

THE CONSTITUTION OF AFGHANISTAN 1987

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DECREE ON THE SIGNING AND PROCLAMATION OF THE CONSTITUTION OF THE REPUBLIC OF AFGHANISTAN

The Loya Jirga (Grand Assembly) of 8 and 9 Qaus 1366 (29/30 November 1987) which was held in the city of Kabul adopted the Constitution of the Republic of Afghanistan as the most significant national legal instrument in thirteen chapters and one hundred forty nine articles. In conformity with the authority bestowed upon the Constitution of the Republic of Afghanistan which has entered into force on the day of adoption, I hereby sign and proclaim the Constitution of the Republic of Afghanistan for ensuring peace and tranquility, full implementation of the policy of national reconciliation, prosperity of the people and progress of beloved Afghanistan.

Dr Najibullah, President of the Republic of Afghanistan

In the name of Allah, the beneficent, the merciful,

Our beloved homeland Afghanistan has a prideful history enriched with the heroic struggles of our courageous people for freedom, independence, national sovereignty, democracy and social progress. The developments which have taken place in the course of recent years have provided favorable

conditions for attaining the lofty objectives of the progress of the homeland and prosperity of the people. In the present stage, the people's democratic party of Afghanistan, as the initiator and coordinator of the policy of national reconciliation, actively carries forward together with other political, national and democratic forces this humanitarian policy.

Therefore, in order to: consolidate the independence, national sovereignty and defend the territorial integrity of the country; achieve reconciliation and strengthen national unity keeping in view the objective realities, the best traditions and customs of the people; ensure social justice and equality; develop national economy and raise the living standards of the people; raise the role and prestige of our beloved homeland Afghanistan in the international arena;

We, the representatives of the people of Afghanistan in the Loya Jirga, conscious of the historic changes that have taken place in our homeland and in the contemporary world, following the tenets of the sacred religion of Islam, preserving and enriching the heritage of the constitutional movement of the country, respecting the 'United Nations' charter and the Universal Declaration of Human Rights, endorse this Constitution as the most important national legal instrument on 9.9.66 (29/30 November 1987) in 13 chapters and 149 articles.

CHAPTER ONE FOUNDATIONS OF THE POLITICAL SYSTEM

Art. 1 – The republic of Afghanistan is an independent unitary and indivisible state having sovereignty over the whole of its territory. The national sovereignty in the Republic of Afghanistan rests with the people. The people exercise national sovereignty through Loya Jirga, national assembly and local councils.

Art. 2 – The sacred religion of Islam is the religion of Afghanistan. In the Republic of Afghanistan no law shall run counter to the principles of the sacred religion of Islam and other values enshrined in this constitution.

Art. 3 – The Republic of Afghanistan is a non aligned country which does not join any military bloc and does not allow establishment of foreign military bases on its territory.

Art. 4 – The defense of independence, national sovereignty and territorial integrity is one of the fundamental duties of the state. The state ensures the security and defense capability of the country and equips the armed forces.

Art. 5 – In the republic Afghanistan, political parties are allowed to be formed, provided their programs, rules and activities are not opposed to the provisions of this constitution and the laws of the country. A party formed in accordance with the provisions of the law cannot be dissolved without legal cause.

Art. 6 – The national front of the Republic of Afghanistan, as the broadest, socio-political organization, unites political parties, social organizations and individual members enrolled in their ranks for ensuring their active participation in the social, political and civic spheres on the basis of a common program.

Art. 7 – Trade unions and social organizations are allowed to be formed in the Republic of Afghanistan in accordance with the law. The state assists in promoting the role of trade unions, peasants' cooperatives, youth, women's and other social organizations in all spheres of social, political, economic and cultural life of the country and ensures the cooperation and mutual relations of state organs with them.

Art. 8 – Pashtu and Dari are official languages among the national languages of the country.

Art. 9 – The state emblem of the republic of Afghanistan consists of a rising sun, adytum and pulpit with a green background, ensconced in two sheaves of wheat, a wheel and with a tricolor ribbon in black, red and green.

Art. 10 – The state flag of the Republic of Afghanistan is a tricolor divided into three horizontal equal parts in black, red and green stripes; the emblem shall be, placed on both sides of the upper quarter of the flag close to the mast. The length of the flag shall be double its width.

Art. 11 – The capital of the Republic of Afghanistan is Kabul.

Art. 12 – The national anthem of the Republic of Afghanistan shall be approved by the house of representatives.

CHAPTER TWO FOUNDATIONS OF THE SOCIO-ECONOMIC SYSTEM

Art. 13 – The Republic of Afghanistan is a multi-national country. The state shall follow the policy of all round growth, understanding, friendship and cooperation between all nationalities, clans and tribes of the country for ensuring political, economic, social and cultural equality and rapid growth and development of regions which are socially, economically and culturally backward. The state shall gradually prepare the grounds for the creation of administrative units based on national characteristics.

