

Official Afghanistan Constitution

The Constitution of Afghanistan - Final Text

(Unofficial Translation. Please refer to Pashtu and Dari version for accuracy)

The Constitution of Afghanistan Year 1382

In the Name of God, the Merciful, the Compassionate

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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,

Realizing the injustice and shortcoming of the past, and the numerous troubles imposed on our country,

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,

Understanding the fact that Afghanistan is a single and united country and belongs to all ethnicities residing in this country,

Observing the United Nations Charter and respecting the Universal Declaration of Human Rights,

For consolidating national unity, safeguarding independence, national sovereignty, and territorial integrity of the country,

For establishing a government based on people's will and democracy,

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,

For strengthening of political, social, economic, and defensive institutions of the country,

For ensuring a prosperous life, and sound environment for all those residing in this land,

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 Loya Jirga dated 14 Jaddi 1382 in the city of Kabul.

Chapter One

The State

[Article One Ch. 1. Art. 1](#)

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

[Article Two Ch. 1, Art. 2](#)

The religion of the state of the Islamic Republic of Afghanistan is the sacred religion of Islam.

Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law.

[Article Three Ch. 1, Art. 3](#)

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

[Article Four Ch. 1, Art. 4](#)

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

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

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

The word Afghan applies to every citizen of Afghanistan.

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

Affairs related to the citizenship and asylums are regulated by law.

[Article Five Ch. 1, Art. 5](#)

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 Six Ch. 1, Art. 6](#)

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 Seven Ch. 1, Art. 7

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

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

Article Eight Ch. 1, Art. 8

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 Nine Ch. 1, Art. 9

Mines, underground resources are properties of the state.

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

Article Ten Ch. 1, Art. 10

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 Eleven Ch. 1, Art. 11

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 Twelve Ch. 1, Art. 12

Da Afghanistan Bank is the central and independent bank of the state.

Issuance of currency, and formulation and implementation of monetary policy of the country are the mandates of the central bank in accordance with law.

The central bank shall consult with the economic committee of the

Wulesi Jirga in matters related to the printing of money.

Structure and operation of this bank shall be regulated by law.

[Article Thirteen Ch. 1, Art. 13](#)

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 Fourteen Ch. 1, Art. 14](#)

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.

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 Fifteen Ch.1. Art. 15](#)

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

[Article Sixteen Ch. 1, Art. 16](#)

From among the languages of Pashto, Dari, Uzbeki, Turkmani, Baluchi, Pashai, Nuristani, Pamiri (alsana), Arab and other languages spoken in the country, Pashto and Dari are the official languages of the state.

The Turkic languages (Uzbaki and Turkmen), Baluchi, Pashai, Nuristani and Pamiri 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.

The state adopts and implements effective plans for strengthening, and developing all languages of Afghanistan.

Publications and radio and television broadcasting are allowed in all languages spoken in the country.

Article Seventeen Ch. 1, Art. 17

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 Eighteen Ch. 1, Art. 18

The calendar of the country shall be based on the flight of the Prophet (PBUH).

The basis of work for state offices is the solar calendar.

Fridays and the 28 Asad and the 8 Sawr are public holidays. Other holidays shall be regulated by law.

Article Nineteen Ch. 1, Art. 19

The Afghan flag is made up of three equal parts, with black, red and green colors juxtaposed from left to right perpendicularly.

The width of every colored piece is equal to half of its length. The national insignia is located in the center of the flag.

The national insignia of the state of Afghanistan is composed of Mehrab and pulpit in white color.



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.

The law shall regulate the use of national flag and emblem.

Article Twenty Ch.1. Art. 20

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

Article Twenty-One Ch. 1, Art. 21

The capital of Afghanistan is the city of Kabul.

Chapter Two

Fundamental Rights and Duties of Citizens

Article Twenty-two Ch. 2, Art. 1

Any kind of discrimination and privilege between the citizens of Afghanistan are prohibited.

The citizens of Afghanistan – whether man or woman – have equal rights and duties before the law

Article Twenty-Three Ch. 2, Art. 2

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 Twenty-Four Ch. 2, Art. 3

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.

Liberty and dignity of human beings are inviolable.

The state has the duty to respect and protect the liberty and dignity of human beings.

