central to these guarantees is the principle that, in all matters concerning children, the best interests of the child shall be the paramount consideration.²⁸ Under Article 30 of the *Constitution*, a child is also guaranteed access to free education up to the secondary level, thereby reinforcing the State's obligation to promote the development and well-being of children through the provision of accessible and equitable educational opportunities. Furthermore, the inclusion of religious instruction, subject to specific exemptions, reflects the broader cultural and moral framework within which children are educated, thereby contributing to their holistic development within the Somali context.²⁹

Somalia Family Law of 1975

²⁵ *Provisional Constitution of the Federal Republic of Somalia* (adopted 1 August 2012) arts 10

²⁶ *Ibid* art. 11

²⁷ *Ibid* art. 29 clause 2

²⁸ *Ibid* article 29 clauses 3,4,5,6 and 7

²⁹ *Ibid* article 30 clauses 8

Maintenance (nafaqah)

Maintenance comprises the provision of essential elements necessary for family welfare, including financial support, clothing, housing, services, child-rearing, and medical care. This reflects a comprehensive understanding of family support obligations, extending beyond mere financial provision to encompass the overall well-being of children and family members.³⁰ The law further provides that both spouses share responsibility for maintaining the household in proportion to their respective means; however, where one party is unable to contribute, the other assumes full responsibility. In cases of dispute or failure to fulfill maintenance obligations, the court is empowered to intervene, determine appropriate arrangements, and ensure compliance through enforceable measures.³¹

Child custody (hadhanah)

Article 62, concerning custody (*hadanah*), highlights the mother's responsibility for the early care and upbringing of the child, including the duty to provide breastfeeding where no appropriate alternative exists. Article 64 further regulates custody by establishing that the mother is entitled to custody of a male child until the age of ten (10) years and of a female child until the age of fifteen (15) years, while providing that custody may pass to the father or another relative in cases of death or legal impediment, subject to the court's determination.³² In addition, Article 72 recognizes the right of access to the child as an essential component of parental responsibility, ensuring that the parent who does not have custody is not denied contact or temporary care. The law also requires that any person entrusted with custody be of sound mind and capable of safeguarding the interests of the child, while granting the court discretion to adjust or restore custody where circumstances so require.³³

Somali Labor Code of 2025

Article 123 of the Labour Code recognizes that children may be involved in certain forms of work, subject to compliance with legal standards and safeguards. Article 125 limits this involvement by allowing children between thirteen and fifteen years, who have not completed

³⁰ See article 30 of Family Law

³¹ Ibid article 31 and 31

³² See article 62 of Family Law

³³ *ibid*

compulsory education, to engage only in light work. The law further establishes legal responsibility for any person who employs or compels a child to work in contravention of labour regulations, including engagement below the minimum age or in prohibited forms of employment, thereby reflecting a controlled framework that allows limited child labour while aiming to prevent exploitation and abuse.³⁴

Somali Juvenile Justice Law of 2025

In all matters concerning children, primary consideration is given to their best interests, particularly in decisions involving legal proceedings or administrative actions affecting them. This approach further requires that children be treated in a manner that promotes their welfare, dignity, and development, ensuring that all measures are guided by their overall well-being.³⁵ Article 17 of the same law guarantees the right of children to legal assistance, requiring that any child who is arrested be promptly informed of their right to free legal representation. It further ensures that children may participate in proceedings in the presence of a parent, guardian, legal counsel, or interpreter, while assigning responsibility to the competent judicial authorities to safeguard this right.³⁶

Somali National Policy on Civilian Protection

Somalia has adopted a National Policy on the Protection of Civilians during armed conflict and military operations, reinforcing its adherence to International Humanitarian Law and strengthening the protection of vulnerable groups, particularly children. The policy places emphasis on safeguarding children from harm during military operations, including protection against recruitment, exploitation, and other forms of abuse.³⁷ In addition, on 4 December 2025, the Council of Ministers approved the Additional Protocols to the Geneva Conventions of 12 August 1949, further affirming Somalia's commitment to international legal standards that require special protection for children in situations of armed conflict. Together, these developments reflect an integrated legal and policy framework aimed at ensuring that children are afforded heightened protection both under domestic measures and international humanitarian obligations.³⁸