Art. 14 – The state shall adopt necessary measures for the growth of culture, language and literature of the people of Afghanistan as well as preserve and develop the worthy cultural, traditional, linguistic, literary and folkloric legacy of all nationalities, clans and tribes.

Art. 15 – In the Republic of Afghanistan family constitutes the basic unit of the society. The state shall adopt necessary measures for ensuring the health of mother and child and for the upbringing of children.

Art. 16 – The state permanently takes care of the young generation and provides necessary opportunities for their education, employment, recreation, rest, spiritual and physical growth and shall help the blossoming of the talents of the youth.

Art. 17 – The state shall promote construction to provide state and cooperative housing and help in the construction of private houses.

Art. 18 – The state shall implement the economic policy aimed at mobilization and utilization of the country's resources for removing backwardness, raising the living standards of the people and

development of socio-economic structure of the society. Towards this end, the state shall formulate and put into practice socio-economic development plans.

Art. 19 – In the Republic of Afghanistan, state, mixed, cooperative, religious trust, and private property as well as properties of political and social organizations exist. The state protects all forms of lawful properties.

Art. 20 – Mineral resources, forests, pastures and other national wealth, basic energy resources, historic relics, banks, insurance institutions, means of communication, radio, television, major dams, ports, main means of production in heavy industry, transport ways and air transport shall be state property. The state shall develop and strengthen the state sector of the economy.

Art. 21 – The state shall assist strengthening and expansion of cooperatives and shall encourage the voluntary participation of the people to this end.

Art. 22 – The state encourages and protects the activity of individual craftsmen and their voluntary participation in trade unions and cooperatives and renders around assistance for upgrading their professional skill, ensuring means of labor and the supply of raw materials to them and sale of their output.

Art. 23 – The state guarantees the right of ownership of land of the peasants and other land owners in accordance with the law. The state shall adopt necessary measures for the realization of democratic changes in agriculture keeping in view the interests of peasants and other land owners. The state encourages the establishment of big agricultural and mechanized state, mixed and private farms and helps the reclamation of virgin lands.

Art. 24 – The state guarantees by law the use of pastures by nomads and livestock breeders. The state shall assist in the creation of favorable conditions for the growth of animal husbandry, sale of livestock products and improvement of economic, social and living standards of nomads and livestock breeders.

Art. 25 – The state shall guarantee the security of private investment for the growth of national economy and protect and encourage the participation of national capital holders in the development of industry, commerce, construction, transport agriculture and services in accordance with the law. The state shall expand around and beneficial relations with private entrepreneurs and protect the private sector against the competition of foreign capital. The state shall take into account the interests of private sector, in accordance with law, while working out the financial, credit, customs and price policies.

Art. 26 – In the republic of Afghanistan domestic and foreign trade are regulated by the state, observing the people's interests. Towards this end, the state encourages the activity of national capital holders in the expansion of export and import of goods and development of wholesale and retail trade, and, undertakes the fixing and controlling of prices. The state shall encourage the augmentation of production and raising of the quality of export goods and protects them against the competition of foreign capital and monopolies.

Art. 27 – For the growth of the national economy, the state permits foreign investment in the Republic of Afghanistan and regulates it in accordance with the law.

Art. 28 – In the Republic of Afghanistan, no foreign citizen shall enjoy the right to own real estate subject to the approval of the Government, real estate may be sold to diplomatic missions and foreign governments on a reciprocal basis and also to international organizations in which the Republic of Afghanistan is a member.

Art. 29 – The hereditary right to property shall be guaranteed by law on the basis of Islamic Shariat.

Art. 30 – Expropriation is allowed only in public interest and against just and prior compensation in accordance with the law. Confiscation of property is not allowed without the sanction of the law and the ruling of a court.

Art. 31 – In the Republic of Afghanistan, the criteria, rates and types of taxes and duties shall be determined on the basis of law and social justice.

Art. 32 – The state shall adopt and implement necessary measures for the protection of nature, natural wealth and reasonable utilization of natural resources, improvement of living environment, prevention of pollution of water and air, and conservation and survival of animals and plants.

CHAPTER THREE CITIZENSHIP, BASIC RIGHTS, FREEDOMS AND DUTIES OF CITIZENS

Art. 33 – The citizenship of the Republic of Afghanistan is equal and uniform to all citizens. Acquisition and loss of citizenship and other matters related to it are regulated by law. Every individual having citizenship of the Republic of Afghanistan in accordance with the law shall be called an afghan.

Art. 34 – No citizens of the Republic of Afghanistan shall be exiled inside or outside the country.

Art. 35 – No citizen of the Republic of Afghanistan shall be extradited, to a foreign state.

Art. 36 – The citizens of the Republic of Afghanistan living abroad enjoy the protection of the state. The state shall defend their rights and legal interests, strengthen the relations of afghans living abroad with the country, and help their return to the homeland.

Art. 37 – The Republic of Afghanistan guarantees, according to the law, the rights and freedoms of foreign citizens and individuals residing in Afghanistan without citizenship. They are bound to obey the constitution and other laws of the Republic of Afghanistan.