Article Twenty-Five Ch. 2, Art. 4

Innocence is the original state.

An accused is considered innocent until convicted by a final decision of an authorized court.

Article Twenty-Six Ch.2. Art. 5

Crime is a personal action.

The prosecution, arrest, and detention of an accused and the execution of penalty cannot affect another person.

[Article Twenty-Seven Ch. 2, Art. 6](#)

No act is considered a crime, unless determined by a law adopted prior to the date the offense is committed.

No person can be pursued, arrested or detained but in accordance with provisions of law.

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 Twenty-Eight Ch. 2, Art. 7](#)

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.

No Afghan would be sentenced to deprivation of citizenship or to exile inside the country or abroad.

[Article Twenty-Nine Ch. 2, Art. 8](#)

Torture of human beings is prohibited.

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.

Punishment contrary to human integrity is prohibited.

[Article Thirty Ch. 2, Art. 9](#)

Any statement, testimony, or confession obtained from an accused or of another person by means of compulsion, are invalid.

Confession to a crime is: a voluntary confession before an authorized court by an accused in a sound state of mind.

Article Thirty-One Ch. 2, Art. 10

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.

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.

In criminal cases, the state shall appoint an advocate for a destitute.

The confidentiality of oral, written or telephonic communications between an advocate and his accused client are immune from invasion.

The duties and authorities of advocates shall be regulated by law.

Article Thirty- Two Ch. 2, Art. 11

Being in debt does not limit a person's freedom or deprive him of his liberties.

The mode and means of recovering a debt shall be regulated by law.

Article Thirty-Three Ch. 2, Art. 12

The citizens of Afghanistan have the right to elect and be elected.

Law regulates the conditions and means to exercise this right.

Article Thirty- Four Ch. 2, Art. 13

Freedom of _expression is inviolable.

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.

Every Afghan has the right to print or publish topics without prior submission to the state authorities in accordance with the law.

Directives related to printing house, radio, television, press, and other mass media, will be regulated by the law.

Article Thirty-Five Ch. 2, Art. 14

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.

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. Should have no affiliation to a foreign political party or sources.

Formation and functioning of a party based on ethnicity, language, Islamic school of thought and region is not permissible.

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 Thirty-Six Ch. 2, Art. 15

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

Article Thirty-Seven Ch. 2, Art. 16

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

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

Article Thirty-Eight Ch. 2, Art. 17

A person's residence is immune from invasion.

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.

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.

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 Thirty-Nine Ch. 2, Article 18](#)

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

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

The state shall protect the rights of the citizens of Afghanistan abroad.

[Article Forty Ch. 2, Art. 19](#)

Property is immune from invasion.

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

No body's property shall be confiscated without the provisions of law and the order of an authorized court.

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.

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

[Article Forty-one Ch. 2, Art. 20](#)

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

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

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 Forty-Two Ch. 2, Art. 21

Every Afghan is obligated to pay taxes and duties to the government in accordance with the provisions of law.

No taxes and duties are enforced without provisions of law.

The rate of taxes and duties and the method of payment are determined by law on the basis of observing social justice.

This provision is also applied to foreign individuals and agencies.

Every kind of tax, duties, and incomes collected, shall be delivered to the State account.

Article Forty-Three Ch. 2, Art. 22

Education is the right of all citizens of Afghanistan, which shall be provided up to the level of the B.A. (license), free of charge by the state.

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.

The state is also required to provide the opportunity to teach native languages in the areas where they are spoken.

Article Forty-Four Ch. 2, Art. 23

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 Forty-Five

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 Forty-Six Ch.2, Art. 24

Establishing and operating of higher, general and vocational education are the duties of the state.

The citizens of Afghanistan also can establish higher, general, and vocational private educational institutions and literacy courses with the permission of the state.

The state can also permit foreign persons to set up higher, general and vocational educational private institutes in accordance with the law.

The conditions for admission to state higher education institutions and other related matters to be regulated by the law.

Article Forty-Seven Ch. 2, Art. 25

The state shall devise effective programs for the promotion of science, culture, literature and the arts.

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 Forty-Eight Ch. 2, Art. 26

Work is the right of every Afghan.

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

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

Article Forty-Nine Ch. 2, Art. 27

Forced labor is forbidden.

