



REGULATORY

Issues With Environmental Legal
Framework In Somalia

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LEGAL HUB – SOMALIA

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INTRODUCTION

It is obvious that sustainable development is impossible without an environmental legal framework. The protections provided by the legal system are simply that: a pillar of defense for the planet and the people who inhabit it, the very building blocks of existence. Unfortunately, Somalia's current environmental laws generally fail in this regard, as they are outdated, ineffective, poorly administered and, not surprisingly, largely ignored.

Environmental law has blossomed from its infancy in the early 1970s into young adulthood today. Following the 1992 Rio Earth Summit, countries made a concerted effort to enact environmental laws. Somalia, Botswana, and South Sudan are the only three African nations without an environmental legal framework as of 10th August-2023. It can be shown below figure 1.



Fortunately, Somalia is now undergoing a number of important improvements. The current draft environmental laws and policies are listed in the Charter below.

NO	PROPOSED LEGISLATION & POLICIES	STATUS
1	The Draft Environmental Protection and Management bills	Before the House of Senate for its second reading 2023
2	National Environmental Policy	Endorsed by cabinet 2019
3	National Climate Change Policy	Endorsed by cabinet 2020
4	National Charcoal Policy	Waiting to be presented to cabinet for deliberation.
5	National Forestry Policy	Under development 2023
6	National Rangeland Policy	Drafting Process 2023
7	Environmental and Social Impact Assessment	Waiting to be presented to cabinet for deliberation
8	Ozone depleting substances regulation	Under development 2023
9	Establishment of National Metrology Agency	Under development 2023
10	Somali National Disaster Management Policy	2018

Undoubtedly, the realization of these developments is very slowly indeed while the average global temperature has been increasing by a steady margin since industrialization and if left unregulated both national and international, could lead to severe climate change and extreme weather events. For example, Somalia emits more GHG now than it did in 1990. In 2018, it emitted 29.05 million tonnes of GHG and per capita stands at 1.91 tonnes of GHG (UNEP, 2018)¹. As a result, any country's environmental success depends on having a set of comprehensive and complementary laws.

¹UNEP, 'State of the climate: Climate Action Note – data you need to know' (2018).

<https://www.unep.org/explore-topics/climate-action/what-we-do/climate-action-note/state-of-climate.html>.

Somalia's environmental protection laws are largely inadequate, they suffer from poor implementation, some with omitted content, and poor understanding of the importance of environmental protection. The legal framework can be considered good if it aids in the achievement of a specific purpose; otherwise, it will fail for a variety of reasons, such as (a) the existence of sound legislation on paper but a weak, ineffective, or poorly resourced; (b) the judicial system is weak and lacks independence; (c) where legislation exists but few if any of the key stakeholders are aware of its existence or understand what it means. The legal framework must also embrace inter-related sectors - i.e. not only the regulation of environment and climate change but also pollution control, resource management, public & environmental health, land-use planning and development control, social services, education, etc. This involves a wider range of people and institutions.

OBSTACLES TO IMPLEMENTATION

Based upon the above mention impacts on the legal framework, we identify three principals, related obstacles to implementation.

➤ **Obstacle 1**

Lack of political will and stakeholder support

At the highest level, political support for environmental law and policy is crucial for setting strategic direction, securing planning resources, championing environmental requirements with stakeholders, and enforcing implementation. A comprehensive framework for implementing environmental laws requires that relevant laws, policies, regulations, procedures and institutions from political leaders in the country including federal member states.

➤ **Obstacle 2**

Insufficient resources and capacity

Implementation cannot be achieved without strong institutions with sufficient resources and capacity to carry it out.

➤ Obstacle 3

Institutional barriers and conflicts of interest

There are various environmental ministries in the country which sometime are inherently interdisciplinary and inter-sectoral as a leading challenge to implementing environmental flow solutions.



NATIONAL CONTEXT FOR IMPLEMENTING INSTITUTIONAL INFRASTRUCTURE

» A. Ministry of the Environment and Climate Change

The legal framework includes not only the core component of the legislation itself, but also the institutional, administrative, political, social and economic conditions or arrangements, which make the legislation available, accessible, enforceable and therefore effective.

The Directorate of Environment and Climate Change under the Prime Minister's Office of Somalia was replaced by the Ministry of Environment and Climate Change, which is the youngest Ministry in the Council of Ministers of Somalia. It was established on August 2, 2022, and it is the newest among environmental ministries in the region. Before 2021, Tanzania², Libya³, Liberia⁴ and Somalia⁵ was the only African nations without environmental ministries. Despite the fact that they had autonomous environmental agency or other relevant government entities.