Art. 38 – Citizens of the Republic of Afghanistan, both men and women have equal rights and duties before the law, irrespective of their national, racial, linguistic, tribal educational and social status, religious creed political conviction, occupation, kinship, wealth, and residence. Designation of any illegal privilege or discrimination against rights and duties of citizens are forbidden.

Art. 39 – The right to life is the natural right of every human being. No person shall be deprived of this right unless by law.

Art. 40 – In the Republic of Afghanistan, the freedom to perform religious rites is guaranteed to all Muslims. Followers of other religions are free to perform their religious rites. No individual has the right to abuse religion for anti-national and anti-people propaganda purposes creation of enmity and commission of other deeds contrary to the interests of the Republic of Afghanistan.

Art. 41 – Liberty is the natural right of every human being. This right is unlimited, except in so far as it harms the freedom of others and public interests as defined by law. Liberty and human dignity are inviolable and the state respects and protects them. Innocence is the original state and the accused is presumed innocent unless found guilty by a final verdict of a court of law. No act is considered a crime, except as prescribed by law. No person shall be accused of committing a crime unless in accordance with the provisions of the law. No person can be arrested or detained, except in accordance with the law. No person can be punished unless by a verdict of a court in accordance with the provisions of law and in proportion to the crime committed. Crime is a personal deed; no other person shall be punished for its commission. The accused has the right to defend himself personally or through an advocate.

Art. 42 – In the Republic of Afghanistan punishment incompatible with human dignity; torture and excruciation are prohibited. Obtaining confession, testimony or statement from an accused or any other person by compulsion or threat is prohibited. Statements or testimony taken from an accused or other person by means of compulsion shall not be valid. A public servant who tortures an accused or any other person for obtaining statements, testimony or confession, or who issues orders for torture, shall be punished in accordance with the law. Acting on the orders of superiors in the commission of unlawful deeds cannot be the ground for the plea of innocence.

Art. 43 – Indebtedness cannot be the cause of deprivation of a person's liberty. The ways and means of recovering debts shall be regulated by the law.

Art. 44 – In the Republic of Afghanistan, the inviolability of residence is guaranteed. No person, including a state representative can enter or search a residence without the permission of the resident and except in circumstances and under procedures prescribed by the law.

Art. 45 – In the Republic of Afghanistan, confidentiality of correspondence, telephone conversations, telegrams and other communications is guaranteed. No one, including a state representative, shall intercept telephone conversations, telegraphic communications and other communications except under the provisions of the law.

Art. 46 – Citizens of the Republic of Afghanistan who suffer in the performance of their duties unlawful damage by state organs, social organizations and responsible officials are entitled to compensation, conditions and procedures of which shall be regulated by law.

Art. 47 – Citizens of the Republic of Afghanistan are entitled to take part in socio-political life and the administration of the state, directly or through their representatives.

Art. 48 – Citizens of the Republic of Afghanistan have the right to elect or be elected. Conditions and procedures of exercising this right shall be regulated by law.

Art. 49 – Citizens of the Republic of Afghanistan enjoy the right of freedom of thought and expression. Citizens can exercise this right openly, in speech and in writing, in accordance with the provisions of the law. Pre censorship of the press is not allowed.

Art. 50 – Citizens of the Republic of Afghanistan have the right to assembly, peaceful demonstration and strike, in accordance with the provisions of the law.

Art. 51 – Citizens of the Republic of Afghanistan enjoy the right to petition, criticize and make suggestions, either individually or collectively. State organs, social organizations and responsible officials are bound to consider the petitions, criticisms and proposals and take necessary actions in regard to them within the time prescribed by law. Prosecution for criticism is forbidden.

Art. 52 – Citizens of the Republic of Afghanistan have the right to work and are entitled to equal pay for equal work. The state, through enactment and application of just and progressive labour laws, shall provide necessary conditions for the citizens to enjoy this right.

Art. 53 – Imposition of forced labour is forbidden. Performance of compulsory labour in war time, natural calamity and other states of emergency which threaten public life and welfare shall be excluded from this.

Art. 54 – Citizens of the Republic of Afghanistan, subject to the needs of the society and on the basis of the field of expertise, have the right to hold state posts and choose their occupation.

Art. 55 – Citizens of the Republic of Afghanistan have the right to rest. The state defines the working hours and the periodic holidays with salary and the specifications of work during holidays, festivals, eids and shall provide conditions for rest, growth of cultural, artistic establishments, physical training, sports and healthy recreation.

Art. 56 – Citizens of the Republic of Afghanistan have the right to free education. The state shall adopt necessary measures for eradication of illiteracy, generalization of balanced education, in mother tongue, ensuring compulsory primary education, gradual expansion of general, intermediate, technical and vocational education, and growth of the system of higher education for training national cadres. In the Republic of Afghanistan foreign nationals are allowed to establish schools in accordance with the provisions of the law. These schools shall be based of the foreigners only.