Institutional Framework for the Protection of Children and the Family in Somalia

³⁴ See article 125 (8) of Somali labor code

³⁵ Article 5 of Somali Juvenile Justice Law

³⁶ Ibid

³⁷ Legal Archives Center, 'Somali National Policy on Civilian Protection' (2026), *Legal Opinion*, at <https://lac.so/somalia-national-policy-civilian-protection-2026/>. (see *Policy*, p. 2).

³⁸ Ibid

The protection of children in Somalia is supported not only by substantive legal provisions but also through an evolving institutional framework designed to implement and enforce these protections. This framework encompasses a range of state and *quasi-state mechanisms*, including specialized bodies established for child welfare, judicial institutions such as juvenile courts, and law enforcement units tasked with safeguarding vulnerable groups.³⁹ In particular, institutions responsible for child protection operate alongside the police and judicial system to ensure that children are protected from abuse, exploitation, and neglect, while also facilitating access to justice. Collectively, these mechanisms reflect a structured approach in which the protection of children is integrated within broader family and social welfare systems, thereby reinforcing the role of the State in ensuring the safety, development, and well-being of children.⁴⁰

Supreme Council for the Welfare of Mothers and Children

The government of Somalia established the Supreme Council for the Welfare of Mothers and Children.⁴¹ the functions of the Council encompass a broad range of institutional responsibilities aimed at promoting the welfare of mothers and children. These include advising on State policies and national development strategies, designing and implementing programs, and proposing legal and regulatory measures to safeguard their rights.⁴² The Council is further mandated to coordinate educational and training initiatives, monitor the activities of relevant governmental and non-governmental bodies, and support the establishment of child welfare and rehabilitation institutions. In addition, it undertakes research, data collection, and engagement with regional and international frameworks, while also facilitating cooperation with international organizations and mobilizing resources for child and family welfare. Collectively, these functions reflect a comprehensive institutional mechanism directed toward the protection, development, and well-being of children and families.⁴³

³⁹ Rogers Barigayomwe & Asiimwe Lillian, 'Institutional Policies and Procedures on Child Rights Protection in Uganda. A Study of Mityana Municipality' (2025), *International Journal of Social Science and Human Research*, Volume 08 Issue 01, at https://www.researchgate.net/publication/388466847_Institutional_Policies_and_Procedures_on_Child_Rights_Protection_in_Uganda_A_Study_of_Mityana_Municipality

⁴⁰ Ibid

⁴¹ Law No 22 of 24 June 1984 on the Establishment of the Supreme Council for the Welfare of Mothers and Children, *art 1*.

⁴² *Ibid* article 4 clauses 1, 2, 3, and 4

⁴³ *Ibid* article 4 clauses 5, 6-13

Somali Children's Development Organization

Somalia establishes a public institution, the Somali Children's Development Organization (SOS), endowed with legal personality and mandated to promote the welfare and development of children while supporting their parents or guardians. This institutional framework reflects a policy approach that situates child protection within a broader social and family context, recognizing that the well-being of children is closely linked to the support and capacity of caregivers.⁴⁴

Juvenile Courts and Police Units in Child Protection

Somalia has had a dedicated judicial framework for children since the 1970s, with the establishment of specialized juvenile courts designed to address matters involving minors. These courts were created to ensure that children are treated within a distinct legal system that takes into account their age, vulnerability, and developmental needs.⁴⁵ Within this framework, juvenile courts operate alongside police units as key law enforcement mechanisms, playing a central role in safeguarding children's rights, handling child-related cases, and ensuring that legal proceedings involving children are conducted in a manner consistent with their best interests.⁴⁶