²Environment Division is under the Vice President's office of Tanzania

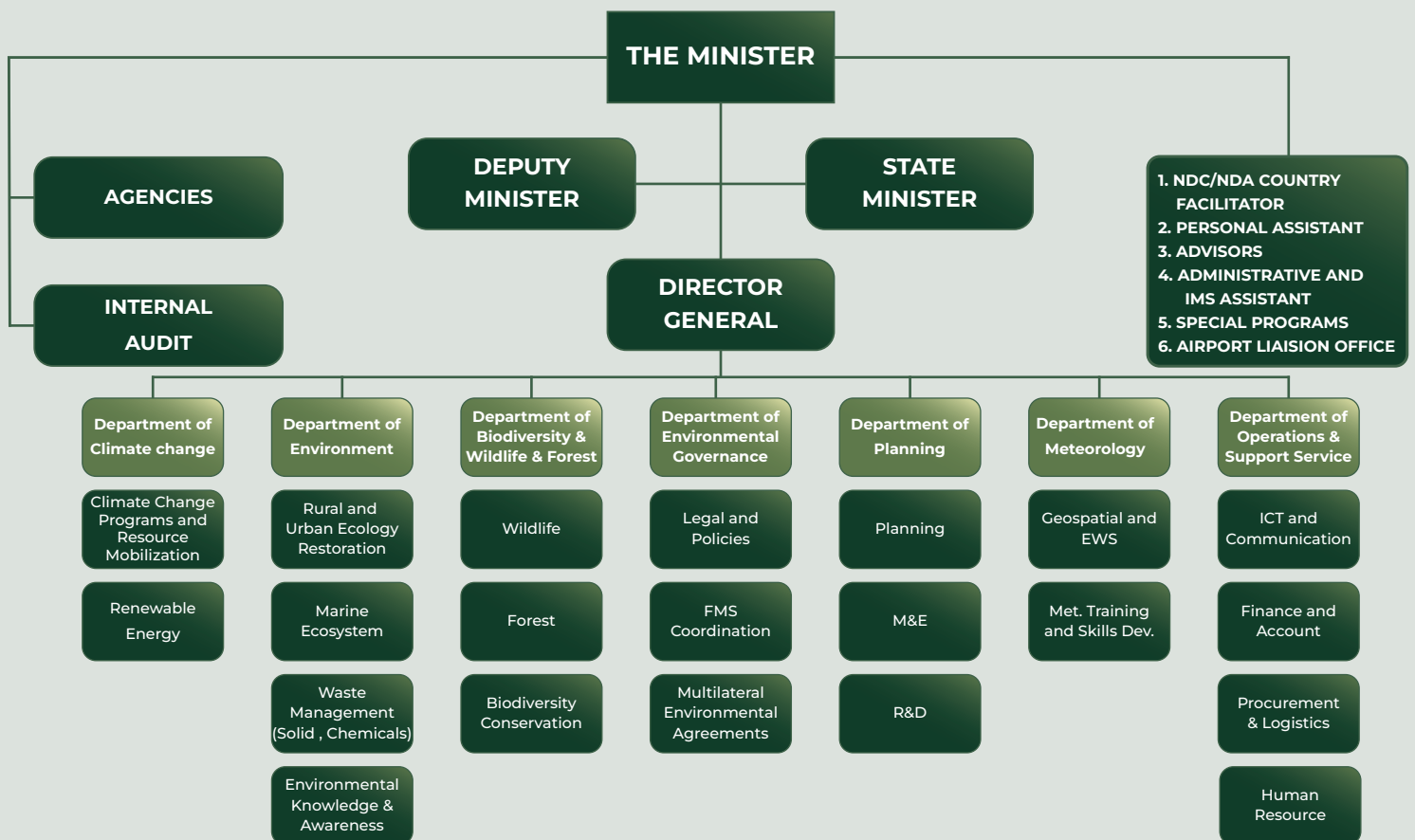
³The Ministry of Environment was appointed on 11 March 2021, replacing the environmental General Authority of Libya

⁴Environmental Protection Agency of Liberia

⁵The Ministry of Environment and Climate Change of Somalia was appointed Amb. Khadija Al- Makhzoumi in 2022 since the inception of Somalia 1960s.

The office of the Ministry, Deputy minister and Director General with seven (7) departments make up the institutional and administrative framework for the environment and climate change of the Federal Republic of Somalia as shown below: -

STRUCTURE OF THE MINISTRY



» B. Somali National Metrology Agency

At the present, no specialized agency whose mandate covers whether and climate information to support social and economic developments. However, the ministry of environment and climate change of Somalia Amb. Khadiija al Makhoumi while addressing to the general public event at Hotel Jazeera reiterated that the establishment of national metrology agency.



CONCLUSION AND RECOMMENDATIONS

Notwithstanding the importance of legislation in ensuring environmental sustainability of infrastructure, Government of Somalia lag quite far behind when it comes to environmental protection legislation often with a poor record of implementation. Without strong environmental laws and institutions, we will be unable to protect and restore our planet. It is recommended that the government should introduce legislation and regulations to promote sustainable construction.

- The Governments should strengthen their political support to resolving persistent environmental problems. They should streamline environmental priorities, rationalize environmental legislation and reinforce implementation in order to promote a more sustainable approach to economic progress, to raise and harmonize their levels of environmental practices and legislation.
- The Government Shall Implement the multilateral environmental agreements and compliance with their provisions Political will is vital for promoting implementation of and compliance with multilateral environmental agreements (MEAs). Raising the profile of regional and international conventions and protocols among governments in order to secure stronger political support and commitment.
- To increase the effectiveness of environmental financing and should review procedures, improve institutional capacity, and make proper use of economic instruments. A more solid foundation for identification of projects and prioritization of spending of environmental funds should be developed, and transparency, financial planning and project-cycle management should be introduced systematically. Investments in environmental infrastructure should be increased. Governments should foster cooperation with the private sector with a view to developing innovative instruments for the financing of environmental infrastructure.
- The government should also involve civil society organization in environmental decision-making.

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