Art. 57 – Citizens of the Republic of Afghanistan have the right to health and social security. The state shall adopt necessary measures for expansion of all-round, balanced and nation wide medical services, expansion of hospitals, health centres, training of doctors and personnel for medical services, universal prevention of diseases, expansion of free health services, arrangement and encouragement of private medical services, improvement of material welfare of the elderly, war and work disabled and dependents of martyrs.

Art. 58 – Citizens of the Republic of Afghanistan have the right to scientific, technical and artistic activities. The state ensures systematic progress of science and training of scientific cadres, protects the rights of authors and inventors, encourages and protects scientific research in all spheres and generalizes the effective use of the results of scientific research.

Art. 59 – Citizens of the Republic of Afghanistan have the right to travel and free choice of domicile and residence in the country. The state is authorized to ban temporarily travel, settlement and residence in particular areas of the country for the purposes of maintaining security and public order, prevention of epidemic diseases and protection of the rights and liberties of individuals.

Art. 60 – Citizens of the Republic of Afghanistan enjoy according to law the right to travel abroad and return home.

Art. 61 – Every citizen of the Republic of Afghanistan is bound to observe the constitution and the laws of the Republic of Afghanistan. Ignorance of provisions of law is no excuse.

Art. 62 – Citizens of the Republic of Afghanistan and foreigners are bound to pay taxes and duties to the state in accordance with the provisions of the law.

Art. 63 – The defense of homeland, independence, national sovereignty and territorial integrity of the country is the prideful duty of the citizens of the Republic of Afghanistan. Conditions of service in the armed forces shall be regulated by law.

Art. 64 – The state shall provide necessary conditions for the citizens to exercise their fundamental rights and freedoms and discharge their duties. No person has the right to exercise the rights and freedoms enshrined in the law against public interest and to the detriment of the rights and freedoms of other citizens.

CHAPTER FOUR LOYA JIRGA (GRAND ASSEMBLY)

Art. 65 – The Loya Jirga is the highest manifestation of the will of the people of Afghanistan in accordance with national historical traditions.

Art. 66 – The Loya Jirga consists of:

1. ten members of the national assembly.
2. the people's deputies from each province and its equivalent.
3. governors of provinces and major of Kabul.
4. prime minister, deputy prime ministers and members of the council of ministers,
5. chief justice, deputy chief justices and judges of the supreme court.
6. attorney general and his deputies.
7. chairman and members of the constitutional council.
8. members of the executive board of the national front.
9. a maximum of fifty persons from among prominent political, scientific, social and spiritual figures to be appointed by the president on the basis of the recommendation of the secretariat of the national front.

Art. 67 – The Loya Jirga enjoys the following powers:

1. to approve and amend the constitution.
2. to elect the president and to accept the president's resignation.
3. to consent to the declaration of war and armistice.
4. to adopt decisions on the most important questions regarding the destiny of the country.

Art. 68 – Save in cases otherwise defined in this constitution, the Loya Jirga shall be summoned and opened by the president and its sessions shall be held under the chairmanship of the president or any other person appointed by the president as his regent. The quorum for the Loya Jirga shall be two third of its members present. Save in cases otherwise defined in this constitution, the decisions of the Loya Jirga shall be adopted by a majority vote of its members.

Art. 69 – During the time when the house of representatives remains dissolved, its members shall retain their membership of the Loya Jirga till a new house is elected.

Art. 70 – Elections to Loya Jirga shall be regulated by law and its procedure laid down by the Loya Jirga itself.

CHAPTER FIVE THE PRESIDENT

Art. 71 – The President is the head of the state and shall exercise his powers in legislative, executive and judicial spheres in accordance with the provisions of this constitution and the laws of the Republic of Afghanistan.

Art. 72 – The President shall be elected by a majority vote of the members of the Loya Jirga for a term of seven years. No person can be elected as President for more than two terms. The President is accountable and shall report to Loya Jirga. The Loya Jirga shall be called to elect a new president thirty days before the end of the term of office of the outgoing president.

Art. 73 – Any muslim citizen of the Republic of Afghanistan who has completed the age of forty and who and whose wife are born of afghan parents and enjoys civil and political right can be elected President.

Art. 74 – The President, after being elected, shall take the following oath: “I swear in the name of Allah, the almighty, to protect the principles of sacred religion of Islam, observe the constitution of the republic of Afghanistan and supervise its implementation, safeguard the independence, national sovereignty and territorial integrity of Afghanistan, preserve the basic rights and freedoms of the citizens and exert all my efforts to ensure social justice, people's prosperity, strengthening of peace and progress in the country”.

Art. 75 – The President shall enjoy the following powers in addition to those entrusted to him by other provisions of the constitution:

1. supreme command of the armed forces.
2. to sign laws and resolutions of the National Assembly.
3. to appoint the prime minister designate to form the government.
4. to approve the head and members of the government after they have received the vote of confidence of the national assembly and to accept their resignations.
5. to convene and preside over the council of ministers when necessary.
6. to approve the appointment, promotion and pension of judges, high ranking officials and officers of the armed forces, according to the provisions of the law.
7. take decisions on ascertaining public opinion or holding referendum on major political, social and economic issues.
8. pardon and remit sentences.
9. accredit the heads of diplomatic missions of the Republic of Afghanistan to foreign countries and international organisations.

