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## Constitution

In the name of God, the Merciful, the Compassionate

### **Preamble**

We the people of Afghanistan:


1. With firm faith in God Almighty and relying on His lawful mercy, and Believing in the Sacred religion of Islam,
  2. Realizing the injustice and shortcoming of the past, and the numerous troubles imposed on our country,
  3. While acknowledging the sacrifices and the historic struggles, rightful Jihad and just resistance of all people of Afghanistan, and respecting the high position of the martyrs for the freedom of Afghanistan,
  4. Understanding the fact that Afghanistan is a single and united country and belongs to all ethnicities residing in this country,
  5. Observing the United Nations Charter and respecting the Universal Declaration of Human Rights,
  6. For consolidating national unity, safeguarding independence, national sovereignty, and territorial integrity of the country,
  7. For establishing a government based on people's will and democracy,
  8. For creation of a civil society free of oppression, atrocity, discrimination, and violence and based on the rule of law, social justice, protection of human rights, and dignity, and ensuring the fundamental rights and freedoms of the people,
  9. For strengthening of political, social, economic, and defensive institutions of the country,
  10. For ensuring a prosperous life, and sound environment for all those residing in this land,
  11. And finally for regaining Afghanistan's deserving place in the international community,
- Have adopted this constitution in compliance with historical, cultural, and social requirements of the era, through our elected representatives in the Grand Council [*Loya Jirga*] dated 14 Jaddi 1382 in the city of Kabul.

## **Chapter I The State**

### **Article 1 [Islamic Republic]**

Afghanistan is an Islamic Republic, independent, unitary and indivisible state.

### **Article 2 [Religions]**

- (1) The religion of the state of the Islamic Republic of Afghanistan is the sacred religion of Islam .
- (2) Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law.

### **Article 3 [Law and Religion]**

In Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam.

### **Article 4 [Sovereignty, Ethnic Groups, Citizenship]**

(1) National sovereignty in Afghanistan belongs to the nation that exercises it directly or through its representatives.

(2) The nation of Afghanistan consists of all individuals who are the citizen of Afghanistan.

(3) The nation of Afghanistan is comprised of the following ethnic groups: Pashtun, Tajik, Hazara, Uzbek, Turkman, Baluch, Pashai, Nuristani, Aymaq, Arab, Qirghiz, Qizilbash, Gujur, Brahwi and others.

(4) The word Afghan applies to every citizen of Afghanistan.

(5) No member of the nation can be deprived of his citizenship of Afghanistan.

(6) Affairs related to the citizenship and asylum are regulated by law.

### **Article 5 [Territorial Integrity]**

Implementation of the provisions of this constitution and other laws, defending independence, national sovereignty, territorial integrity, and ensuring the security and defense capability of the country, are the basic duties of the state.

### **Article 6 [Purposes]**

The state is obliged to create a prosperous and progressive society based on social justice, protection of human dignity, protection of human rights, realization of democracy, and to ensure national unity and equality among all ethnic groups and tribes and to provide for balanced development in all areas of the country.

### **Article 7 [International Law]**

(1) The state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights.

(2) The state prevents all types of terrorist activities, production and consumption of intoxicants (muskirat), production and smuggling of narcotics.

### **Article 8 [State Policy]**

The state regulates the policy of the country on the basis of preserving the independence, national interests, territorial integrity, non-aggression, good neighborliness, mutual respect, and equal rights.

### **Article 9 [Natural Resources]**

(1) Mines, underground resources are properties of the state.

(2) Protection, use, management, and mode of utilization of the public properties shall be regulated by law.

### **Article 10 [Private Investments]**

The State encourages and protects private capital investments and enterprises based on the market economy and guarantees their protection in accordance with the provisions of law.

#### **Article 11 [Trade]**

Affairs related to the domestic and external trade shall be regulated by law in accordance with the needs of the national economy and public interests.

#### **Article 12 [Bank]**

- (1) Da Afghanistan Bank is the central and independent bank of the state.
- (2) Issuance of currency, and formulation and implementation of monetary policy of the country are the mandates of the central bank in accordance with law.
- (3) The central bank shall consult with the economic committee of the House of Representatives [*Wolesi Jirga*] in matters related to the printing of money.
- (4) Structure and operation of this bank shall be regulated by law.

#### **Article 13 [Economy]**

The state shall formulate and implement effective programs for development of industries, growth of production, increasing of public living standards, and support to craftsmanship.

#### **Article 14 [Farming, Housing]**

- (1) The state shall design and implement within its financial resources effective programs for development of agriculture and animal husbandry, improving the economic, social and living conditions of farmers, herders, settlement and living conditions of nomads.
- (2) The state adopts necessary measures for housing and distribution of public estates to deserving citizens in accordance within its financial resources and the law.

#### **Article 15 [Environment]**

The state is obliged to adopt necessary measures for safeguarding forests and the environment.

#### **Article 16 [Languages]**

- (1) From among the languages of Pashtu, Dari, Uzbeki, Turkmani, Baluchi, Pashai, Nuristani, Pamiri (alsana), Arab and other languages spoken in the country, Pashtu and Dari are the official languages of the state.
- (2) The Turkic languages (Uzbaki and Turkmen), Baluchi, Pashai, Nuristani and Pamiri (alsana) are -- in addition to Pashto and Dari -- the third official language in areas where the majority speaks them. The practical modalities for implementation of this provision shall be specified by law.
- (3) The state adopts and implements effective plans for strengthening, and developing all languages of Afghanistan.
- (4) Publications and radio and television broadcasting are allowed in all languages spoken in the country.

**Article 17 [Education]**

The state shall adopt necessary measures for promotion of education in all levels, development of religious education, organizing and improving the conditions of mosques, madrasas and religious centers.

**Article 18 [Calendar]**

- (1) The calendar of the country shall be based on the flight of the Prophet (PBUH).
- (2) The basis of work for state offices is the solar calendar.
- (3) Fridays and the 28 Asad and the 8 Sawr are public holidays. Other holidays shall be regulated by law.

**Article 19 [Flag, Insignia, Emblem]**

- (1) The Afghan flag is made up of three equal parts, with black, red and green colors juxtaposed from left to right perpendicularly.
- (2) The width of every colored piece is equal to half of its length. The national insignia is located in the center of the flag.
- (3) The national insignia of the state of Afghanistan is composed of Mehrab and pulpit in white color.
- (4) Two flags are located on its two sides. In the upper-middle part of the insignia the sacred phrase of "There is no God but Allah and Mohammad is his prophet, and Allah is Great" is placed, along with a rising sun. The word "Afghanistan" and year 1298 (solar calendar) is located in the lower part of the insignia. The insignia is encircled with two branches of wheat.
- (5) The law shall regulate the use of national flag and emblem.

**Article 20 [Anthem]**

The National Anthem of Afghanistan shall be in Pashtu and mention "Allahu Akbar" and the names of the ethnic groups of Afghanistan.

**Article 21 [Capital]**

The capital of Afghanistan is the city of Kabul.

**Chapter II Fundamental Rights and Duties of Citizens****Article 22 [Equality]**

- (1) Any kind of discrimination and privilege between the citizens of Afghanistan are prohibited.
- (2) The citizens of Afghanistan -- whether man or woman -- have equal rights and duties before the law.

**Article 23 [Life]**

Life is a gift of God and a natural right of human beings. No one shall be deprived

of this right except by the provision of law.