International and Regional Legal Framework for the Protection of Children and Family Rights

International Legal Framework

Somalia is a party to six core international human rights instruments, namely the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of Persons with Disabilities, and the Convention Against Torture, all of which collectively contribute to the protection of children and the promotion of family rights.⁴⁷ Somalia has also ratified 26 International Labour Organization (ILO) conventions addressing

⁴⁴ Law No 3 of February 1986 on the Establishment of the Somali Children's Development Organization *art. 1*

⁴⁵ See articles 8-12 of the Somali Juvenile Justice Law of 2025

⁴⁶ *Ibid* articles 13-16

⁴⁷ Ahmed Kheir Osman, 'Imposing Written Exams for Somalia's Human Rights Commission: What justifies this Method?' (2025), *SIDRA Institute; Policy Briefing 23* at <https://lac.so/wp-content/uploads/2025/07/SIDRA-Policy-Brief-Imposing-Written-Exams-for-Somalias-Human-Rights-Commission-What-justifies-this-Method-3.pdf>.

forced labour, freedom of association, collective bargaining, discrimination, and child labour. Although primarily focused on labour rights, these conventions contribute to the protection of children and families by preventing exploitation, promoting decent working conditions, and strengthening family socio-economic security.⁴⁸

The UN Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child constitutes an international legal framework that recognizes children as holders of distinct rights and establishes binding obligations on States to ensure their protection, development, and participation. Central to the Convention is the principle that the best interests of the child shall be a primary consideration in all matters affecting them.⁴⁹ The Convention further affirms the role of the family as the primary environment for the growth and well-being of the child under *Articles 5, 9, and 18-20*, recognizing parental responsibilities while guaranteeing the child's right to live with and maintain contact with their parents, except where separation is necessary for the child's welfare. It also requires States to provide appropriate assistance to parents in the performance of their child-rearing responsibilities.⁵⁰ In addition, the Convention provides comprehensive protection against violence and exploitation under *Articles 19 and 32-37*, obliging States to safeguard children from all forms of physical or mental abuse, sexual exploitation, economic exploitation, child labour, and harmful practices.⁵¹ The Convention also guarantees fundamental rights under Articles 6, 7, 12, and 13, including the right to life, survival, and development, the right to a name and nationality, and the right of the child to express their views freely in all matters affecting them. Finally, under *Articles 24 and 28*, the Convention ensures access to essential services, including the highest attainable standard of health, adequate nutrition and clean water, as well as free and compulsory primary education.

The International Covenant on Civil and Political Rights (ICCPR)

⁴⁸ Federal Republic of Somalia, 'Additional Financing of the Third Recurrent Cost and Reform Financing Project (RCRF III P181407)' (2024), [https://mof.gov.so/sites/default/files/Publications/P181407-FINAL%20LMP%20RCRF3%20AF%20\(1\)_0.pdf#:~:text=Unlawful%20to%20employ%20children%20\(Article%2093\)%20It,in%20which%20no%20other%20persons%20are%20employed.](https://mof.gov.so/sites/default/files/Publications/P181407-FINAL%20LMP%20RCRF3%20AF%20(1)_0.pdf#:~:text=Unlawful%20to%20employ%20children%20(Article%2093)%20It,in%20which%20no%20other%20persons%20are%20employed.)

⁴⁹ Priyanka A, 'Legal Mechanism for Protection of Child Rights in India' *Indian Journal of Integrated Research in Law*, Vol II, issue I (ISSN 2583-0538).