10. accept the credentials of the heads of diplomatic missions of foreign states to the republic of Afghanistan.
11. proclaim a state of emergency, general and partial mobilization and their termination.
12. declare war and armistice with the consent of Loya Jirga.
13. authorize the issue of money.
14. grant citizenship and asylum in accordance with the law.
15. grant honorary orders, medals and titles as per the law. 16) exercise other powers in accordance with the law.

Art. 76 – The President shall continue in office till the end of his term except in the event of protracted and irreversible illness and or resignation. In all cases when the president is unable to discharge his duties, the presidential functions shall be entrusted to the first vice president. In case of permanent loss of ability to work, death or resignation of the president, the first vice president shall invite the Loya Jirga within one month to elect a new president. In the event of resignation, the president shall submit his resignation directly to the Loya Jirga.

CHAPTER SIX THE NATIONAL ASSEMBLY

Art. 77 – The national assembly is the highest legislative organ of the Republic of Afghanistan.

Art. 78 – The national assembly consists of two houses: the house of representatives and the senate.

Art. 79 – The members of the house of representatives shall be elected from electoral constituencies having equal population, for a legislative term of five years. Members of the senate (senators) are elected and appointed in the following manner:

1. two persons from each province and equivalent units for a period of five years.
2. two persons from among the members of each provincial council and its equivalent elected by the council for a term of three years.
3. the remaining one third of the members shall be appointed for a period of three years by the president from amongst well informed, scholarly, prestigious and national figures.

Art. 80 – The number, conditions, procedure of election and appointment of the members of the national assembly shall be regulated by law.

Art. 81 – In addition to other powers prescribed in this constitution, the national assembly shall enjoy the following powers:

1. to approve, amend and repeal laws and legislation decrees and to present them to the president for signature.
2. to interpret laws.
3. to ratify an annul international treaties.
4. to approve socio-economic development plans and endorse the government's report on their execution.
5. to approve the state budget and evaluate the report on its execution.

6. to establish administrative units and make changes in them.
7. to establish and abolish ministries and central organs equivalent to them.
8. to decide on the appointment and removal of vice presidents on the basis of recommendation and request of the president.
9. to authorize the state to receive loans and grant privileges of substantial importance in national economy, including monopoly.
10. to institute by law honorary orders, medals and titles.
11. to endorse establishment of relations with foreign countries and international organisations.
12. to elicit replies from the prime minister and other members of government concerning performance relating to their authority during interpellations session.

Art. 82 – The house of representatives shall have the following exclusive powers:

1. to pass a vote of confidence or no confidence in the council of ministers or one of its members.
2. to take final decision on the draft plans for economic and social development and the state budget in the event of disagreement between the house of representatives and the senate.

Art. 83 – Each house of the national assembly shall appoint at its first session, a commission from among its members to authenticate the credentials. The commission shall report the results of its findings to the house concerned. The house shall confirm the credentials of the deputies of the national assembly on the basis of the report and in case of violation of the electoral law, the house shall declare the credentials of the member concerned as invalid.

Art. 84 – The house of representatives elects at its first session from among its members an executive committee composed of a chairman, two deputy chairmen and two secretaries for the whole term of the legislature. The senate elects from among its members an executive committee composed of a chairman for a term of five years, two deputy chairmen and two secretaries for a term of one year. The chairman of each house of the national assembly shall conduct and maintain order in the respective sessions of the houses. In the absence of the chairman one of the deputy chairmen shall discharge his duties.

Art. 85 – The ordinary sessions of the national assembly are held twice a year, in the first week of the month of Sunbola and the first week of the month of Hoot. Each regular session of the national assembly, shall not extend to more than three months. If the national assembly is discussing the annual budget or the development plan, its session shall not be wound up before their endorsement. If the budget is not endorsed before the beginning of the fiscal year, the budget of the previous year shall apply till the endorsement of the new annual budget. An extraordinary session of the national assembly can be held on the decision of the president, request of chairman of either house or of one fifth of members of each house.

Art. 86 – The houses of national assembly shall hold separate or joint sessions. The joint sessions of the national assembly are chaired alternately by their chairmen. The president inaugurates and concludes the session of the national assembly. The first session of national assembly shall be summoned by the president, thirty days after the conclusion of the elections to the house of representatives.

Art. 87 – The quorum for both houses of the national assembly shall be completed when two third of the members of each house are present. The decision of each house is passed by a majority vote of its total membership.

Art. 88 – The separate and joint sessions of the houses of national assembly shall be open, unless the houses decide to meet in closed sessions. The proceedings of the debates of both the houses shall be recorded.