**Article 24 [Liberty, Human Dignity]**

- (1) Liberty is the natural right of human beings. This right has no limits unless affecting the rights of others or public interests, which are regulated by law.
- (2) Liberty and dignity of human beings are inviolable.
- (3) The state has the duty to respect and protect the liberty and dignity of human beings.

**Article 25 [Presumption of Innocence]**

- (1) Innocence is the original state.
- (2) An accused is considered innocent until convicted by a final decision of an authorized court.

**Article 26 [Criminal Responsibility]**

- (1) Crime is a personal action.
- (2) The prosecution, arrest, and detention of an accused and the execution of penalty can not affect another person.

**Article 27 [Punishment]**

- (1) No act is considered a crime, unless determined by a law adopted prior to the date the offense is committed.
- (2) No person can be pursued, arrested or detained but in accordance with provisions of law.
- (3) No person can be punished but in accordance with the decision of an authorized court and in conformity with the law adopted before the date of offense.

**Article 28 [Extradition]**

- (1) No citizen of Afghanistan accused of a crime can be extradited to a foreign state unless according mutual agreement and international conventions that Afghanistan has joined.
- (2) No Afghan would be sentenced to deprivation of citizenship or to exile inside the country or abroad.

**Article 29 [Torture]**

- (1) Torture of human beings is prohibited.
- (2) No person, even with the intention of discovering the truth, can resort to torture or order the torture of another person who may be under prosecution, arrest, or imprisoned, or convicted to punishment.
- (3) Punishment contrary to human integrity is prohibited.

**Article 30 [Compulsion, Confession]**

- (1) Any statement, testimony, or confession obtained from an accused or of another person by means of compulsion, are invalid.
- (2) Confession to a crime is: a voluntary confession before an authorized court by

an accused in a sound state of mind.

**Article 31 [Defence]**

- (1) Every person upon arrest can seek an advocate to defend his rights or to defend his case for which he is accused under the law.
- (2) The accused upon arrest has the right to be informed of the attributed accusation and to be summoned to the court within the limits determined by law.
- (3) In criminal cases, the state shall appoint an advocate for a destitute.
- (4) The confidentiality of oral, written or telephonic communications between an advocate and his accused client are immune from invasion.
- (5) The duties and authorities of advocates shall be regulated by law.

**Article 32 [Debt Relief]**

- (1) Being in debt does not limit a person's freedom or deprive him of his liberties.
- (2) The mode and means of recovering a debt shall be regulated by law.

**Article 33 [Electoral Rights]**

- (1) The citizens of Afghanistan have the right to elect and be elected.
- (2) Law regulates the conditions and means to exercise this right.

**Article 34 [Expression, Press, Media]**

- (1) Freedom of expression is inviolable.
- (2) Every Afghan has the right to express his thought through speech, writing, or illustration or other means, by observing the provisions stated in this Constitution.
- (3) Every Afghan has the right to print or publish topics without prior submission to the state authorities in accordance with the law.
- (4) Directives related to printing house, radio, television, press, and other mass media, will be regulated by the law.

**Article 35 [Organizations, Parties]**

- (1) The citizens of Afghanistan have the right to form social organizations for the purpose of securing material or spiritual aims in accordance with the provisions of the law.
- (2) The citizens of Afghanistan have the right to form political parties in accordance with the provisions of the law, provided that:
  - The program and charter of the party are not contrary to the principles of sacred religion of Islam, and the provisions and values of this Constitution.
  - The organizational structure, and financial sources of the party are made public.
  - The party does not have military or paramilitary aims and structures.
  - The party should have no affiliation to a foreign political party or sources.
- (3) Formation and functioning of a party based on ethnicity, language, Islamic school of thought (mazhab-i fiqhi) and region is not permissible.
- (4) A party set up in accordance with provisions of the law shall not be dissolved without lawful reasons and the decision of an authorized court.

**Article 36 [Demonstration]**

The citizens of Afghanistan have the right to un-armed demonstrations, for legitimate peaceful purposes.

**Article 37 [Confidentiality of Communication]**

(1) Confidentiality and freedom of correspondence and communication whether in the form of letters or through telephone, telegraph and other means, are immune from invasion.

(2) The state does not have the right to inspect personal correspondence and communication unless authorized by the provisions of law.

**Article 38 [Residence, Home, Search]**

(1) A person's residence is immune from invasion.

(2) Other than the situations and methods indicated in the law, no one, including the state, are allowed to enter or inspect a private residence without prior permission of the resident or holding a court order.

(3) In case of an evident crime, an official in-charge of the situation can enter or conduct a house search prior to the permission of the court.

(4) The official involved in the situation is required to obtain a subsequent court order for the house search within the period indicated by law.

**Article 39 [Movement, Settlement, Travel]**

(1) Every Afghan has the right to travel or settle in any part of the country except in the regions forbidden by law.

(2) Every Afghan has the right to travel abroad and return home in accordance with the provisions of law.

(3) The state shall protect the rights of the citizens of Afghanistan abroad.

**Article 40 [Private Property]**

(1) Property is immune from invasion.

(2) No person shall be forbidden from acquiring and making use of a property except within the limits of law.

(3) Nobody's property shall be confiscated without the provisions of law and the order of an authorized court.

(4) Acquisition of a person's property, in return for a prior and just compensation within the bounds of law, is permitted only for securing public interests in accordance with the provisions of law.

(5) Inspection and disclosure of a private property are carried out only in accordance with the provisions of law.

**Article 41 [Property of Foreigners]**

(1) Foreign individuals do not have the right to own immovable property in Afghanistan.

(2) Lease of immovable property for the purpose of investment is permissible in accord with law.

(3) The sale of estates to diplomatic missions of foreign countries and to those



international agencies, of which Afghanistan is a member, is permissible in accordance with the provisions of law.

#### **Article 42 [Taxes, Duties]**

- (1) Every Afghan is obligated to pay taxes and duties to the government in accordance with the provisions of law.
- (2) No taxes and duties are enforced without provisions of law.
- (3) The rate of taxes and duties and the method of payment are determined by law on the basis of observing social justice.
- (4) This provision is also applied to foreign individuals and agencies.
- (5) Every kind of tax, duties, and incomes collected, shall be delivered to the State account.

#### **Article 43 [Education]**

- (1) Education is the right of all citizens of Afghanistan, which shall be provided up to the level of the B.A. (lisâns), free of charge by the state.
- (2) The state is obliged to devise and implement effective programs for a balanced expansion of education all over Afghanistan, and to provide compulsory intermediate level education.
- (3) The state is also required to provide the opportunity to teach native languages in the areas where they are spoken.

#### **Article 44 [Education for Women and Nomads, Illiteracy]**

The state shall devise and implement effective programs for balancing and promoting of education for women, improving of education of nomads and elimination of illiteracy in the country.

#### **Article 45 [Unified Educational Curriculum]**

The state shall devise and implement a unified educational curriculum based on the provisions of the sacred religion of Islam, national culture, and in accordance with academic principles, and develops the curriculum of religious subjects on the basis of the Islamic sects existing in Afghanistan.

#### **Article 46 [Higher Education, Schools]**

- (1) Establishing and operating of higher, general and vocational education are the duties of the state.
- (2) The citizens of Afghanistan also can establish higher, general, and vocational private educational institutions and literacy courses with the permission of the state.
- (3) The state can also permit foreign persons to set up higher, general and vocational educational private institutes in accordance with the law.
- (4) The conditions for admission to state higher education institutions and other related matters to be regulated by the law.