⁵⁰ Ibid

⁵¹ Ibid

The International Covenant on Civil and Political Rights safeguards the rights of children and families through specific provisions that emphasize equality, non-discrimination, and protection from abuse. Core protections under the International Covenant on Civil and Political Rights relating to children and families include the recognition of the family as the natural and fundamental unit of society, entitled to protection by both the State and the wider community, alongside the guarantee of equal rights and responsibilities between spouses throughout marriage and upon its dissolution as per Article 23.⁵² The framework further affirms that every child, by virtue of their status as a minor, is entitled to special measures of protection without any form of discrimination, to be ensured by the family, society, and the State as per Article. 24 of the Convention. It also secures the right of every child to immediate birth registration, a legal identity through a name, and the acquisition of a nationality.⁵³ In addition, it establishes a general guarantee that all individuals, including children, are entitled to the enjoyment of rights without distinction of any kind, including on grounds such as race, sex, language, religion, or social origin.⁵⁴ Finally, it provides protection against arbitrary or unlawful interference with an individual's privacy, family life, home, or correspondence, thereby safeguarding the integrity of family relations.⁵⁵

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The International Covenant on Economic, Social and Cultural Rights affirms the protection of family and child rights *under Article 10* by recognizing the family as the fundamental unit of society entitled to the widest possible protection. It provides for special safeguards for mothers before and after childbirth, ensures protection of children from economic and social exploitation, and upholds essential economic rights necessary for an adequate standard of living.⁵⁶ Core protections under the International Covenant on Economic, Social and Cultural Rights relating to families and children can be summarized as follows: The framework recognizes the family as the natural and fundamental unit of society, entitled to broad protection, and requires that marriage be entered into with the free consent

⁵² International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (UNTC).

⁵³ Ibid

⁵⁴ *Ibid Art. 2*

⁵⁵ *Ibid Art. 17*

⁵⁶ Hennie Strydom, 'The Protection of Economic, Social and Cultural Rights in International Law' (2019), *Constitutional Review*, Volume 5, Number 2, available at https://www.researchgate.net/publication/337356001_The_Protection_of_Economic_Social_and_Cultural_Rights_in_International_Law.

of both parties as per the article 10 of the Convention. It further guarantees special protection for mothers, including adequate leave and social security benefits before and after childbirth.⁵⁷ Children and young persons are entitled to protection from economic and social exploitation, including harmful or hazardous work, with States obliged to establish minimum age limits for employment. In addition, it affirms the right to health and child survival, including measures to reduce infant mortality and ensure healthy development.⁵⁸ The Covenant also guarantees the right to education, emphasizing free and compulsory primary education aimed at full personal development (*Arts. 13-14*), alongside the right of families to an adequate standard of living, including access to food, clothing, and housing.⁵⁹

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women (*CEDAW*) advances the protection of child and family rights by encouraging shared parental responsibilities, safeguarding reproductive rights, and addressing violence against women within the family sphere. It further recognizes motherhood as a social function, thereby supporting improved health, education, and economic conditions that contribute to the well-being of children.⁶⁰ Under Article 16 of the Convention, the central provision governing family and child-related rights is set out. It affirms that both parents have rights and responsibilities in matters concerning their children, with the best interests of the child as a paramount consideration (Art. 16(1) (d)). It further guarantees rights in decisions concerning the number and spacing of children (Art. 16(1) (e)) and in legal responsibilities such as guardianship, trusteeship, and adoption (Art. 16(1) (f)). Importantly, Article 16 (2) invalidates child marriage, thereby providing a direct safeguard for children's rights and welfare.⁶¹

Convention on the Rights of Persons with Disabilities

⁵⁷ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3. See article Art. 10

⁵⁸ *Ibid Art. 12*

⁵⁹ *Ibid Art. 11*

⁶⁰ Hojatollah Mansouri, 'A study on Convention on the Elimination of all Forms of Discrimination Against Women' (2012), *Management Science Letters*, Volume 2(3):775-780 at https://www.researchgate.net/publication/271068838_A_study_on_convention_on_the_elimination_of_all_forms_of_discrimination_against_women.