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

Children shall not be subjected to forced labor.

Article Fifty Ch. 2. Art. 28

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 authorization by the National Assembly.

Government offices are bound to carry their work with full neutrality and incompliance with the provisions of law.

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

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

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 Fifty-one Ch. 2, Art. 29

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

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

Article Fifty-two Ch. 2, Art. 30

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.

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

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

Article Fifty- Three Ch. 2. Art. 31

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.

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 Fifty- Four Ch.2, Art. 32](#)

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

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 Fifty-Five Ch. 2, Art. 33](#)

The defense of the country is the responsibility of all citizens of Afghanistan.

The conditions for military services are regulated by law.

[Article Fifty-Six Ch. 2, Art. 34](#)

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

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

[Article Fifty-Seven Ch. 2. Art. 35](#)

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

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

[Article Fifty-Eight. Ch. 2. Art. 36](#)

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

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

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

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

[Article Fifty-Nine Ch. 2, Art. 37](#)

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

Chapter Three

The President

[Article Sixty Ch. 3, Art. 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.

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

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

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

[Article Sixty-One Ch. 3, Art. 2](#)

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

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

Elections for the new president are held within thirty, to sixty days before

the end of the presidential term.

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.

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

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

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.

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

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

[Article Sixty-Two Ch. 3, Art. 3](#)

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.

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

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

[Article Sixty-three Ch. 3, Art. 4](#)

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 Sixty-Four Ch. 3, Art. 5](#)

The power 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 Loya Jirga except in a situation stated in Article Sixty-eight of this Constitution.

Declaring the state of emergency and ending it with the approval of the National Assembly.

Inaugurating the National Assembly and the 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 Wolesi Jirga, and acceptance of their dismissal and resignation.

Appointing the head and members of the Supreme Court with the approval of the 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 Sixty-Five Ch. 3, Art. 6](#)

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

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

Article Sixty-Six Ch. 3, Art. 7

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

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

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

Article Sixty-Seven Ch. 3, Art. 8

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.

The President declares his resignation personally to the National Assembly.

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

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.

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.

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

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

Article Sixty-Eight Ch. 3, Art. 10

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 Wolesi Jirga.

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 Meshrano Jirga and in the absence of the chair of the Meshrano Jirga, Chair of the Wolesi Jirga, and in the absence of the Chair of the Wolesi Jirga, the Foreign Minister shall take the duties of the President in accordance with the article 67 of this constitution.

[Article Sixty-Nine Ch 3, Art 11](#)

The President is responsible to the nation and the Wolesi Jirga in accordance with this article.

Accusations of crime against humanity, national treason or crime can be leveled against the President by one third of the members of the Wolesi Jirga.

If two third of the Wolesi Jirga votes for charges to be brought forth, the Wolesi jirga shall convene a Loya Jirga within one month.

If the 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.

The special court is composed of three members of the Wolesi Jirga, and three members of the Supreme Court appointed by the Loya Jirga and the Chair of the Meshrano Jirga.

The lawsuit is conducted by a person appointed by the Loya Jirga.

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

[Article Seventy Ch. 3. Art. 12](#)

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

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 Four

The Government

[Article Seventy-one Ch. 4, Art. 1](#)

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

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

[Article Seventy-two Ch. 4, Art. 2](#)

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 Wulesi 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 Seventy-three Ch. 4, Art. 3](#)

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

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 Seventy-four Ch. 4, Art. 4](#)

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 Seventy-five Ch. 4. Art. 5](#)

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 Seventy-six Ch. 4, Art.6](#)

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

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

[Article Seventy-seven Ch. 4, Art. 7](#)

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.

The Ministers are responsible to the President and the Wolesi Jirga for their particular duties.

[Article Seventy-eight Ch. 4. Art. 8](#)

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 Seventy-nine Ch. 4, Art. 9](#)

In cases of recess of the Wolesi Jirga, the government can adopt legislation in an emergency situation on matters other than those related to budget and financial affairs.

The legislative decrees become laws after the President signs them.

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.

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

[Article Eighty Ch. 4, Art. 10](#)

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

Chapter Five

The National Assembly

[Article Eighty-one Ch. 5. Art. 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.