#### **Article 47 [Science, Culture, Literature, Arts]**

- (1) The state shall devise effective programs for the promotion of science,

culture, literature and the arts.

(2) The state guarantees the rights of authors, inventors, and discoverers, and encourages and supports scientific researches in all areas, and publicizes the effective use of their results in accordance with the law.

#### **Article 48 [Work]**

(1) Work is the right of every Afghan.

(2) Working hours, paid holidays, right of employment and employee, and other related affairs are regulated by law.

(3) Choice of occupation and craft is free within the limits of law.

#### **Article 49 [Forced Labor]**

(1) Forced labor is forbidden.

(2) Active participation, in times of war, calamity, and other situations threatening lives and public welfare is one of the primary duties of every Afghan.

(3) Children shall not be subjected to forced labor.

#### **Article 50 [Public Administration, Offices, Information]**

(1) The state is obliged to adopt necessary measures for creation of a strong and sound administration and realization of reforms in the administration system of the country after authorisation by the National Assembly.

(2) Government offices are bound to carry their work with full neutrality and impartiality with the provisions of law.

(3) The citizens of Afghanistan have the right of access to the information from the government offices in accordance with the provisions of law.

(4) This right has no limits, unless violation of the rights of the others.

(5) The citizens of Afghanistan are employed for state services on the basis of qualification without any kind of discrimination and in accordance with law.

#### **Article 51 [Compensation]**

(1) Any person suffering undue harm by government action is entitled to compensation, which he can claim by appealing to court.

(2) With the exception of situation stated in the law, the state cannot claim its right without the order of an authorized court.

#### **Article 52 [Health Care, Hospitals, Physical Education, Sports]**

(1) The state is obliged to provide free means of preventive health care and medical treatment, and proper health facilities to all citizens of Afghanistan in accordance with the law.

(2) The state encourages and protects the establishment and expansion of private medical services and health centers in accordance with law.

(3) The state in order to promote physical education and improve national and local sports adopts necessary measures.

#### **Article 53 [Handicapped]**

(1) The state takes necessary measures for regulating medical services and

financial support to descendants of those who were martyred or are missing, to disabled or handicapped, and their active participation and re-integration into society in accordance with the law.

(2) The state guarantees the rights and privileges of pensioners and disabled and handicapped individuals and as well renders necessary assistance to needy elders, women without caretakers, and needy orphans in accordance with the law.

#### **Article 54 [Family]**

(1) Family is a fundamental unit of society and is supported by the state.

(2) The state adopts necessary measures to ensure physical and psychological well being of family, especially of child and mother, upbringing of children and the elimination of traditions contrary to the principles of sacred religion of Islam.

#### **Article 55 [Defense, Military Service]**

(1) The defense of the country is the responsibility of all citizens of Afghanistan.

(2) The conditions for military services are regulated by law.

#### **Article 56 [Obeying the Law]**

(1) Observing the provisions of the Constitution, obeying the laws, adhering to public law and order are the duties of all people of Afghanistan.

(2) Ignorance about the provisions of law is not considered an excuse.

#### **Article 57 [Rights of Foreigners]**

(1) The state guarantees the rights and liberties of the foreign citizens residing in Afghanistan in accordance with the law.

(2) These people are obliged to observe the laws of the state of Afghanistan in accordance with the International Law.

#### **Article 58 [Human Rights Commission]**

(1) The State, for the purpose of monitoring the observation of human rights in Afghanistan, to promote their advancement (behdud) and protection, shall establish the Independent Human Rights Commission of Afghanistan.

(2) Any person, whose fundamental rights have been violated can file complaint to the Commission.

(3) The Commission can refer cases of violation of human rights to the legal authorities, and assist in defending the rights of the complainant.

(4) The structure, and functions of this Commission shall be regulated by law.

#### **Article 59 [Misuse of Rights]**

No one can misuse the rights and freedoms under this Constitution against the independence, territorial integrity, sovereignty and national unity.

### **Chapter III The President**

### **Article 60 [Head of State, Vice Presidents]**

(1) The President is the head of state of the Islamic Republic of Afghanistan, and conducts his authorities in executive, legislative, and judiciary branches in accordance with the provisions of this Constitution.

(2) The President shall have two Vice Presidents, one first and one second.

(3) The candidate to the Presidency on his or her candidacy shall declare the name of the Vice Presidents to the nation.

(4) The Vice President in the absence, resignation, and or death of the President, acts in accordance with the provisions of this constitution.

### **Article 61 [Direct Election]**

(1) The President is elected by receiving more than 50% of the votes cast through free, general, secret, and direct voting.

(2) The presidential term is expired at the first of Jawza of the fifth years after the elections.

(3) Elections for the new president are held within thirty, to sixty days before the end of the presidential term.

(4) If none of the candidates succeeds to receive more than 50% of the votes in the first round, a run-off election shall be held within two weeks.

(5) In this round, only two candidates with the highest number of votes will participate.

(6) In the run-off, the candidate who gets the majority of the votes shall be elected as the President.

(7) In case of death of one of the candidates during the first or second round, after the elections or prior to the announcement of the results of elections, new elections shall be held in accordance with the provisions of law.

(8) The elections for the post of president shall be held under the supervision of the Independent Commission supervising of the Elections.

(9) This Commission shall be established to supervise all elections and referendums in the country, in accordance with the provisions of law.

### **Article 62 [Qualifications]**

(1) Presidential candidates should possess the following qualification:

-- Should be citizen of Afghanistan, Muslim and born of Afghan parents, and should not have citizenship of another country.

-- On the day of becoming a candidate, his age should not be less than forty years.

-- Should not have been convicted of crimes against humanity, criminal act, or deprivation of the civil rights by a court.

(2) No one can be elected as president for more than two terms.

(3) The provision of this article is applied to the Vice Presidents as well.

### **Article 63 [Oath of Allegiance]**

The President-elect, prior to resumption of his/her duties, performs the following oath of allegiance in the presence of members of the National Assembly and the

chief justice:

"In the name Allah, the Merciful, the Compassionate

In the name God Almighty, in the presence of you representatives of the nation of Afghanistan, I swear to obey and safeguard the provisions of the sacred religion of Islam, to observe the Constitution and other laws of Afghanistan and supervise their implementation; to safeguard the independence, national sovereignty, and the territorial integrity of Afghanistan and the fundamental rights and interests of the people of Afghanistan, and with the assistance of God and the support of the nation, to make great and sincere efforts for the happiness and progress of the people of Afghanistan."