⁶¹ Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

The Convention on the Rights of Persons with Disabilities establishes a framework that protects child and family rights by ensuring equality, dignity, and inclusion of persons with disabilities within family life and society. Its relevance to children and families is articulated through several key provisions.⁶² The Convention protects child and family rights by recognizing children with disabilities as equal rights holders (*Article 7*), safeguarding family unity and parental rights (*Article 23*), prohibiting discrimination in all family-related matters (*Article 5*), ensuring access to health, education, and support services (*Articles 24-26*), and promoting community-based living over institutionalization (*Article 19*). Accordingly, the Convention advances a family-centered and rights-based approach, ensuring that children with disabilities grow up in supportive family environments with full legal protection and equal opportunities.⁶³

Convention Against Torture (CAT)

The Convention Against Torture establishes a protective legal framework that reinforces child and family rights by prohibiting all forms of abuse, ensuring humane treatment in all settings, and guaranteeing access to justice and remedies. It complements other human rights treaties by specifically addressing severe violations that threaten the dignity, safety, and integrity of children and families.⁶⁴

Regional (African) Legal Framework

Somalia is also a party to the regional Charter protecting child and family rights, namely the African Charter on the Rights and Welfare of the Child. In October 2025, Somalia ratified this Charter, thereby becoming the 52nd African State Party and formally committing itself to the African regional framework for the protection of children and families. Such landmark ratification ensures enhanced legal protection for children, including rights to education, healthcare, and protection from abuse and neglect.⁶⁵ The ratification further places a binding obligation on the Somali government to harmonize its domestic laws and policies with the

⁶² Hilary Gallagher et al, 'The Convention on the Rights of Persons with Disabilities: is Article 19 being enacted in Queensland, Australia?' (2026), *Disability & Society*, Volume 41, Issue 2 at <https://www.tandfonline.com/doi/citedby/10.1080/09687599.2025.2520771?scroll=top&needAccess=true>.

⁶³ Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3.

⁶⁴ Nicholas Mugabi and Innocent R Kamya, 'Children as Rights-Holders in Uganda: Their Knowledge and Perception of Rights Protection Structures' (2021) 27(1) *East African Journal of Peace & Human Rights* 38 at https://www.researchgate.net/publication/354860228_Children_as_Rights-Holders_in_Uganda_Their_Knowledge_and_Perception_of_Rights_Protection_Structures.

⁶⁵ Save the Children, 'Somalia Becomes 52nd African Country to Ratify Charter to Better Protect Child Rights' (2025), at <https://www.savethechildren.net/news/somalia-becomes-52nd-african-country-ratify-charter-better-protect-child-rights>.

provisions of the Charter, adopted under the auspices of the African Union, thereby reinforcing a rights-based and family-centered legal framework consistent with regional human rights standards.⁶⁶

CONCLUSION

The protection of children and family rights in Somalia is supported by a multi-layered legal framework comprising constitutional guarantees, domestic legislation, institutional mechanisms, and international and regional obligations. Although recent reforms, including the Family Law of 1975, Labour Code of 2025, and Juvenile Justice Law of 2025, demonstrate progress, significant challenges remain. The coexistence of statutory law, Shari'a, and customary law (Xeer), together with inconsistent legal definitions, limited institutional capacity, weak enforcement, and fragmented implementation, continues to hinder the effective realization of children's and family rights. Somalia should therefore harmonize the definition and protection of children across domestic laws in accordance with constitutional and international standards while improving coordination among statutory, Shari'a, and customary legal systems. Institutional capacity should be strengthened through adequate resources, specialized training, and improved coordination among juvenile courts, police, and child-welfare institutions. Enforcement and monitoring mechanisms should also be enhanced, particularly in relation to child labour and hazardous work. Finally, greater public awareness and community engagement should be promoted, while Somalia continues aligning and effectively implementing its domestic framework with its international and regional obligations. These measures would contribute to a more coherent, effective, and rights-based system of child and family protection in Somalia.