Art. 89 – Each house of the national assembly shall elect from among its members standing commissions for the preliminary consideration and arrangement of the issues within its competence and the supervision of the implementation of laws and decisions of the house.

Art. 90 – Each house of the national assembly is empowered to constitute investigation, auditing and other temporary commissions as may be required. The tasks and procedures of the investigation and auditing commissions shall be regulated by the respective houses of the national assembly.

Art. 91 – Member of the house of representatives have the right to put questions to the prime minister or any member of the government in the interpellations session. Answers to the questions shall be presented in writing or orally. The house of representatives can consider on the basis of the answers presented the motion of vote of confidence in the government. A government which fails to receive the vote of confidence shall continue in office till a new government is formed.

Art. 92 – Members of the council of ministers, having consultative vote may attend the meetings of the national assembly.

Art. 93 – Members of the national assembly have the right to vote and express their views in separate and joint sessions. No member of the national assembly shall be subjected to legal prosecution for a vote or views expressed inside or outside the national assembly. Save in cases of prima facie evidence of crimes, no member of the national assembly can be arrested, detained or subjected to judicial surveillance without the consent of the house concerned or without the consent of its executive committee during the interval between two sessions of the national assembly. If a member of the national assembly is arrested on a prima facie case, the executive committee of the house concerned shall be informed.

Art. 94 – The following authorities have the right to propose introduction, amendment and repeal of law in each house of the national assembly

1. the president.
2. the standing commissions of the national assembly.
3. at least one tenth of membership of each house.
4. the council of ministers.
5. the supreme court.
6. the attorney general.
7. the executive board of the national front.
8. council of ulema and clergymen.

Art. 95 – Save in cases defined otherwise in this constitution, the decisions of one of the houses relating to powers described under article eighty one shall be delivered to the other house. If the

decision of one house is rejected by the other, a joint committee consisting of an equal number of members of both houses shall be set up. The decision of the joint committee shall come into force after it is signed by the president. If the joint committee fails to resolve differences, the matter shall be discussed in the joint session of the national assembly and decision taken by a majority vote of the joint session.

Art. 96 – The decisions of the national assembly are enforced after signature by the president. In case the president does not agree with the decisions of the national assembly, he can return them to the national assembly within 30 days from the date of receipt along with his reasons. After the elapse of this period, and also if the national assembly endorses the decision in its next session with two thirds votes of its members, the decision shall become effective and the president shall sign it.

Art. 97 – In consultation with the chairmen of the house of representatives and the senate, the prime minister and the chief justice, the president can declare the dissolution of the house of representatives stating the reasons of justification. Re-elections shall be held within thirty days after the dissolution of the house of representative. The new house of representatives cannot be dissolved till one year after re-elections. The house of representatives cannot be dissolved during the last six months of office of the president.

Art. 98 – The laws and resolutions of the national assembly shall be published in Pashtu and Dari languages and can be published in the languages of other nationalities of the country as well.

Art. 99 – The procedure of functioning of the national assembly and its standing commissions shall be regulated by the national assembly.

CHAPTER SEVEN THE COUNCIL OF MINISTERS

Art. 100 – The council of ministers (government) is the highest executive and administrative organ of state power in the republic of Afghanistan. The council of ministers is composed of:

- Prime minister
- Deputy prime ministers
- Ministers, presidents of central organs equivalent to ministries.

Art. 101 – The prime minister designate shall present to the first session of the house of representatives the home and foreign policy line of the government and the composition of his government for seeking the vote of confidence of the house. After receiving the vote of confidence and approval of the president, the prime minister shall present the domestic and foreign policy line and introduce members of the government to the senate.

Art. 102 – The council of ministers is responsible to the house of representatives and the president and shall submit reports to them.

Art. 103 – The council of ministers has the following duties and powers:

1. formulate and implement the domestic and foreign policies.

2. ensure the execution of matters relating to national economy; formulate the socio-economic development plans, prepare the state budget, implement plans and budget and report to the national assembly on their execution
3. take measures for defending the interests of the state, protect all forms of legal properties, ensure public order and security and safeguard the rights, and freedoms of the citizens.
4. overall guidance of foreign relations, establishment of diplomatic ties and conclusion of agreements with foreign states and international organisations according to law.
5. create offices and organs related to the council of ministers.
6. other powers according to provisions of law. The council of ministers of the republic of Afghanistan approves regulations, rules and other legal documents in the jurisdiction of its powers.

Art. 104 – In the interval between sessions of the national assembly, and in the event of dissolution of the house of representatives, the council of ministers may, if urgently required, issue legislative ordinances on matters within the powers of the national assembly, excluding matters relating to budget and financial affairs. These legislative ordinances shall come into force after signature by the president. The council of ministers shall submit to the first periodic session of the national assembly for approval the legislative ordinances which are promulgated in accordance with the provisions of this article. If the ordinances are rejected by the national assembly, they become void from that date. In the interval between two sessions of the national assembly or in the period of dissolution of the house of representatives, the president may, on the recommendation of the prime minister, appoint or dismiss any member of the government. The matter shall then be submitted to the first session of the house of representatives to decide upon.