#### **Article 64 [Powers and Duties]**

The powers and duties of the President are as follows:

- Supervising the implementation of the Constitution.
- Determining the fundamental policies of the state with the approval of the National Assembly.
- Being the Command-in-Chief of the armed forces of Afghanistan.
- Declaration of war and ceasefire with the approval of the National Assembly.
- Taking the required decision during defending of territorial integrity and protecting of the independence.
- Sending contingents of the armed forces to foreign countries with the approval of the National Assembly.
- Convening Grand Council [*Loya Jirga*] except in a situation stated in Article 68 of this Constitution.
- Declaring the state of emergency and ending it with the approval of the National Assembly.
- Inaugurating the National Assembly and the Grand Council [*Loya Jirga*].
- Accepting resignation of the Vice President.
- Appointing of Ministers, the Attorney General, the Director of the Central Bank, Head of the National Security Directorate and the President of the Afghan Red Crescent Society with the approval of the House of Representatives [*Wolesi Jirga*], and acceptance of their dismissal and resignation.
- Appointing the head and members of the Supreme Court with the approval of the House of Representatives [*Wolesi Jirga*].
- Appointment, retirement and acceptance of resignation and dismissal of judges, officers of the armed forces, police, national security, and high-ranking officials in accordance with the law.
- Appointment of heads of diplomatic missions of Afghanistan in foreign countries and international organizations.
- Accepting the credentials of diplomatic missions in Afghanistan.
- Signing of laws and legislative decrees.
- Issuing credential letter for the conclusion of bi-lateral and international treaties in accordance with the provisions of law.
- Reducing and pardoning penalties in accordance with law.
- Issuing medals, and honorary titles in accordance with the provision of law.
- The establishment of commissions for the improvement of the administrative

condition of the country, in accordance with law.

-- Exercising other authorities in accordance with the provisions of this Constitution.

#### **Article 65 [Call for Referendum]**

(1) The President can call for a referendum on important national, political, social or economic issues.

(2) Call for referendum shall not be contrary to the provisions of this constitution or for the amendment of it.

#### **Article 66 [Restrictions]**

(1) The President takes into consideration the supreme interests of the people of Afghanistan while enforcing the powers stated in this Constitution.

(2) The President cannot sell or bestow state properties without the provisions of the law.

(3) The President cannot act based on linguistic, ethnic, religious, political, and regional considerations during his term in office.

#### **Article 67 [Resignation]**

(1) In case of resignation, impeachment, or death of the President, or of a serious illness that could hinder the performance of duties, the First Vice President undertakes his duties and authorities.

(2) The President declares his resignation personally to the National Assembly.

(3) The serious illness shall be proved by an authorized medical committee appointed by the Supreme Court.

(4) In this case, election for the new President shall be held within the period of three months in accordance with the Article 61 of this constitution.

(5) During the time when the First Vice President fills in as the interim President, he cannot perform the following:

-- Amendment of the constitution

-- Dismissal of ministers.

-- Call for a referendum.

(6) During this period the Vice Presidents can nominate themselves as candidates for the post of President in accordance with the provisions of this constitution.

(7) In the absence of the President, the duties of the First Vice President shall be determined by the President.

#### **Article 68 [Replacement]**

(1) In case of resignation and or death of one of the Vice President, another person shall replace him by the proposal of the President and approval of the House of Representatives [*Wolesi Jirga*].

(2) In case of simultaneously death of the President and First Vice President, his duties shall be implemented in turn by the Second Vice President, by the Chair of the Senate [*Meshrano Jirga*] and in the absence of the chair of the Senate [*Meshrano Jirga*], Chair of the House of Representatives [*Wolesi Jirga*], and in

the absence of the Chair of the House of Representatives [*Wolesi Jirga*], the Foreign Minister shall take the duties of the President in accordance with the Article 67 of this constitution.

#### **Article 69 [Impeachment]**

(1) The President is responsible to the nation and the House of Representatives [*Wolesi Jirga*] in accordance with this article.

(2) Accusations of crime against humanity, national treason or crime can be leveled against the President by one third of the members of the House of Representatives [*Wolesi Jirga*].

(3) If two third of the House of Representatives [*Wolesi Jirga*] votes for charges to be brought forth, the House of Representatives [*Wolesi Jirga*] shall convene a Grand Council [*Loya Jirga*] within one month.

(4) If the Grand Council [*Loya Jirga*] approve the accusation by a two-thirds majority of votes the President is then dismissed, and the case is referred to a special court.

(5) The special court is composed of three members of the House of Representatives [*Wolesi Jirga*], and three members of the Supreme Court appointed by the Grand Council [*Loya Jirga*] and the Chair of the Senate [*Meshrano Jirga*].

(6) The lawsuit is conducted by a person appointed by the Grand Council [*Loya Jirga*].

(7) In this situation, the provisions of Article 67 of this Constitution are applied.

#### **Article 70 [Salary]**

(1) The salary and expenditures of the President are regulated by law.

(2) After expiration of his term, the President is entitled to financial benefits of the presidency for the rest of his life in accordance with the law except in the case of dismissal.

### **Chapter IV The Government**

#### **Article 71 [Ministers]**

(1) The government consists of the ministers who work under the Chairmanship of the President.

(2) Ministers are appointed by the President and shall be introduced for approval to the National Assembly.

#### **Article 72 [Qualifications]**

The person who is appointed as the Minister, should have the following qualifications:

-- Must have only the citizenship of Afghanistan. Should a nominee for a ministerial post also hold the citizenship of another country, the House of Representatives [*Wolesi Jirga*] shall have the right to confirm or reject his or her

nomination.

- Should have higher education, work experience and, good reputation.
- His age should not be less than thirty-five.
- Should not have been convicted of crimes against humanity, criminal act, or deprivation of civil rights by a court.

### **Article 73 [Incompatibility]**

(1) The Ministers can be appointed from within and without the National Assembly.

(2) If a member of the National Assembly is appointed as a minister, he loses his membership in the National Assembly, and is replaced by another person in accordance with the provisions of law.

### **Article 74 [Oath of Office]**

Prior to taking office, the minister perform the following oath in the presence of the President:

"In the name of Allah, the merciful and compassionate:

I swear in the name of God Almighty to support the provisions of the sacred religion of Islam, follow the Constitution and other laws of Afghanistan, protect the rights of citizens, and safeguard the independence, territorial integrity and national unity of Afghanistan, and consider God Almighty present in performing all my responsibilities, and honestly perform the duties assigned to me."

### **Article 75 [Duties of the Government]**

The government has the following duties.

- Execute the provision of this Constitution, other laws, and final orders of the courts.
- Protect the independence, defend the territorial integrity, and safeguard the interests and dignity of Afghanistan in the international community.
- Maintenance of public law and order and elimination of administrative corruption.
- Prepare the budget, regulate financial affairs, and protect public wealth.
- Devise and implement programs for social, cultural, economic, and technological progress.
- Report to the National Assembly at the end of the fiscal year about the tasks accomplished and about the main plans for the new fiscal year.
- Perform other duties as recognized by this Constitution and other laws to be duties of the government.

### **Article 76 [Regulations]**

(1) In order to implement the main policies of the country, and regulation of its duties, the government shall devise and approve regulations.

(2) These regulations should not be contradictory to the text and spirit of any law.

### **Article 77 [Heads of Administrative Units]**

(1) As heads of administrative units and members of the government, the



ministers perform their duties within the limits determined by this Constitution and other laws.

(2) The Ministers are responsible to the President and the House of Representatives [*Wolesi Jirga*] for their particular duties.

#### **Article 78 [Impeachment]**

If a Minister is accused of crime against humanity, national treason or criminal act of a crime, the case shall be referred to a special court in accordance with the Article 134 of this constitution.

#### **Article 79 [Emergency Legislation by Decree]**

(1) In cases of recess of the House of Representatives [*Wolesi Jirga*], the government can adopt legislation in an emergency situation on matters other than those related to budget and financial affairs.

(2) The legislative decrees become laws after they are signed by the President.

(3) The legislative decrees should be submitted to the National Assembly in the course of thirty days beginning from the first session of the National Assembly.