References

- Ahmed Kheir Osman, 'Imposing Written Exams for Somalia's Human Rights Commission: What justifies this Method? (2025), *SIDRA Institute; Policy Briefing 23* at <https://lac.so/wp-content/uploads/2025/07/SIDRA-Policy-Brief-Imposing-Written-Exams-for-Somalias-Human-Rights-Commission-What-justifies-this-Method-3.pdf>.

⁶⁶ *Ibid*

Angura Sheila Fionah, 'Child Participation in Family and Child Protection Matters in Uganda' (2022) *The Chronicle the International Association of Youth and Family Judges and Magistrates' Journal on Justice & Children's Rights*

1(1)<file:///C:/Users/previ/Downloads/CHILD+PARTICIPATION+IN+FAMILY+AND+CHILD+PROTECTION+MATTERS+IN+UGANDA.pdf>.

Dakshina Saraswathy 'Challenges in Child Rights and Child Protection in India' (2024), *International Journal Of Judicial Science Research Studies (IJRSRS)*, Volume 1, Issue 1, [file:///C:/Users/previ/Downloads/Challenges+in+Child+Rights+and+Child+Protection+in+India+\(2\)\(pdf+1\).pdf](file:///C:/Users/previ/Downloads/Challenges+in+Child+Rights+and+Child+Protection+in+India+(2)(pdf+1).pdf).

Federal Republic of Somalia, 'Additional Financing of the Third Recurrent Cost and Reform Financing Project (RCRF III P181407)' (2024), [https://mof.gov.so/sites/default/files/Publications/P181407-FINAL%20LMP%20RCRF3%20AF%20\(1\) 0.pdf#:~:text=Unlawful%20to%20employ%20children%20\(Article%2093\)%20It,in%20which%20no%20other%20persons%20are%20employed](https://mof.gov.so/sites/default/files/Publications/P181407-FINAL%20LMP%20RCRF3%20AF%20(1) 0.pdf#:~:text=Unlawful%20to%20employ%20children%20(Article%2093)%20It,in%20which%20no%20other%20persons%20are%20employed).

George Kapama, 'Understanding Laws Relating to Children in Conflict with the Law in Tanzania' (2025), *East African Journal of Law and Ethics*, Vol 8 No 1 available at <https://journals.eanso.org/index.php/eajle/article/view/3616>.

Hennie Strydom, 'The Protection of Economic, Social and Cultural Rights in International Law' (2019), *Constitutional Review*, Volume 5, Number 2, available at https://www.researchgate.net/publication/337356001_The_Protection_of_Economic_Social_and_Cultural_Rights_in_International_Law.

Hilary Gallagher et al, 'The Convention on the Rights of Persons with Disabilities: is Article 19 being enacted in Queensland, Australia?' (2026), *Disability & Society*, Volume 41, Issue 2 at <https://www.tandfonline.com/doi/citedby/10.1080/09687599.2025.2520771?scroll=top&needAccess=true>.

Hojatollah Mansouri, 'A study on Convention on the Elimination of all Forms of Discrimination Against Women' (2012), *Management Science Letters*, Volume 2(3):775-780 at https://www.researchgate.net/publication/271068838_A_study_on_convention_on_the_elimination_of_all_forms_of_discrimination_against_women.

Human Rights Committee, 'Initial Report Submitted by Somalia under Article 40 of the Covenant pursuant to the optional reporting procedure' (2021), CCPR/C/SOM/1 at <https://docs.un.org/en/ccpr/c/som/1>.

International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3. See article Art. 10

Legal Archives Center, 'Somali National Policy on Civilian Protection' (2026), *Legal Opinion*, at <https://lac.so/somalia-national-policy-civilian-protection-2026/>.

Muhammad Zia ul Haq, 'Legal Status of Children in Islamic Law: A Comparative Study' (2018), *The Islamic Culture- Journal*, (10), 1-29 at <https://theislamicculture.com/index.php/tis/article/view/63>.