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 Eighty-two Ch. 5, Art. 2](#)

The National Assembly consists of two houses: Wolesi Jirga (the House of People) and Meshrano Jirga. (House of Elders).

No one can become member of both houses simultaneously.

[Article Eighty-three Ch. 5, Art. 3](#)

The people through free, general, secret, and direct elections elect members of the Wolesi Jirga.

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

The election of the members of the Wolesi Jirga shall be held within 30 to 60 days before the expiry of the term of the Wolesi Jirga.

The number of members of the Wolesi Jirga, proportionate to the population of each region, shall be not more than two hundred and fifty.

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

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 delegates should be elected from each province.

[Article Eighty-four Ch. 5, Art. 4](#)

Members of the Meshrano Jirga are elected and appointed as follows: From among the members of each provincial council, the respective council elects one person for a period of four years. From among the district councils of each province, the respective councils elect one person for a period of three years. 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.

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

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

[Article Eighty-five Ch. 5, Art. 5](#)

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

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

Members of Wolesi Jirga should be Twenty-Five years old at the date of

candidacy, and members of the Meshrano Jirga should be Thirty-Five years old at the date of candidacy or appointment.

[Article Eighty-six Ch. 5, Art. 6](#)

The Independent Electoral Commission in accordance with law reviews credentials of members of the National Assembly.

[Article Eighty-seven Ch. 5, Art.7](#)

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.

These individuals constitute the administrative board in their respective houses.

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

[Article Eighty-eight Ch. 5, Art. 8](#)

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

[Article Eighty-nine Ch. 5, Art. 9](#)

The 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.

The composition and procedure of this commission shall be specified by the internal regulations of the Wolesi Jirga.

[Article Ninety Ch. 5, Art. 10](#)

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 Ninety-one Ch. 5, Art. 11](#)

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 Wolesi Jirga and the Meshrano Jirga.

Approval of the appointments according to the provisions of this constitution.

[Article Ninety-two Ch. 5, Art. 12](#)

Wolesi Jirga, based on a proposal by one-tenth of all members, can interpolate each of the Ministers.

If the responses given are not satisfactory, Wolesi Jirga shall consider the issue of vote of no confidence.

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

This vote should be approved by a majority of all members of the Wolesi Jirga.

[Article Ninety-three Ch. 5, Art. 13](#)

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

The person questioned can provide verbal or written response.

Article Ninety-four Ch. 5. Art. 14

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

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 Wolesi Jirga within fifteen days of its submission.

With the passage of this period or in case the Wolesi Jirga approves a particular case again with a majority of two-thirds votes, the bill is considered endorsed and enforced.

Article Ninety-five Ch. 5. Art. 15

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

Article Ninety-six Ch. 5. Art. 16

Only the government initiates proposal for budget and financial affairs.

Article Ninety-seven Ch. 5, Art. 17

Proposals for promulgation of law initiated by the government are submitted first to the Wolesi Jirga.

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.

The 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.

The Wolesi Jirga cannot delay the proposal more than one month.

The proposed draft of law is submitted to the Meshrano Jirga, after its approval by the Wolesi Jirga.

The Meshrano Jirga decides on the draft within a period of fifteen days

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

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 Ninety-eight Ch. 5, Art. 18](#)

The state budget and development plan of the government is submitted through the Meshrano Jirga along with advisory comments to the Wolesi Jirga.

The decision of the Wolesi Jirga, irrespective of the consent of the Meshrano Jirga, is enforceable after the President signs it.

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.

The government is obligated to give to the Wolesi Jirga the budget of the new fiscal year and a brief account of the current year's budget within the fourth quarter of the fiscal year.

The definite account of the previous fiscal year shall be submitted by the government to the Wolesi Jirga within six months of the New Year, in accordance with the provisions of law

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.

If during this period Wolesi Jirga does not take any decision with regards to taking or giving loan, the proposal will be considered as approved.

[Article Ninety-nine Ch. 5, Art. 19](#)

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 One-hundred Ch. 5, Art. 20

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.

The decision of the committee is enforced after its approval by the President.

In case the combined committee cannot solve the disagreement, the defeated resolution is considered void. And, if the resolution is approved by the Wolesi Jirga, it can be approved in the next session of the Wolesi Jirga by the majority of its members.

This approval is assumed as enforceable, after it is signed by the President, without submission to the Meshrano Jirga.