(4) In case of rejection by the National Assembly, the legislations become void.

#### **Article 80 [Restrictions]**

The Minister during the course of their work cannot use their posts for linguistic, regional, ethnic, religion and partisan purposes.

### **Chapter V The National Assembly**

#### **Article 81 [National Assembly]**

(1) The National Assembly of the Islamic Republic of Afghanistan as the highest legislative organ is the manifestation of the will of its people and represents the whole nation.

(2) Every member of the National Assembly takes into judgment the general welfare and supreme interests of all people of Afghanistan at the time of casting their vote.

#### **Article 82 [Two Houses]**

(1) The National Assembly consists of two houses: House of Representatives [*Wolesi Jirga*] (the House of People) and Senate [*Meshrano Jirga*]. (House of Elders).

(2) No one can become member of both houses simultaneously.

#### **Article 83 [House of Representatives]**

(1) Members of the House of Representatives [*Wolesi Jirga*] are elected by the people through free, general, secret, and direct elections.

(2) Their mandate ends on the 1st of Saratan of the fifth year after the elections, and the new assembly starts its work.

(3) The election of the members of the House of Representatives [*Wolesi Jirga*] shall be held within 30 to 60 days before the expiry of the term of the House of Representatives [*Wolesi Jirga*].

(4) The number of members of the House of Representatives [*Wolesi Jirga*], proportionate to the population of each region, shall be not more than two hundred and fifty.

(5) Electoral constituency and other related issues shall be determined by election laws.

(6) In the election law measures should be adopted for so the election system shall provide general and just representation for all the people of the country, and at least two female delegate should be elected from each province.

#### **Article 84 [Senate]**

(1) Members of the Senate [*Meshrano Jirga*] are elected and appointed as follows:

(2) From among the members of each provincial council, the respective council elects one person for a period of four years.

(3) From among the district councils of each province, the respective councils elect one person for a period of three years.

(4) The President from among experts and experienced personalities -- including two representatives from the disabled and impaired and two representatives from the Kochis -- appoints the remaining one-third of the members for a period of five years.

(5) The president appoints 50% of these people from among women.

(6) A person, who is appointed as a member of the Senate [*Meshrano Jirga*], shall relinquish his membership in the respective council, and another person replaces him in accordance with the law.

#### **Article 85 [Qualifications]**

(1) A person who is nominated or appointed as a member of the National Assembly should have the following qualifications in addition to those considered by voters.

(2) Should be the citizen of Afghanistan, or has obtained the citizenship of the state of Afghanistan at least ten years before becoming a candidate.

(3) Should not have been convicted by a court for committing a crime against humanity, a crime, or sentenced of deprivation of his civil rights .

(4) Members of House of Representatives [*Wolesi Jirga*] should be Twenty Five years old at the date of candidacy, and members of the Senate [*Meshrano Jirga*] should be Thirty Five years old at the date of candidacy or appointment.

#### **Article 86 [Independent Electoral Commission]**

Credentials of members of the National Assembly are reviewed by the Independent Electoral Commission in accordance with law.

#### **Article 87 [Chairperson]**

(1) In the beginning of the legislative period, each one of the two houses elects

one of its members as the Chairperson, and two people as the first and second Vice Chairperson, and two people as the secretary and assistant secretary for a period of one year.

(2) These individuals constitute the administrative board in their respective houses.

(3) The duties of the administrative boards are determined in the regulations pertaining to the internal duties of each house.

### **Article 88 [Commissions]**

Each house of the National Assembly sets up commissions to study the topics under discussion in accordance with its internal regulations.

### **Article 89 [Special Commission for Inquiry]**

(1) The House of Representatives [*Wolesi Jirga*] has the authority to set up a special commission if one-third of its members put forward a proposal to inquire about and study government actions.

(2) The composition and procedure of this commission shall be specified by the internal regulations of the House of Representatives [*Wolesi Jirga*].

### **Article 90 [Powers of then National Assembly]**

The National Assembly has the following powers:

- Ratification, modification, or abrogation of laws and or legislative decrees.
- Approval of plans for economic, social, cultural, and technological development.
- Approval of state budget, permission for obtaining, and granting loans.
- Creation, modification of administrative units.
- Ratification of international treaties and agreements, or abrogation of the membership of Afghanistan to them.
- Other authorities specified in this Constitution.

### **Article 91 [Powers of the House of Representatives]**

House of Representatives [*Wolesi Jirga*] has the following special powers:

- Deciding on interpellation of each of the ministers in accordance with the provisions of Article 92 of this constitution.
- Taking the final decision about the state's development programs and state budget, in case of a disagreement between the House of Representatives [*Wolesi Jirga*] and the Senate [*Meshrano Jirga*].
- Approval of the appointments according to the provisions of this constitution.

### **Article 92 [Interpellation, Vote of No Confidence]**

(1) House of Representatives [*Wolesi Jirga*], based on a proposal by one-tenth of all members, can interpellate each of the Ministers.

(2) If the responses given are not satisfactory, House of Representatives [*Wolesi Jirga*] shall consider the issue of vote of no confidence.

(3) Vote of no confidence on a Minister should be explicit, direct, and on the basis of well founded reasons.

(4) This vote should be approved by a majority of all members of the House of Representatives [*Wolesi Jirga*].

### **Article 93 [Questioning]**

(1) Any commission of both Houses of the National Assembly can question each of the Ministers about specific topics.

(2) The person questioned can provide verbal or written response.

### **Article 94 [Legislation, Veto, Qualified Vote]**

(1) Law is what both Houses of the National Assembly approve and the President endorses unless this Constitution states otherwise.

(2) In case the President does not agree to what the National Assembly approves, he or she can send the document back with justifiable reasons to the House of Representatives [*Wolesi Jirga*] within fifteen days of its submission.

(3) With the passage of this period or in case the House of Representatives [*Wolesi Jirga*] approves a particular case again with a majority of two-thirds votes, the bill is considered endorsed and enforced.

### **Article 95 [Initiatives]**

Proposal for the promulgation of a law can be initiated by the government, or members of the National Assembly, and in the domain of regulating the judicial affairs through the Supreme Court by the government.

### **Article 96 [Financial Affairs]**

Proposal for budget and financial affairs are initiated only by the government.

### **Article 97 [Form and Procedure]**

(1) Proposals for promulgation of law initiated by the government are submitted first to the House of Representatives [*Wolesi Jirga*].

(2) If a proposal for the promulgation of law includes imposition of new taxes or reduction in state incomes, it is included in the working agenda on condition that an alternative source is also envisioned.

(3) The House of Representatives [*Wolesi Jirga*] approves or rejects the proposal of the promulgation of law including budget and financial affairs and the proposal of taking or giving loan after discussion as a whole.

(4) The House of Representatives [*Wolesi Jirga*] cannot delay the proposal more than one month.

(5) The proposed draft of law is submitted to the Senate [*Meshrano Jirga*], after its approval by the House of Representatives [*Wolesi Jirga*].

(6) The Senate [*Meshrano Jirga*] decides on the draft within a period of fifteen days

(7) The National Assembly shall give priority to the promulgation of laws, treaties, and development plans of the government that require argent consideration and decision as per the request of the government.

(8) If a proposal for promulgation of law is initiated by ten members of one of the two Houses and then approved by one fifth members of the respective houses, it

can be admitted to the agenda of the respective houses.