Art. 105 – The term of the council of minister shall expire at the end of the legislative term of the house of representatives. The council of ministers shall carry on its activities till a new government is formed.

Art. 106 – The organization, composition, and activities of the council of ministers shall be regulated by law.

CHAPTER EIGHT JUDICIARY

Art. 107 – Judiciary is an independent component of the state.

Art. 108 – Judgement in the republic of Afghanistan shall be delivered only by a court in accordance with the provisions of law. Courts in the republic of Afghanistan include: supreme court, provincial courts, divisional courts, district courts, city courts, sub-district courts, precinct courts and, military courts.

Art. 109 – The supreme court, as the highest judicial organ, heads the unified system of justice in the country and is composed of the chief justice, deputy chief justices and judges. The supreme

court shall, in accordance with the provisions of law, supervise the activities of the courts and ensure the uniform application of law by courts.

Art. 110 – The chief justice, deputy chief justices and judges of supreme court shall be appointed by the president for a term of six years. The supreme court is accountable to the president and shall report to him.

Art. 111 – The court shall be independent in their judgement and shall submit only to the law. Trial and verdict by courts shall be based on the principle of equality of parties before the law and the court.

Art. 112 – The judges shall apply the provisions of the constitution and the laws of the republic of Afghanistan in the cases under their consideration. When no explicit provision exists in the law, the court shall, following the provisions of the Shariat of Islam, render a decision that secures justice in the best possible way.

Art. 113 – Trial in the courts of the republic of Afghanistan shall be held openly. The conditions under which cases are to be conducted in closed trials shall be determined by law. The verdict of the court shall be pronounced openly in all circumstances.

Art. 114 – The trial and judgement by the courts shall be conducted in Pashtu and Dari languages or in the language of the majority of the residents of the place. If a party to the case does not understand the language in which the trial is conducted, he has the right to become acquainted with the materials and documents of the case through an interpreter and the right to address the court in his mother tongue.

Art. 115 – The verdict by the court shall contain the statement of reasons and evidence. The final verdict of the court is binding, except in the case of a death sentence which is executed after the approval of the president.

Art. 116 – The organization, composition, powers and procedure of work of the courts shall be regulated by law.

CHAPTER NINE THE ATTORNEY OFFICE

Art. 117 – The attorney office of the Republic of Afghanistan is a unified system based on the principle of centralism and shall consist of: office of the attorney general, provincial, divisional, district, sub-district, city and precinct attorney offices and the attorney office of the armed forces. The state can set up a special attorney office within the unified attorney system.

Art. 118 – The attorney general shall lead the activities of the attorney offices of the country. The attorney offices are independent in the performance of their duties and are subject only to the law and the attorney general.

Art. 119 – The attorney general and his deputies are appointed by the president for a term of six years. The attorney general is accountable to the president and shall report to him.

Art. 120 – High supervision over the implementation and uniform observance of laws by the ministries and other central organs of state administration, executive committees of local councils, state, mixed and private institutions, departments, cooperatives, political parties and social organisations, officials in charge and citizens shall be undertaken by the attorney general and the attorneys subordinate to him.

Art. 121 – The organization, composition, powers and procedure of activity of the attorney office shall be regulated by law.

CHAPTER TEN THE CONSTITUTION COUNCIL

Art. 122 – The constitution council of the Republic of Afghanistan shall be formed to ensure the conformity of laws, other legislative documents and international treaties with the constitution.

Art. 123 – The constitution council shall exercise the following powers:

1. evaluate the uniformity of laws, legislative decrees and international treaties with the constitution.
2. give legal and judicial advice to the president on constitutional matters.

Art. 124 – In order to exercise its powers the constitution council has the right to:

1. scrutinize the legislative documents presented for the president's signature and express opinion on their conformity with the constitution of the Republic of Afghanistan.
2. submit concrete proposals to the president on measures regarding the development of legislative affairs as required by the constitution.

Art. 125 – The constitution council shall be composed of a chairman and eight members who are appointed by the president for a term of six years.

Art. 126 – The constitution council is accountable to the president and shall report to him.

Art. 127 – The organization and procedure of activity of the constitution council shall be regulated by law.

CHAPTER ELEVEN THE LOCAL COUNCILS

Art. 128 – For the purposes of local administration the Republic of Afghanistan is divided into provinces, divisions, districts, cities, sub-districts, precincts and villages. The organs of state power in the administrative units are their local councils. The executive organs of the local councils are the executive committee selected by the local councils of people's deputies. The executive committee of local councils are led by governors of provinces, divisions and districts respectively as well as sub-district administrators, village chiefs, mayors and heads of precincts.

Art. 129 – Local organs of state power and administration shall deal with all problems relating to local administration, keeping in view the public interest. All local institutions, organisations and

offices are duty bound to implement the decisions of the local councils and their executive committees.

Art. 130 – The term of office of local councils is three years.

