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FEDERAL REPUBLIC OF SOMALIA
OFFICE OF THE ATTORNEY GENERAL



GUIDELINES FOR PROSECUTORS

OFFICE OF THE ATTORNEY GENERAL
IDLO | INTERNATIONAL DEVELOPMENT LAW ORGANISATION

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Acronyms

AG	Attorney General of Somalia
AGO	Office of the Attorney General
CPC	Somali Criminal Procedure Code
IAP	International Association of Prosecutors
IDLO	International Development Law Organization
SPC	Somali Provisional Constitution
UN Guidelines	United Nations Guidelines on the Role of Prosecutors
OJA	Organization of the Judiciary Act

1. Introduction

It goes without saying that a well-functioning criminal justice system is necessary for the establishment of rule of law. An effective prosecutorial system, in turn, lies at the heart of the judicial enforcement of criminal law. The revitalization and redevelopment of the AGO is an ongoing process that not only is represented by the establishment of a field of prosecutors dedicated to oversee the investigation and prosecution of criminal offenses, but also by a much broader constitutional and statutory reform.

Every legal system is unique and it is difficult to proscribe a system of overarching values that automatically apply to each of those systems. Somalia is no different. In fact, as discussed in Section 2, because Somalia is in a drastic state of legal and governmental transformation, it is important to take care not to be too prescriptive in establishing guidelines that, as the landscape changes, may become less relevant.

Despite the differences in legal traditions, however, the international and regional instruments, as well as guidelines adopted by non-governmental organizations, have combed through the different traditions to identify those core values and principles that are common to all. This manual incorporates those core values and principles with both existing and emerging Somali law.

In particular, the Manual relies on the following resources:

- Organization of the Judiciary of Somalia, Leg Decree 12 June 1962, No 3.
- Criminal Procedural Code of Somalia, Leg Decree 1 June 1963, No 1.
- Federal Republic of Somalia Provisional Constitution 2012.
- Eighth UN Congress on the Prevention of Crime and Treatment of Offenders, ‘Guidelines on the Role of Prosecutors’ (1990).
- United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, ‘The Status and Role of Prosecutors: A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide’ (2014).
- Council of Europe: Committee of Ministers, ‘Recommendation Rec(2000)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System’ (2000) Rec(2000)19.
- International Association of Prosecutors, ‘Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors’ (1999).

- International Commission of Jurists, *International Principles on the Independence and Accountability of Judges, Lawyers and Prosecutors* (2007).
- UN Office on Drugs and Crime, ‘Addendum to the Standards of Professional Responsibilities and Statement of the Essential Duties and Rights of Prosecutors: Compilation of Comments Received from Member States’ (2011).
- United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, ‘The Status and Role of Prosecutors: A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide’ (2014).
- United Nations Specialised Conferences, ‘Basic Principles on the Role of Lawyers’ (1990).

As the constitutional reform process, Somali justice models, and relationships between Member States and the Federal Government become clearer over time, this manual will need reassessment and revision. Nevertheless, the core values articulated will remain the same.

2 Establishment of the Attorney General’s Office

2.1 Transitional Justice Models and the AGO

As with many aspects of Somali law and governance, the status and role of prosecutors within the Federal Government of Somalia and its Member States is still a point of discussion under the auspices of the Somali Justice Model. Historically, Somalia’s AGO was established under the Organization of the Judiciary Act (OJA), Leg Decree 12 June 1962, No 3, and subsumed within the structure of the judiciary. Article 15 of the OJA, for instance, defines the Attorney General and his/her deputies as members of Judiciary.

Although the OJA is currently in force, there is some indication that the model for the AGO it has established may change. The Federal Republic of Somalia Provisional Constitution, which was adopted in August 2012, for example, establishes an independent AGO that would incorporate the prosecutorial functions. The Provisional Constitution is still under Parliamentary review, but it is possible that the AGO will be spun off as an independent organ of government.