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 Wolesi Jirga can approve the draft by the majority vote of its members.

This draft is assumed as enforceable without submission to the Meshrano Jirga after it is signed by the President.

Article One hundred-one Ch. 5, Art. 21

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

Article One hundred-two Ch. 5, Art. 22

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.

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.

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.

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 One Hundred three Ch. 5, Art. 23](#)

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

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

[Article One Hundred and four Ch. 5, Art. 24](#)

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

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.

In this case the head of the Wolesi Jirga, chairs the joint session of the National Assembly.

[Article One Hundred and five Ch. 5, Art. 25](#)

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.

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

[Article One Hundred and six Ch. 5, Art. 26](#)

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 One Hundred and seven Ch. 5, Art. 27](#)

The National Assembly convenes two ordinary sessions each year.

The term of the National Assembly in each year is nine months.

When necessary, the assembly can extend this period.

Extraordinary sessions of the assembly during recess can take place by the order of the President.

[Article One Hundred and eight Ch. 5, Art. 28](#)

In cases of death, resignation or dismissal of a member of the 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.

In the above-mentioned situations, a new member of the Meshrano Jirga shall be appointed in accordance with Article 87 of this Constitution.

Matters involving the presence or absence of members of the National Assembly are regulated according to internal rules.

[Article One Hundred and nine Ch. 5, Art. 29](#)

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 Six

Loya Jirga

[Article One Hundred and ten Ch. 6. Art. 1](#)

Loya Jirga is the highest manifestation of the people of Afghanistan.

Loya Jirga consists of the following: Members of the National Assembly. Chairpersons of the provincial, and district councils.

The ministers, Chief Justice and members of the Supreme Court, can

participate in the sessions of the Loya Jirga without the right to vote.

[Article One Hundred and eleven Ch. 6. Art. 2](#)

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 One Hundred and twelve Ch. 6. Art. 3](#)

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

[Article One Hundred and thirteen Ch. 6. Art. 4](#)

The quorum of the Loya Jirga for voting is completed by the majority of members.

The decisions of the Loya Jirga are taken by a majority of the present members except in cases as explicitly stated in this Constitution.

[Article One Hundred and fourteen Ch. 6. Art.56](#)

Discussions of the Loya Jirga are open except when one –fourth of its members demand their secrecy, and the Loya Jirga accepts this demand.

[Article One Hundred and fifteen Ch. 6. Art. 7](#)

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

Chapter Seven

The Judiciary

[Article One Hundred and sixteen Ch. 7. Art. 1](#)

The judicial branch is an independent organ of the state of the Islamic

Republic of Afghanistan.

The judicial branch consists of the Supreme Court (Stera Mahkama), High Courts, Appeal Courts. Structure of authorities of which are determined by law.

The Supreme Court as the highest judicial organ, heads the judiciary organ of the Islamic Republic of Afghanistan.

[Article One Hundred and seventeen Ch. 7. Art. 2](#)

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 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:

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.

The appointment of the members for the second term is not permissible.

The President appoints one of its members as the Head of the Supreme Court.

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 One Hundred and eighteen Ch. 7. Art. 3](#)

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 One Hundred and nineteen Ch. 7. Art. 4](#)

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 One Hundred and twenty Ch. 7. Art. 5](#)

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 One Hundred and twenty one Ch. 7. Art. 6](#)

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 One Hundred and twenty two Ch. 7. Art. 7](#)

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.

This provision does not apply to establishing special Courts stated in Articles 69 and 78 and 127 of this Constitution and military courts in matters relating to them.

The structure and authority of these courts are regulated by law.

[Article One Hundred twenty three Ch. 7. Art. 8](#)

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 One Hundred and twenty four Ch. 7. Art. 9](#)

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 One Hundred and twenty five Ch. 7, Art. 10](#)

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.

Implementation of the budget of the judicial branch is the authority of the Supreme Court.

[Article One Hundred and twenty six Ch. 7. Art. 11](#)

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 One Hundred and twenty seven Ch. 7. Art. 12](#)

When more than one - third of the members of the 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 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.