Nicholas Mugabi and Innocent R Kamya, 'Children as Rights-Holders in Uganda: Their Knowledge and Perception of Rights Protection Structures' (2021) **27(1) East African Journal of Peace & Human Rights** 38 at https://www.researchgate.net/publication/354860228_Children_as_Rights-Holders_in_Uganda_Their_Knowledge_and_Perception_of_Rights_Protection_Structures.

O'Mahony, Conor, Constitutional Protection of Children's Rights: Visibility, Agency and Enforceability (2019) 19 *Human Rights Law Review*, Forthcoming, Available at SSRN: <https://ssrn.com/abstract=3324280> or <http://dx.doi.org/10.2139/ssrn.3324280>

Priyanka A, 'Legal Mechanism for Protection of Child Rights in India' *Indian Journal of Integrated Research in Law*, Vol II, issue I (ISSN 2583-0538).

Rogers Barigayomwe & Asiimwe Lillian, 'Institutional Policies and Procedures on Child Rights Protection in Uganda. A Study of Mityana Municipality' (2025), *International Journal of Social Science and Human Research*, Volume 08 Issue 01, at https://www.researchgate.net/publication/388466847_Institutional_Policies_and_Procedures_on_Child_Rights_Protection_in_Uganda_A_Study_of_Mityana_Municipality

Save the Children, 'Somalia Becomes 52nd African Country to Ratify Charter to Better Protect Child Rights' (2025), at <https://www.savethechildren.net/news/somalia-becomes-52nd-african-country-ratify-charter-better-protect-child-rights>.

United Nations Population Fund, 'Somalia Population 2025' available at https://www.unfpa.org/data/world-population/SO?utm_source=chatgpt.com.

Volodymyr Vatrás et al, 'Classification of Family Rights and Obligations: Doctrinal Foundations and Integration with the Principles of Sustainable Development' (2025), *European Journal of Sustainable Development*, 14, 3, 545-555

NATIONAL LEGAL FRAMEWORK AND POLICY INSTRUMENTS

1. Provisional Constitution of the Federal Republic of Somalia (2012)
2. Somali Family Law (1975)
3. Juvenile Courts and Reformatories Law No. 13 of 8 March 1970

4. Somali Juvenile Justice Law (2025)
5. Somali Labour Code Lr. 36 of 30 May 2025
6. Somali Penal Code (Legislative Decree No. 5 of 1962)
7. Presidential Decree No. 29 of 10 February 1981 on Family Law Regulations
8. Law No. 22 of 24 June 1984 on the Establishment of the Supreme Council for the Welfare of Mothers and Children
9. Law No. 3 of February 1986 on the Establishment of the Somali Children's Development Organization
10. Somali Civil Code, Law No. 37 of June 1973 (entered into force on 1 July 1973).
11. Somali National Policy on the Protection of Civilians (2026)

INTERNATIONAL AND REGIONAL LEGAL FRAMEWORK

1. Core International Human Rights Treaties
2. Convention on the Rights of the Child (CRC) (1989)
3. International Covenant on Civil and Political Rights (ICCPR) (1966)
4. International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)
5. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979)
6. Convention on the Rights of Persons with Disabilities (CRPD) (2006)
7. Convention Against Torture (CAT) (1984)

INTERNATIONAL LABOUR ORGANIZATION (ILO) CONVENTIONS

1. Forced Labour Convention (No. 29)
2. Freedom of Association and Protection of the Right to Organise Convention (No. 87)
3. Right to Organise and Collective Bargaining Convention (No. 98)
4. Abolition of Forced Labour Convention (No. 105)
5. Discrimination (Employment and Occupation) Convention (No. 111)
6. Worst Forms of Child Labour Convention (No. 182)

REGIONAL (AFRICAN) INSTRUMENTS

African Charter on the Rights and Welfare of the Child (1990)