Similarly, the structure of the Somali federal system, which is still under review, will affect the role of the AGO. One of the issues yet to be resolved is the relationship between the AGO and the attorney general offices of the Member States. The justice models being considered can be divided into three options. First is a dual system in which each Member State has its own attorney general office that is distinct and separate

from the federal AGO; second is a unified system in which the federal AGO will be responsible for criminal prosecutions on both the federal and Member State level; the third is a hybrid system in which the federal AGO would issue general instructions and guidelines relating to prosecution policies that would be adopted by attorneys general at the Member State level.

Each of these three options represent an attempt to balance the competing goals of a local criminal prosecutorial office that is more accountable to the needs of specific communities with the goal of having a unified and coherent prosecution policies, training, and standard that are applicable throughout the country. Statutory Establishment

The Office of the Attorney General is statutorily established under Article 7 of the OJA. The term Attorney General, as defined in Article 12(3) of the CPC, means any person who represents the AGO. This would include the AG, one of its deputies, and although not specifically mentioned in the CPC, would presumably also include public prosecutors.

Article 8 of the OJA states that the AG's duty is to ensure respect for the law, and protect the fights of the state, public organs, and incapacitated persons by:

- Investigating, instituting, and conducting criminal proceedings either directly or through law enforcement agencies
- Instituting or intervening in civil proceedings whenever the AG considers that the public interest is involved
- Filing appeals in civil and criminal matters.

Article 8 also requires the AGO to direct law enforcement in their investigation and suppression of crimes as well as to supervise prisons and other penal institutions.

Law No 34 of 1974 states that the headquarters of the AGO is located in Mogadishu and consists of the AG and 10 deputies. It also provides that a deputy who represents the AG will be assigned to every Appeals Court at the provincial level.

The 1974 law also specifies that the AG is responsible for criminal cases and shall take directions from the Secretary of State responsible for Justice matters. The law further elaborates on the supervisory role of the AG in police investigations and extends the

privilege to discipline law enforcement personnel or suspend them from duty whenever the AG thinks it is warranted to do so¹.

2.1 Establishment and Duties of the AGO Under the Proposed Constitution

Under Article 114 of the Provisional Constitution establishes the AGO as an independent institution of the Somali Federal Government. In addition to its role in criminal proceedings, the SPC vests the AGO with a number of other responsibilities. The Attorney General also must serve as a member of the Judicial Services Commission according to Article 109A(2).

Because the Somali Provisional Constitution is still under review, however, the establishment of the AGO may change and its duties may be altered somewhat. As the Parliamentary oversight committee on the Constitution reviews these matters it can be expected that more changes will be forthcoming.

3 Duties of the AGO

The duties of the AGO are spread through a number of statutes, most prominently the Somali Code of Criminal Procedure and the OJA. Article 8(1) of the OJA lists the obligations of the AG at to:

- Investigate, institute, and conduct criminal proceedings
- Institute or intervene in civil proceedings when it is considered to be in the public interest to do so
- File appeals in civil and criminal matters

There are agencies in Somalia that shall report offences committed to the AGO for potential criminal charges. These include the Auditor General or the Magistrate of Accounts (MA) as law No. 34 of 1972 calls it². According to Article 15 and 16 of the same law, where the Magistrate of Accounts in the course of its activities ascertains that an offence regarding management of public money or of property belonging to the State is committed, MA shall draw up a report and file it with the Attorney General. The Attorney General upon receiving the file shall initiate proceedings in conformity with Articles 69, 70 and 71 of the Criminal Procedure Code.

¹ Article 15 Law No.34 on the Organization of the Judiciary as amended in 1974

² Law on the Magistrate of Accounts No. 34 of 1972

According to the draft law on the establishment of the Anti-Corruption Commission approved by Council of Ministers and submitted to Parliament, if the Commission issues a finding that a public official or other person has committed a corruption offence that entails criminal responsibility, the Commission shall submit the case to Office of the Attorney General to institute legal proceedings in accordance with Article 70 of the Somali Criminal Procedure Code³.

This section will focus on the AG's role in criminal proceedings.