### **Article 98 [Budget]**

- (1) The state budget and development plan of the government is submitted through the Senate [*Meshrano Jirga*] along with an advisory comments to the House of Representatives [*Wolesi Jirga*].
- (2) The decision of the House of Representatives [*Wolesi Jirga*], irrespective of the consent of the Senate [*Meshrano Jirga*], is enforceable after it is signed by the President.
- (3) If for some reasons the budget is not approved before the beginning of the new fiscal year, the budget of the year before is applied until the approval of the new budget.
- (4) The government is obligated to give to the House of Representatives [*Wolesi Jirga*] the budget of the new fiscal year and a brief account of the current year's budget within the forth quarter of the fiscal year.
- (5) The definite account of the previous fiscal year shall be submitted by the government to the House of Representatives [*Wolesi Jirga*] within six months of the new year, in accordance with the provisions of law
- (6) House of Representatives [*Wolesi Jirga*] cannot delay the approval of the budget for more than one month or permission to give or take loan for more than a 15 days.
- (7) If during this period House of Representatives [*Wolesi Jirga*] does not take any decision with regards to taking or giving loan, the proposal will be considered as approved.

### **Article 99 [Budget Debate]**

If, during a session of the National Assembly, the annual budget or a developmental plan or an issue related to public security, territorial integrity, and the country's independence is under discussion, the session of the assembly cannot end before the approval of the matter.

### **Article 100 [Combined Committee]**

- (1) In case the decision of one house is rejected by another house, a combined committee composed of equal members of each house is formed to resolve the disagreement.
- (2) The decision of the committee is enforced after its approval by the President.
- (3) In case the combined committee cannot solve the disagreement, the defeated resolution is considered void. And, if the resolution is approved by the House of Representatives [*Wolesi Jirga*], it can be approved in the next session of the House of Representatives [*Wolesi Jirga*] by the majority of its members.
- (4) This approval is assumed as enforceable, after it is signed by the President, without submission to the Senate [*Meshrano Jirga*].
- (5) In case the disagreement between the two houses is over legislations involving financial affairs, and the combined committee is not able to resolve it, the House of Representatives [*Wolesi Jirga*] can approve the draft by the majority vote of its members.

(6) This draft is assumed as enforceable without submission to the Senate [*Meshrano Jirga*] after it is signed by the President.

#### **Article 101 [Indemnity]**

No member of the National Assembly is legally prosecuted due to expressing his views while performing his duty.

#### **Article 102 [Immunity]**

(1) When a member of the National Assembly is accused of a crime, the law enforcement authority informs the house, of which the accused is member, about the case, and the accused member can be prosecuted.

(2) In case of an evident crime, the law enforcement authority can legally pursue and arrest the accused without the permission of the house, which the accused is a member of.

(3) In both cases, when legal prosecution requires detention of the accused, law enforcement authorities are obligated to inform the respective house, about the case immediately.

(4) If the accusation takes place when the assembly is in recess, the permission of arrest is obtained from the administrative board of the respective house and the decision of this board is presented to the first session of the aforementioned house for a decision.

#### **Article 103 [Ministerial Participation]**

(1) The ministers can participate in the sessions of each one of the two houses of the National Assembly.

(2) Each house of the National Assembly can demand the participation of Ministers to take part in its session.

#### **Article 104 [Sessions]**

(1) Both houses of the National Assembly hold their sessions separately at the same time.

(2) Under the following circumstances, both houses can hold joint sessions:

-- When the legislative session, or the annual session is inaugurated by the President.

-- When it is deemed necessary by the President.

(3) In this case the head of the House of Representatives [*Wolesi Jirga*], chairs the joint session of the National Assembly.

#### **Article 105 [Publicity]**

(1) The sessions of the National Assembly are open unless the Chairman of the assembly, or at least ten members of the National Assembly request their secrecy and the assembly accepts this request.

(2) No one shall enter the building of the National Assembly by force.

#### **Article 106 [Quorum]**

The quorum for sessions of each house of the National Assembly is a majority of

its members, and its decisions are taken by majority of the members present, unless this Constitution states otherwise.

#### **Article 107 [Ordinary and Extraordinary Sessions]**

- (1) The National Assembly convenes two ordinary sessions each year.
- (2) The term of the National Assembly in each year is nine months.
- (3) When necessary, the assembly can extend this period.
- (4) Extraordinary sessions of the assembly during recess can take place by the order of the President.

#### **Article 108 [Death, Resignation, Dismissal]**

- (1) In cases of death, resignation or dismissal of a member of the House of Representatives [*Wolesi Jirga*], and/or disability or handicap, which prevents performance of duties permanently, election in the related constituency is held for a new representative for the rest of the legislative period, in accordance with the law.
- (2) In the above-mentioned situations, a new member of the Senate [*Meshrano Jirga*] shall be appointed in accordance with Article 87 of this Constitution.
- (3) Matters involving the presence or absence of members of the National Assembly are regulated according to internal rules.

#### **Article 109 [Amendments of the Electoral Law]**

Proposals for amendments of the electoral law cannot be included in the working agenda of the assembly during the last year of the legislative period.

### **Chapter VI Grand Council [*Loya Jirga*]**

#### **Article 110 [Composition, Participation]**

- (1) Grand Council [*Loya Jirga*] is the highest manifestation of the people of Afghanistan.
- (2) Grand Council [*Loya Jirga*] consists of the following:
  - Members of the National Assembly.
  - Chairpersons of the provincial, and district councils.
- (3) The ministers, Chief Justice and members of the Supreme Court, can participate in the sessions of the Grand Council [*Loya Jirga*] without the right to vote.

#### **Article 111 [Powers]**

Grand Council [*Loya Jirga*] is convened in the following situations:

- To take decision on the issues related to independence, national sovereignty, territorial integrity, and supreme interests of the country.
- To amend the provisions of this Constitution.
- To prosecute the President in accordance with the provisions of Article 69 of this Constitution.

**Article 112 [Chairperson]**

The Grand Council [*Loya Jirga*] in its first session elects from among its members a chairperson, a deputy-chair, and a secretary and an assistant secretary.

**Article 113 [Quorum]**

- (1) The quorum of the Grand Council [*Loya Jirga*] for voting is completed by the majority of members.
- (2) The decisions of the Grand Council [*Loya Jirga*] are taken by a majority of the present members except in cases as explicitly stated in this Constitution.

**Article 114 [Publicity]**

Discussions of the Grand Council [*Loya Jirga*] are open except when one-fourth of its members demand their secrecy, and the Grand Council [*Loya Jirga*] accepts this demand.

**Article 115 [Indemnity and Immunity]**

During the session of a Grand Council [*Loya Jirga*], the provision of Articles 101 and 102 of this Constitution are applied on its members.

**Chapter VII The Judiciary****Article 116 [Independence]**

- (1) The judicial branch is an independent organ of the state of the Islamic Republic of Afghanistan.
- (2) The judicial branch consists of the Supreme Court (*Stera Mahkama*), High Courts, Appeal Courts. Structure of authorities of which are determined by law.
- (3) The Supreme Court as the highest judicial organ, heads the judiciary organ of the Islamic Republic of Afghanistan.