Art. 131 – The organization, duties, powers, election procedure and activities of local councils shall be regulated by law.

CHAPTER TWELVE FOREIGN POLICY

Art. 132 – The foreign policy of the republic of afghanistan rests on ensuring the national interests, consolidation of independence and national sovereignty, territorial integrity of the country, preservation of world peace and security, peaceful coexistence, equality of rights and all-round development of international cooperation.

Art. 133 – The republic of afghanistan respects and observes the united nations charter, the universal declaration of human rights and other accepted principles and norms of international law.

Art. 134 – The Republic of Afghanistan pursues the policy of non alignment as a significant principle of the state's foreign policy and as one of the founders of the non-aligned movement strives for achieving its objectives.

Art. 135 – The Republic of Afghanistan is in favour of establishing and consolidation of friendly relations with all countries, particularly the neighbouring and Islamic ones irrespective of their socio-political and economic systems, based on the principles of equality of rights, mutual respect of independence, national sovereignty, territorial integrity, non interference in each other's internal affairs, non resort to force or threat of use of force, denunciation of all forms of interference and aggression and sincere fulfilment of international commitments in accordance with the accepted principles and norms of international law.

Art. 136 – The Republic of Afghanistan supports the struggle of the peoples and nations for peace, national independence, democracy, social progress and the right of nations to self determination and fights against colonialism, neo-colonialism, imperialism, sionism, racism apartheid and fascism.

Art. 137 – The Republic of Afghanistan supports the struggle for total disarmament cessation of arms race on earth and in space, non proliferation and elimination of nuclear and chemical weapons and other kinds of weapons of mass destruction, dismantling of aggressive military bases, relaxation of international tensions and establishment of new and just international economic and information order.

Art. 138 – War propaganda is forbidden in the Republic of Afghanistan.

CHAPTER THIRTEEN MISCELLANEOUS PROVISIONS

Art. 139 – The constitution of the Republic of Afghanistan has the highest legal credibility. Laws and other legislative documents shall be framed in conformity with it.

Art. 140 – The state and all its organs shall function on the basis of this constitution and the laws of the Republic of Afghanistan and ensure legal order, interests of the society, rights and legal interests of the citizens. State cooperative, mixed and private institutions, political parties, social organisations, and officials in charge and citizens are obliged to observe the constitution and the laws of the Republic of Afghanistan.

Art. 141 – Amendments to the constitution shall be made by the Loya Jirga. Decision on introducing amendments to the constitution shall be on the proposal of the president or proposal of one third and approval of two third of the members of the national assembly. In this case, the president convenes the Loya Jirga. If the Loya Jirga finds the proposal qualified, it shall introduce the amendments in the constitution, otherwise, it shall reject the proposal. Amendment of the constitution in a state of emergency is not allowed.

Art. 142 – Salaries of the president, vice presidents. Members of the national assembly, prime minister, members of the government, chief justice, judges of the supreme court, members of the constitution council, attorney general and his deputies shall be fixed by law.

Art. 143 – Whenever the preservation of the independence, national sovereignty, territorial integrity and internal security become impossible through the channels provided for in this constitution due to war, danger of war, disturbance or similar conditions, a state of emergency may be proclaimed by the president. A state of emergency can be extended beyond three months only with the consent of the Loya Jirga.

Art. 144 – The president shall have the following powers in a state of emergency.

1. extension of the tenure of the national assembly.
2. delegation of powers of the national assembly in part to the council of ministers.
3. delegation of powers of courts in part to special courts and military courts.
4. suspension and or limitation of articles 30, 44, 45, 46, 49, 50 and the last item of article 51 and articles 53 and 60 of the constitution.
5. exercise of other powers in accordance with the law.

Art. 145 – International treaties previously entered into by the Republic of Afghanistan and conventions joined by it, if found repugnant to the provisions of the laws of the Republic of Afghanistan, shall have ascendancy.

Art. 146 – On the enactment of this constitution and the election of the president, the president of the revolutionary council shall be dissolved. The revolutionary council shall carry on its duties till the national assembly is constituted and shall enjoy the powers enshrined in chapter six of the constitution. The national assembly shall be constituted within six months following the enactment of the constitution. The council of ministers enjoying the powers described under chapter seven of the constitution shall carry on its duties till a new government is formed and wins the vote of confidence of the house of representatives as per the provisions of the constitution. Following the enactment of this constitution, the president shall, within a period of six months, reorganise the

judiciary and attorney organs on the basis of a unified system in conformity with the provisions of the constitution and establish the constitution council.

Art. 147 – The first president shall be elected by the Loya Jirga which shall endorse this constitution.

Art. 148 – On the enactment of this constitution, the fundamental principles of the democratic Republic of Afghanistan shall be abrogated. The laws and other legislative documents adopted prior to the enactment of this constitution shall remain valid, provided they are not repugnant to the provisions of this constitution.

Art. 149 – This constitution shall come into force from the date of its endorsement by the Loya Jirga and shall be signed and proclaimed by the President.

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