3.1 Investigating and Prosecuting Criminal Cases

As noted in Article 8(1) of the OJA and Article 12(3) of the CPC, the primary function of the AGO is to investigate, institute, and conduct criminal proceedings. Under the CPC, the AGO plays an active role in the investigation and institution of criminal proceedings. Article 70 of the CPC describes these duties as including:

- Advocate in the Supreme Court, the Courts of Appeals, the Regional Courts, and courts provided for under the Provisional Constitution.
- Receive complaints and reports regarding criminal offences.
- Direct the investigation of crimes and ensure investigators comply with all laws and procedures.
- Once satisfied that a crime has been committed, frame a charge against the accused and present it before the court.
- If not satisfied that a *prima facie* case has been shown that a crime has been committed, either order further investigation or close the case.
- Appeal court decisions that the AGO believes violate Somali law.

Implicit within these duties is the oversight role that the AGO plays in ensuring that investigations are conducted legally and in compliance with human rights standards⁴. The United Nations *Guidelines on the Role of Prosecutors*, which was published by the UN as a benchmark for the duties and obligations of prosecutors throughout the world, makes this obligation explicit: the AGO must not use evidence that has been obtained in violation of the law or human rights standards and “shall take all necessary steps to ensure

³ Article 25 of the draft Anti-Corruption Commission Establishment Bill

⁴United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, ‘The Status and Role of Prosecutors: A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide’ (2014) 38.

that those responsible for using such methods are brought to justice”⁵. Similarly, a prosecutor has the duty to ensure that the accused receives a fair trial.

The oversight duties mentioned in the Guidelines on the Role of Prosecutors are consistent with the requirements under the 1974 Amendment to the OJA, which required the AGO to supervise police investigations and authorized the AGO to discipline investigators if necessary.

Once prosecutors determine that a case should be closed they must forward the case file to the AG who, according to Article 72 of the CPC, must either confirm that it should be closed or decide to conduct further proceedings.

3.2 Standards to Uphold in Criminal Cases

Prosecutors lie at the intersection between law enforcement and judicial proceedings. Accordingly, they have duties in both areas. Not only must they exercise oversight authority of investigations to ensure that the investigations comply with legal and human rights standards, they must present their cases before the courts in a manner that respects the rights of victims and the accused. To successfully fulfill these dual roles, prosecutors must:

- Uphold the rule of law, the integrity of the criminal justice system, and the right to fair trial.
- Perform their duties in a manner that is fair, consistent, and timely by being: objective, professional, and uphold human rights in directing, guiding, and advising investigations; and prosecute cases only when they meet the test on the decision to charge a person⁶.
- Consider the views, legitimate interests and concerns of victims and witnesses⁷.
- Safeguard the rights of accused and child offenders.
- Disclose to the accused all inculpatory and exculpatory evidence in possession of the prosecution.
- Determine whether evidence in their position has been lawfully and constitutionally obtained, and if such evidence has not been unlawfully obtained prosecutors should refuse to use such evidence against the accused⁸.

⁵Eighth UN Congress on the Prevention of Crime and Treatment of Offenders, ‘Guidelines on the Role of Prosecutors’ Art 16.

⁶ibid Art 4.1.

⁷ibid 13(d).

- Refrain from making media statements or other public communications without the authority of the AGO.
- Respect the independence and impartiality of presiding judicial officers.
- Consider waiving prosecution, plea negotiations, diversion, and alternative dispute resolution mechanisms in the disposal of cases, with respect to the rights of suspects and victims⁹.
- Not initiate or continue prosecution when an impartial investigation indicates the claims are unfounded¹⁰.

3.3 Special Duties Towards Women, Children, and Vulnerable Members of the Community

Prosecutors must be aware of the unique circumstances and burdens of women, children, and the most vulnerable in the community when it comes to criminal law. Whether as accused, victims, or witnesses, all effort should be taken to accommodate these groups. When considering the prosecution of children prosecutors must consider the nature and gravity of the offence, protection of society, and the personality and background of the juvenile. In making these decisions about whether to prosecute juveniles, prosecutors should give special consideration to alternatives to prosecution in accord with all relevant laws relating to juveniles¹¹.

Article 29(4) of the Provisional Constitution also puts limitations on the detention of children. It stipulates that children “may be detained as a last resort, for a limited time, in appropriate conditions.” Children must also be detained separately from adults, with the exception of the child’s immediate family.