**Article 117 [Supreme Court]**

- (1) The Supreme Court is composed of nine members who are appointed by the President for a period of ten years with the approval of the House of Representatives [*Wolesi Jirga*] with observance of the provisions of last paragraph of the Article 50 and Article 118 of this Constitution. In the beginning the appointment will be as such:
  - (2) Three members are appointed for a period of four years, three members for seven years and three members for ten years. Later appointments will be for a period of ten years.
  - (3) The appointment of the members for the second term is not permissible.
  - (4) The President appoints one of its members as the Head of the Supreme Court.
  - (5) Members in no way can be dismissed from their service until the end of their term, except circumstances stated in Article 127 of this Constitution.



### **Article 118 [Qualifications for the Supreme Court]**

A member of the Supreme Court shall have the following qualifications:

- The age of the Head of the Supreme Court and its members should not be lower than forty at the time of appointment
- Shall be a citizen of Afghanistan.
- Shall have a higher education in law or in Islamic jurisprudence, and shall have sufficient expertise and experience in the judicial system of Afghanistan.
- Shall have high ethical standards and a reputation of good deeds.
- Shall not have been convicted of crimes against humanity, crimes, and sentenced of deprivation of his civil rights by a court.
- Shall not be a member of any political party during the term of official duty.

### **Article 119 [Oath of Office for the Supreme Court]**

Members of the Supreme Court take the following oath in the presence of the President before occupying the post:

*"In the name Allah, the Merciful and the Compassionate  
I swear in the name of God Almighty to support justice and righteousness in  
accord with the provisions of the sacred religion of Islam and the provisions of  
this Constitution and other laws of Afghanistan, and to execute the duty of being  
a judge with utmost honesty, righteousness and nonpartisanship."*

### **Article 120 [Duty to Decide]**

The authority of the judicial organ is to attend to all lawsuits in which real individuals or incorporeal including the state stand before it as plaintiff or defendant and in its presence is expressed in accord with provisions of the law.

### **Article 121 [Judicial Review]**

The Supreme Court upon request of the Government or the Courts can review compliance with the Constitution of laws, legislative decrees, international treaties, and international conventions, and interpret them, in accordance with the law.

### **Article 122 [Guaranteed Jurisdiction]**

- (1) No law, under any circumstance, can transfer a case from the jurisdiction of the judicial branch to another organ as has been determined in this Constitution.
- (2) This provision does not apply to establishing special Courts stated in Articles 69, 78 and 127 of this Constitution and military courts in matters relating to them.
- (3) The structure and authority of these courts are regulated by law.

### **Article 123 [Judiciary]**

With observance of the provisions of this Constitution, the rules related to the structure, authority, and performances of the courts, and the duties of judges are regulated by law.

### **Article 124 [Judicial Administration]**

Other officials and administrative personnel of the judicial branch are subject to the provisions of the laws related to the officials and other administrative personnel of the state, but their appointment, dismissal, promotion, pension, rewards and punishments are regulated by the Supreme Court in accordance with the law.

#### **Article 125 [Judicial Budget]**

(1) The budget of the judicial branch is arranged in consultation with the government by the Supreme Court and presented to the National Assembly by the government as part of the state budget.

(2) Implementation of the budget of the judicial branch is the authority of the Supreme Court.

#### **Article 126 [Remuneration of the Supreme Court]**

Members of the Supreme Court enjoy official financial benefits for the rest of their lives provided they do not occupy state and political positions.

#### **Article 127 [Judicial Impeachment]**

(1) When more than one-third of the members of the House of Representatives [*Wolesi Jirga*] demand the trial of the Chief Justice, or a member of the Supreme Court due to a crime committed during the performance of duty, and the House of Representatives [*Wolesi Jirga*] approves of this demand by a majority of two-thirds votes, the accused is dismissed from his post and the case is referred to a special court.

(2) The setting up of the court and the procedures of trial are regulated by law.

#### **Article 128 [Publicity of Courts]**

(1) In the courts of Afghanistan, trials are open and everyone is entitled to attend trials within the bounds of law.

(2) The court, in situations which are stated in the law or in situations in which the secrecy of the trial is deemed necessary, can conduct the trial behind closed doors, but the announcement of the court decision should be open in all instances.

#### **Article 129 [Legal Reasoning, Capital Punishment]**

(1) The court is obliged to state the reasons for the decision it issues.

(2) All specific decisions of the courts are enforceable, except for capital punishment, which is conditional upon approval of the President.

#### **Article 130 [Judicial Discretion]**

(1) While processing the cases, the courts apply the provisions of this Constitution and other laws.

(2) When there is no provision in the Constitution or other laws regarding ruling on an issue, the courts' decisions shall be within the limits of this Constitution in accord with the *Hanafi* jurisprudence and in a way to serve justice in the best possible manner.

**Article 131 [Shia Law for Shia Followers]**

(1) Courts shall apply *Shia* school of law in cases dealing with personal matters involving the followers of *Shia* Sect in accordance with the provisions of law.

(2) In other cases if no clarification by this constitution and other laws exist and both sides of the case are followers of the *Shia* Sect, courts will resolve the matter according to laws of this Sect.

**Article 132 [Appointment of Judges]**

(1) Judges are appointed with the recommendation of the Supreme Court and approval of the President.

(2) The appointment, transfer, promotion, punishment, and proposals to retire judges are within the authority of the Supreme Court in accordance with the law.

(3) The Supreme Court shall establish the General Administration Office of the Judicial Power for the purpose of better arrangement of the administration and judicial affairs and insuring the required improvements.

**Article 133 [Prosecution of Judges]**

(1) When a judge is accused of having committed a crime, the Supreme Court shall inquire about the case involving the judge in accordance with the law.

(2) After listening to his defense, when the Supreme Court regards the accusation to be valid, it shall present a proposal about the judge's dismissal to the President.

(3) After the Presidential approval, the accused judge is dismissed from duty, and punished in accordance with the provisions of the law.

**Article 134 [Attorney's Office]**

(1) Discovery of crimes is the duty of the police and investigation and prosecution are conducted by the Attorney's Office in accordance with the provisions of the law.

(2) The Attorney's Office is part the Executive branch, and is independent in its performances.

(3) The structure, authority, and activities of the Attorney's Office are regulated by law.

(4) Discovery and investigation of crimes related to the armed forces are regulated by a special law.

**Article 135 [Trial Language]**

If parties involved in a case do not know the language in which the trial is conducted, they have the right to understand the material and documents related to the case through an interpreter and the right to speak in their mother language in the court.

**Chapter VIII The Administration**

**Article 136 [Principles]**

- (1) The Administration of Islamic Republic of Afghanistan shall be based on central and local administrative units in accordance with the law.
- (2) The central administration is divided into a number of administrative units, each of which shall be headed by a minister.
- (3) The local administrative unit is a province.
- (4) The number, area, parts, and structures of the provinces and the related administrations are regulated by law on the basis of population, social and economic conditions, and geographic location.

**Article 137 [Decentralization]**

The government, while preserving the principle of centralism, shall -- in accordance with the law -- delegate certain authorities to local administration units for the purpose of expediting and promoting economic, social, and cultural affairs, and increasing the participation of people in the development of the nation.

**Article 138 [Provincial Council]**

- (1) In every province a provincial council is to be formed.
- (2) Members of the provincial council are elected in proportion to the population by free, direct, secret ballot, and general elections by the residents of the province for a period of four years in accordance with the law.
- (3) The provincial council elects one of its members as Chairman.