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

[Article One Hundred and twenty eight Ch. 7. Art. 13](#)

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

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 One Hundred and twenty nine Ch. 7. Art. 14](#)

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

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

[Article One Hundred and thirty Ch. 7. Art. 15](#)

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

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 One Hundred and thirty one Ch. 7. Art. 16](#)

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.

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 One Hundred and thirty two Ch. 7. Art. 17](#)

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

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

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 One Hundred and thirty three Ch. 7. Art. 18

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.

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.

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

Article One Hundred and thirty four Ch. 7. Art. 19

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.

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

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

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

Article One Hundred and thirty five Ch. 7. Art. 20

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 Eight

The Administration

Article One Hundred and thirty six Ch. 8. Art. 1

The Administration of Islamic Republic of Afghanistan shall be based on central and local administrative units in accordance with the law.

The central administration is divided into a number of administrative units, each of which shall be headed by a minister.

The local administrative unit is a province.

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 One Hundred and thirty seven Ch. 8. Art. 2](#)

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 One Hundred and thirty eight Ch. 8. Art. 3](#)

In every province a provincial council is to be formed.

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.

The provincial council elects one of its members as Chairman.

[Article One Hundred and thirty nine Ch. 8. Art. 4](#)

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.

Provincial councils perform their duties in cooperation with the provincial administration.

[Article One Hundred and forty Ch. 8. Art. 5](#)

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.

Members of these councils are elected by the local people through, free, general, secret and direct elections for a period of three years.

The participation of nomads in these councils is regulated by law.

[Article One Hundred and forty one Ch. 8. Art. 6](#)

Municipalities shall be set up in order to administer city affairs.

The mayor and members of the municipal councils are elected by free, general, secret, and direct elections.

The affairs related to municipalities are regulated by law.

[Article One Hundred forty two Ch. 8. Art. 7](#)

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

Chapter Nine

The State of Emergency

[Article One Hundred and forty three Ch. 9, Art, 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.

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

[Article One Hundred and forty four Ch. 9, Art. 2](#)

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 One Hundred and forty five Ch. 9, Art. 3](#)

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 twenty-seven
- 2- Article thirty-six.
- 3- Paragraph two of Article thirty-seven.
- 4- Paragraph two of Article thirty-eight.

[Article One Hundred and forty six Ch. 9, Art. 4](#)

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

[Article One Hundred and forty seven Ch. 9, Art. 5](#)

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.

If the state of emergency continues for more than four months, a Loya Jirga shall be called by the President for further decisions.

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

[Article One Hundred and forty eight Ch. 9, Art. 6](#)

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 Ten

Amendments

[Article One Hundred and forty nine Ch. 10, Art. 1](#)

The provisions of adherence to the fundamentals of the sacred religion of

Islam and the regime of the Islamic Republic cannot be amended.

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

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 One Hundred and fifty Ch. 10, Art. 2](#)

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.

For approval of the amendments, a Loya Jirga shall be convened by the decree of the President in accordance with the provisions of the Chapter on the Loy Jirga.

When the Loya Jirga approves an amendment by a majority of two-thirds of its members, it shall be enforced after endorsement by the President.

Chapter Eleven

The Miscellaneous Provisions

[Article One Hundred and fifty one Ch. 11, Art. 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.

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

[Article One Hundred and fifty two Ch. 11. Art. 2](#)

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 One Hundred and fifty three Ch. 11. Art. 3

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 One Hundred and fifty four Ch. 11, Art. 4

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 One Hundred and fifty five Ch. 11, Art. 5

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 One Hundred and fifty six Ch. 11, Art. 6

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

Article One Hundred fifty seven Ch. 11, Art. 7

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 Twelve

The Transitional Provisions

Article One Hundred fifty eight Ch. 12, Art. 1

The Title of the Father of the Nation and the privileges granted by the Emergency 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 One Hundred and fifty nine Ch. 12. Art. 2](#)

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

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 One Hundred and sixty Ch. 12. Art. 3](#)

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.

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

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 One Hundred and sixty one Ch. 12. Art. 4](#)

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

The Government, and the Supreme Court shall be established within thirty days after the first session of the Wolesi Jirga is taken place.

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

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.

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 One Hundred sixty two Ch. 12. Art. 5](#)

This constitution enters into force upon its approval by the Loya Jirga, and will be signed and proclaimed by the President of the Transitional Islamic State of Afghanistan.

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