The Juvenile Courts and Reformatories Law, No. 13 of 8 March 1970, defines a “child” as any person under 14 and a “young person” as any person between the ages of 14 and 18. Under Article 3, all cases against young people, except those involving murder, are heard by the Juvenile Court. Article 4 of the law states that a child or young person may not be detained unless he or she is charged with murder or with an offense with a term of imprisonment exceeding 7 years or release of the child would “defeat the ends of justice.” It also states under Article 5 that children may not be sentenced to a term of

⁸ibid 16.

⁹ibid 13(d), 18.

¹⁰ibid 14.

¹¹ibid 19.

imprisonment. A young person who is sentenced to imprisonment may not be allowed to associate with adult prisoners.

Prosecutors also must take care to ensure the safety and well-being of victims and witnesses of crimes. Cases involving child victims and victims of sexual and gender based violence (SGBV) present unique problems for prosecutors in that they involve vulnerable victims who often require medical and mental health care and face social stigmatization. In cases involving SGBV and child victims, the prosecutor must ensure that the victim, and the victim's well-being is the priority. A prosecutor should ensure that victims receive proper medical care, including follow-up medical and mental health care, if necessary. Prosecutors also must take extra care to ensure the confidentiality and physical safety of the victim.

3.4 File Management and Review

The investigation and maintenance of case files by the CID is undergoing extensive revision, and will likely affect the way that the AGO handles and maintains case files. Nevertheless, Articles 25 and 26 of the CPC provide specific information that must be in the case file, including:

- Diary of Investigation, which is a daily record of the details of the investigation.
- An accurate report that includes the facts of the case, and any surrounding circumstances which may affect the criminal proceedings;
- Details of the evidence obtained;
- Personal details or any other information useful in identifying the accused, the injured party, and any person having information concerning the circumstance of the offence.
- Any records relating to the investigation.
- Any material objects seized during the investigation.

Under Article 260, 261, and 262 of the CPC, the AGO is responsible for the management of the Criminal Records Office, which maintains the orders in criminal proceedings and civil and administrative matters. Efforts are currently underway to digitize and properly manage all files under the control of the AGO.

3.5 Communication with Others within the Criminal Justice System

A prosecutor acts as a liaison between a number of different law enforcement agencies and, accordingly, must ensure the cooperation of actors in the justice system, including investigative agencies, judicial officers, the legal profession and other agencies¹².

3.6 Institutional Accountability

According to the OJA the AGO is established under the judiciary and accountable to it. Nevertheless, it is also accountable to the executive and the judiciary in that it is required to fulfill the functions necessary to ensure the government operates transparently and based on principles of rule of law. Similarly, it is accountable to the people to ensure that they are adequately represented under a government system based on rule of law.

3.7 Prison Monitoring and Inspection

The AGO exercises supervision over prisons and other penal institutions. It can examine the state of any prison or penal institutions.

3.8 Mutual Legal Assistance with Foreign Jurisdictions

Under Article 277 of the CPC, the AGO must assist in mutual legal assistance and letters rogatory from other jurisdictions¹³.

4 Duties of the AGO Toward Prosecutors

4.1 Duties under the OJA

Article 24 of the OJA sets forth the Guarantees for the Members of the Judiciary, which includes members of the AGO. Those guarantees include that:

- Members of the judiciary cannot be deprived of their judicial functions except through disciplinary proceedings;
- Members cannot be transferred or assigned to other functions without their consent unless it is done as a disciplinary measure or under urgent circumstances;
- Members may not be arrested or subject to restrictions on their personal liberty without prior authorization of the Higher Judicial Council.

¹²ibid 20.

¹³Somali Criminal Procedure Code Art 277.

- Members will not be subject to civil liability for acts that were performed in line with their duties unless the civil liability arises in connection with a crime.
- Members are not required to perform a public function or duty except military service as provided under separate law.

Article 25 of the OJA prohibits members of the judiciary from being enrolled in any political party and prohibits them from engaging in behavior that is not compatible with their office.