**Article 139 [Development Targets]**

- (1) The provincial council takes part in securing the developmental targets of the state and improving its affairs in a way stated in the law, and gives advice on important issues falling within the domain of the province.
- (2) Provincial councils perform their duties in cooperation with the provincial administration.

**Article 140 [District and Village Councils]**

- (1) In order to organize activities involving people and provide them with the opportunity to actively participate in the local administration, councils are set up in districts and villages in accordance with the provisions of the law.
- (2) Members of these councils are elected by the local people through, free, general, secret and direct elections for a period of three years.
- (3) The participation of nomads in these councils is regulated by law.

**Article 141 [Municipalities]**

- (1) Municipalities shall be set up in order to administer city affairs.
- (2) The mayor and members of the municipal councils are elected by free, general, secret, and direct elections.
- (3) The affairs related to municipalities are regulated by law.

### **Article 142 [Administrative Departments]**

For the purpose of the implementation of the provisions, and ensuring the values of this constitution, the state shall establish the required departments.

## **Chapter IX The State of Emergency**

### **Article 143 [Declaration]**

(1) If due to war, threat of war, serious rebellion, natural disasters, or situations similar to these protecting the independence or nation's survival becomes impossible by following the provision of this Constitution, the President in confirmation of National Assembly shall declare a state of emergency in some or all parts of the country.

(2) If the state of emergency continues for more than two months, the agreement of National Assembly is required for its extension.

### **Article 144 [Government Authority]**

During the state of emergency, the President, with the consultations of heads of the National Assembly, and Chief Justice can transfer some authorities of the National Assembly to the government.

### **Article 145 [Suspended Provisions]**

During the state of emergency, the President with the consent of the heads of the National Assembly and the Supreme Court, can suspend the validity of the following Articles or can place restrictions on them:

1. Paragraph two of Article 27.
2. Article 36.
3. Paragraph two of Article 37.
4. Paragraph two of Article 38.

### **Article 146 [Prohibition of Constitutional Amendments]**

During the state of emergency, the Constitution cannot be amended.

### **Article 147 [Extended Terms of Office]**

(1) If the Presidential term of office, and or the legislative period expire during a state of emergency, the new elections shall be postponed, and the presidency, and the legislative period shall be extended for up to four months.

(2) If the state of emergency continues for more than four months, a Grand Council [*Loya Jirga*] shall be called by the President for further decisions.

(3) Following the termination of state of emergency, election would be held within two months

### **Article 148 [Invalidation of Emergency Measures]**

After the end of the state of emergency, the measures adopted on the basis of

Articles 144 and 145 of this Constitution shall be considered invalid immediately.

## **Chapter X Amendments**

### **Article 149 [Islam, Fundamental Rights]**

(1) The provisions of adherence to the fundamentals of the sacred religion of Islam and the regime of the Islamic Republic cannot be amended.

(2) The amendment of the fundamental rights of the people are permitted only in order to make them more effective.

(3) Considering new experiences and requirements of the time, other contents of this Constitution can be amended by the proposal of the President or by the majority of the National Assembly in accordance with the provisions of Article 67 and 146 of this constitution.

### **Article 150 [Drafting Commission, Grand Council]**

(1) In order to implement proposals regarding the amendment of the Constitution, a Commission composed of members of the Government, National Assembly, and the Supreme Court, shall be established by a Presidential decree, and the commission shall prepare a draft of the amendments.

(2) For approval of the amendments, a Grand Council [*Loya Jirga*] shall be convened by the decree of the President in accordance with the provisions of the Chapter on the Loya Jirga.

(3) When the Grand Council [*Loya Jirga*] approves an amendment by a majority of two-thirds of its members, it shall be enforced after endorsement by the President.

## **Chapter XI Miscellaneous Provisions**

### **Article 151 [Economic Incompatibility]**

(1) The President, Vice Presidents, Ministers, Head and members of the Supreme Court, Head of the Central Bank, National Security Directorate, Governors and Mayors cannot engage in any profitable business contracts with the government or individuals during their term of office.

(2) Contracts for the purpose of fulfilling personal needs are exception to this provision.

### **Article 152 [Official Incompatibility]**

The President, Vice President, ministers, heads and members of the National Assembly, the Supreme Court, and judges, cannot undertake other jobs during their terms of office.

### **Article 153 [Party Incompatibility]**

Judges, Attorneys, and Officers of the Armed Forces and Police, and members of the National Security, cannot be members of political parties during their terms of office.

**Article 154 [Economic Transparency]**

Property of the President, Vice Presidents, ministers, members of the Supreme Court and the Attorney General before and after their term of office would be registered and monitored by an organ to be set by law.

**Article 155 [Salaries and Remuneration]**

For the ministers, members of the National Assembly, the Supreme Court, Attorney General and judges, appropriate salaries shall be paid in accordance with the provisions of law.

**Article 156 [Election and Referendum]**

The Independent Electoral Commission will be established to organise and supervise any election and to hold a referendum within the country based on the provisions of the law.

**Article 157 [Implementation of the Constitution]**

The Independent Commission for the Supervision of the Implementation of the Constitution will be established by law. Members of this Commission will be appointed by the President.

## **Chapter XII Transitional Provisions**

**Article 158 [Father of the Nation]**

The Title of the Father of the Nation and the privileges granted by the Emergency Grand Council [*Loya Jirga*] of 1381 (2002) to His Majesty *Mohammad Zahir* Former King of Afghanistan are preserved for him during his lifetime, in accordance with the provisions of this constitution.

**Article 159 [Transitional Period]**

(1) The period, following the adoption of this Constitution, until the date of inauguration of the National Assembly, is deemed as a transitional period.

(2) During the transitional period, the Islamic Transitional State of Afghanistan shall carry out the following tasks:

- Issue decrees related to the election of the President, National Assembly and local councils within six months.
- Issue decrees regarding the structure and authorities of the courts and basic administration structures within one year.
- Establish an Independent Electoral Commission.
- Implement the reform of the executive and judiciary.
- Adopt necessary measures for preparing the ground for enforcement of the

provisions of this Constitution.

#### **Article 160 [Presidential Election]**

(1) The first elected President takes up his or her duties within thirty days after the result of the election has been proclaimed, in accordance with this constitution.

(2) Every effort shall be made to hold the first presidential election and the parliamentary election at the same time.

(3) Until the establishment of the National Assembly, the powers of the National Assembly outlined in this constitution shall be held by the Government. The interim Supreme Court shall be established by Presidential Decree.

#### **Article 161 [Establishing Institutions]**

(1) The National Assembly shall exercise its powers immediately after its establishment in accordance with this constitution.

(2) The Government, and the Supreme Court shall be established within thirty days after the first session of the House of Representatives [*Wolesi Jirga*] is taken place.

(3) The President of the Transitional Islamic State of Afghanistan shall continue his duties until the elected President has taken up office.

(4) The executive and judicial organs of the State in accordance with provisions of paragraph 3 of Article 157 of this constitution shall continue their duties, until the formation of the Government and the Supreme Court.

(5) The decrees enforced from the beginning of the interim period, shall be submitted to the first session of the National Assembly. These decrees are enforceable until annulment by the National Assembly.

#### **Article 162 [Entry Into Force]**

(1) This constitution enters into force upon its approval by the Grand Council [*Loya Jirga*], and will be signed and proclaimed by the President of the Transitional Islamic State of Afghanistan.

(2) Upon its enforcement, laws and decrees contrary to the provisions of this constitution are void.