4.2 Duties of the AGO Under International Standards

Under international standards, the AGO has an obligation to ensure that its prosecutors are in the best position to fulfill their public and professional responsibilities. Article 6 of the International Association of Prosecutors' *Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors* states that prosecutors should be entitled:

- To be able to perform their duties without being intimidated, harassed or improperly interfered with;
- To have themselves and their families protected when their personal safety is at risk as a result of their work;
- To have reasonable work conditions, adequate salaries, and other benefits;
- To reasonable tenure, pension, and retirement benefits in a manner consistent with other government officials;
- To fair standards in hiring and promotion that are based on qualifications, ability, integrity, performance, and experience;
- To fair hearings and objective evaluation in any disciplinary hearings;
- To be able to form or join professional organizations that represent their interests or provide professional training;
- To be able to decline to do any act that is unlawful or would breach any professional standards of ethics.

4.3 Training

The *Guidelines on the Role of Prosecutors* state that a government should ensure that prosecutors have appropriate training on the law and be made aware of the ideals and ethical

standards of the AGO. Because training for a prosecutor is a lifelong process,¹⁴ The AGO must do all it can to provide necessary and continued training on the ideals of the office, rules of professional responsibility, and relevant laws and constitutional provisions¹⁵.

In addition to training on substantive areas of law, the Council of Europe Recommends that an AGO train its prosecutors on the following areas:

- The principles and ethical duties of their office;
- The constitutional and legal protection of suspects, victims and witnesses;
- Human rights and freedoms as laid down by the *Convention for the Protection of Human Rights and Fundamental Freedoms*, especially the rights as established by articles 5 and 6 of the Convention;
- Principles and practices of organization of work, management and human resources in a judicial context;
- Mechanisms and materials which contribute to consistency in their activities.¹⁶

The establishment of moot courts and trainings on trial tactics and procedures are also important. The AGO should commit resources to ensuring that its prosecutors are appropriately trained in conducting legal research and making oral and written presentations to the courts.

4.4 Discipline of Prosecutors

Not only does the AGO have a duty to create the most productive work environment to enable prosecutors to fulfill their public service, they have a duty to oversee the prosecutors to make sure they comply with all laws, rules, and standards. And, in turn, they have a duty to discipline those prosecutors who are in violation of those laws, rules, and standards.

¹⁴United Nations Office on Drugs and Crime and International Association of Prosecutors Guide (n 4) 26.

¹⁵Eighth UN Congress on the Prevention of Crime and Treatment of Offenders (n 5) Art 2(b).

¹⁶Council of Europe: Committee of Ministers, 'Recommendation Rec(2000)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System' (2000) Rec(2000)19 para 7 <<http://www.refworld.org/pdfid/43f5c8694.pdf>> accessed 13 October 2016.

Under Article 28(2)(c) of the OJA, the High Judicial Council is responsible for conducting any disciplinary proceedings of members of the judiciary, including members of the AGO.

5 Professional Conduct

The AGO is developing a professional code of conduct for its prosecutors. Until that document is created, prosecutors should follow the standards and guidelines discussed below.

5.1 Honor and Dignity of the Profession

Prosecutors must maintain the honor and dignity of their profession. This means that, at all times, prosecutors must:

- Abide by the law, professional codes of conduct established under Somali law, the Provisional Constitution, and supporting regulations.
- Perform their role in a manner that protects the public interest¹⁷.
- Respect, uphold, and protect justice, human dignity, and fundamental rights as required by Somali law and the Somali Provisional Constitution.
- Not discriminate, directly or indirectly, against any person on any ground, including ethnicity, race, clan, gender, pregnancy, marital status, health status, economic status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language, and birth¹⁸.
- Interact with the public in a conscientious manner that does not impugn the dignity of the AGO.

5.2 Competence

A prosecutors must maintain the honor and dignity of the profession, they must have appropriate education and training and fulfill all of the requirements for employment for the AGO. Just as the AGO must provide resources for further education and training, prosecutors must keep themselves aware of changes in the law and continue furthering their professional development.

¹⁷Eighth UN Congress on the Prevention of Crime and Treatment of Offenders (n 5) 13(b).

¹⁸ibid 13(a).

5.3 Independence

A prosecutor must be independent of other organs of government or outside influence and be able to perform their jobs “without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability.”¹⁹ Independence requires that prosecutors maintain their fidelity to the Somali laws and Provisional Constitution. Prosecutors must work diligently with law enforcement authorities and other organs who may pursue prosecutorial functions to ensure that both the law and the policies of the AGO are honored, and that law enforcement is conducted in a transparent manner that is consistent with established guidelines.

Because prosecutors at times must exercise their discretion when making decisions, laws or regulations should be enacted that provide guidelines to ensure that discretionary judgments are exercised in a fair and consistent manner²⁰.

An independent prosecutor is necessary to ensure that the government is held accountable for its actions. Independence, however, does not mean complete autonomy; prosecutors are still accountable for their decisions to law enforcement, other arms of government, and the public²¹. This balance of accountability and independence requires that prosecutors develop transparent systems for decision-making and refrain from having any inappropriate connections or contact with those that may attempt to influence their decisions.

Prosecutorial independence is both an institutional and individual concept. Although statutorily subsumed within the administrative arm of the judiciary, the AGO must be an independent arm of government and its policies and operations must protect that independence and create an atmosphere in which prosecutors are encouraged to act independently of improper influence²². Independence is also a concept that should be held by the individual prosecutor, and should guide the individual to make decisions “rationally and impartially based on the law and the evidence”²³.

¹⁹ibid Art 4; International Association of Prosecutors, ‘Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors’ (1999) Art 2.1.

²⁰Eighth UN Congress on the Prevention of Crime and Treatment of Offenders (n 5) Art 17.

²¹United Nations Office on Drugs and Crime and International Association of Prosecutors Guide (n 4) 8.

²²ibid 9.

²³ibid.

5.4 Accountability

Prosecutors must be accountable for the decisions they make. Under the OJA, members of the AGO are considered part of the Judiciary. The Higher Judicial Counsel, established under Article 27 of the OJA, consists of the president of the Supreme Court, the Attorney General, the members of the Supreme Court, and three people who are neither deputies or practicing attorneys. According to Article 28(1), the Higher Judicial Counsel is tasked with ensuring the independence of the judiciary. The president of the Supreme Court serves as chairperson and supervises the functioning of the courts as well as the judiciary personnel, including members of the AGO. The Higher Judicial Counsel may, among other things, initiate disciplinary proceedings against personnel.

Under Article 109A of the Provisional Constitution, the Higher Judicial Counsel will be replaced by a Judicial Services Commission that will consist of the Chief Judges of the High Court and Supreme Court, the AG, two members of the SBA, the Chair of the Human Rights Commission, and three Somali citizens. The JSC will have the power to appoint, discipline and transfer a member of the judiciary at the Federal level, establish remuneration for members of the judiciary, and decide on other work matters relating to the judiciary. In addition, Article 111A(1) requires that the JSC “advise the Federal Government on the administration of justice including recruitment, dismissal, and any legal action taken against judges.”.

The Provisional Constitution identifies the AGO as an independent organ of the Federal Government. In subsequent constitutional reviews, however, there has been a strong suggestion that the AGO remain under the control of the judiciary. The issue has yet to be resolved, however, and under the circumstances the OJA is controlling.

Although the law establishing the Judicial Service Commission is approved by Parliament, the members are not appointed yet and the Commission is not yet functional.

Regardless of any changes in the relationship between the AG and the judiciary, prosecution services are also accountable to the executive and legislative branches of government and to the public²⁴. Accountability to the executive and legislative branches requires the AGO to:

- Report on activities and specific issues to the executive branch and Parliament
- Inform relevant government organs of assets allocation and expenses

²⁴ibid 13.

- Table annual reports to Parliament as required under the SPC

Although the OJA establishes the AGO as part of the Judiciary, that relationship must be seen as more administrative than substantive; the tasks and duties of the AGO are independent of the core judicial tasks and duties. Accordingly, prosecutorial decisions should be kept independent of the administrative decisions made by the Judiciary under the OJA.

The AGO's duty to the public is inherent in its role in government. Prosecutors engage with the public on a regular basis—often working with some of the most vulnerable in their community. In order to fulfill their responsibility to the public, prosecutors should:

- Perform their duties efficiently, transparently, and with accountability
- Be able to inform and explain their decisions to the public
- Disseminate information about the guidelines and standards of the AGO
- Consider the views and legitimate concerns of victims and witnesses

Professional associations, such as the Somali Bar Association, may also provide mechanisms of accountability. Similarly, the media, civil society organizations, and outside groups also provide informal oversight of prosecutorial action²⁵.

5.5 Impartiality and Objectivity

A prosecutor must strive to be consistent, independent, impartial, and objective when carrying out duties. This requires prosecutors to exercise their functions “free from any internal or external influences, inducements, pressures, threats, or interference from any person or group, political or otherwise”.

Impartiality requires that prosecutors:

- Have regard only for public interests rather than individual or sectional interests or public and media pressures.
- Avoid impropriety or the appearance of impropriety that might give rise to suspicion or appearance of favoritism.
- Not accept gifts, prizes, donations, loans, favors, hospitality or sponsorship that may appear to compromise the integrity, fairness, or independence of the AGO.

²⁵ibid.

- Not use confidential information acquired in their capacity as prosecutors in a manner that is not connected to the performance of their duty, such as furthering their own private interests or those of others.
- Disqualify themselves from any proceedings in which they are unable to act impartially.
- Not belong to any proscribed organization.
- Not conduct themselves in a way that may embarrass or financially harm the AGO.

5.6 Confidentiality

A prosecutor must not disclose any unauthorized, improper, or premature information that has been acquired through their employment as prosecutors²⁶. This includes not disclosing information obtained from witnesses, accused persons, and complainants to persons not authorized to have access to this information; not accessing classified or confidential information without the authorization of the AGO; and not releasing information that may disclose the identity of minors or other vulnerable persons.

5.7 Conflict of Interest

A prosecutor must be careful to avoid actual conflicts of interest or even the appearance of conflict of interest. In determining whether a conflict does exist, the prosecutor must look at the issue from the perspective of the public. If, in the public's eye, a conflict between personal and professional interests may be apparent, the prosecutor must take steps to mitigate the apparent conflict. To do this, a prosecutor must:

- Carry out their functions impartially;
- Have regard only to the public interest and remain unaffected by individual or sectional interests and public or media pressures;
- Act with objectivity;
- Have regard to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect;
- In accordance with local law or the requirements of a fair trial, seek to ensure that all necessary and reasonable enquiries are made and the result disclosed, whether that points towards the guilt or the innocence of the suspect;

²⁶Eighth UN Congress on the Prevention of Crime and Treatment of Offenders (n 5) 13(c).

- Always search for the truth and assist the court to arrive at the truth, and do justice between the community, the victim, and the accused according to law and the dictates of fairness²⁷.

Prosecutors should not work for anyone else while employed with the AGO and should not accept gifts, prizes, or gratuities from third parties²⁸. Article 25 of the OJA prevents prosecutors from being members of political parties²⁹.

Prosecutors should recuse themselves from any matter in which a conflict of interests exists or might possibly exist, such as situation where they:

- are likely to have a financial interest;
- may be called as a witness; or
- have family or social, or other relationships that may improperly influence or be perceived to be improperly influence the conduct of prosecutors.

Prosecutors must report to the AG any attempt to improperly influence their decision.

6 Use of Media

Prosecutors shall use social, print, and electronic media responsibility and after exercising decorum and good judgment. They shall not knowingly download, distribute, or otherwise transmit information of a discriminatory or damaging nature.

7 Cooperation

A prosecutor acts as a liaison between a number of different law enforcement agencies and, accordingly, must ensure the cooperation of actors in the justice system, including investigative agencies, judicial officers, the legal profession and other agencies³⁰. In addition, prosecutors must render mutual legal assistance with authorities from other jurisdictions in a manner consistent with Somali law.

²⁷International Association of Prosecutors (n 19) Art 3.

²⁸United Nations Office on Drugs and Crime and International Association of Prosecutors Guide (n 4) 29.

²⁹Compare International Association of Prosecutors (n 19) 28–29 (preventing prosecutors from holding office in political organizations).

³⁰Eighth UN Congress on the Prevention of Crime and Treatment of Offenders (n 5) 20.