

*(Unofficial Translation)*  
*(Please refer to Pashtu and Dari versions for accuracy)*

# **The Constitution of Afghanistan**

**Year 1382 (2003)**

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 mercy, and Believing in the Sacred religion of Islam,
2. Observing the United Nations Charter and respecting the Universal Declaration of Human Rights,
3. Realizing the injustice and shortcomings of the past and the numerous troubles imposed on our country,
4. While acknowledging the sacrifices and the historic struggles, rightful Jihad and resistance of the Nation, and respecting the high position of the martyrs for the freedom of Afghanistan,
5. Understanding the fact that Afghanistan is a single and united country and belongs to all ethnicities residing in this country,
6. For consolidating national unity and safeguarding the independence, national sovereignty, and territorial integrity of the country,
7. For establishing a government based on the people's will and democracy,
8. For the creation of a civil society free of oppression, atrocity, discrimination, and violence and based on the rule of law, social justice, protection of human rights, and dignity, and ensuring the fundamental rights and freedoms of the people,
9. For strengthening political, social, economic, and defensive institutions of the country,
10. For ensuring a prosperous life and sound environment for all those residing in this land,
11. And finally for regaining Afghanistan's deserved 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 / /1382 in the city of Kabul.

# Chapter One

## The State

### Article One

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

### Article Two

The religion of Afghanistan is the sacred religion of Islam.

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

### Article Three

In Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this Constitution.

### Article Four

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 citizens of Afghanistan.

The word “Afghan” applies to every citizen of Afghanistan.

No citizen of the nation shall be deprived of his Afghan citizenship.

Affairs related to citizenship and asylum shall be regulated by law.

### Article Five

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

### Article Six

The state is obliged to create a prosperous and progressive society based on social justice, protection of human dignity, protection of human rights and 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

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 and production and smuggling of narcotics.

### Article Eight

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

#### Article Nine

Minerals and other underground resources are properties of the state. Protection, use, management, and mode of utilization of public properties shall be regulated by law.

#### Article Ten

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

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

#### Article Twelve

Da Afghanistan Bank is the central and independent bank of the state. Issuance of currency, and the formulation and the implementation of monetary policy of the country are the mandates of the central bank in accordance with law. The structure and operation of this bank shall be regulated by law.

#### Article Thirteen

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

#### Article Fourteen

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 and herders, and the settlement and living conditions of nomads.

The state shall adopt necessary measures for housing and the distribution of public estates to deserving citizens in accordance within its financial resources and the law.

#### Article Fifteen

Archeological artifacts are the property of the state. The state is obliged to adopt necessary measures for safeguarding archeological artifacts proper exploitation of natural resources, and improvement of ecological conditions.

#### Article Sixteen

From among the languages of Pashto, Dari, Uzbeki, Turkmani, Baluchi, Pashaei, Nuristani, and other languages spoken in the country, Pashto and Dari are the official languages of the state.

The state shall adopt and implement effective plans for strengthening and developing all languages of Afghanistan.

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

#### Article Seventeen

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

#### Article Eighteen

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

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

Friday is a public holiday.

Other holidays shall be regulated by law.

#### Article Nineteen

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 is the sacred phrase of “There is no God but Allah and Mohammad is his prophet, and Allah is Great”, 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

The National Anthem of Afghanistan shall be in Pashtu.

#### Article Twenty-One

The capital of Afghanistan is the city of Kabul.

## Chapter Two

### Fundamental Rights and Duties of Citizens

#### Article Twenty-Two

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

The citizens of Afghanistan have equal rights and duties before the law

#### Article Twenty-Three

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

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

#### Article Twenty-Five

Innocence is the original state.

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

#### Article Twenty-Six

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

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

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

No person can be punished except in accordance with the decision of an authorized court and in conformity with the law adopted before the date of the act.

#### Article Twenty-Eight

No citizen of Afghanistan accused of a crime shall be extradited to a foreign state unless according to mutual agreements and international conventions that Afghanistan has joined.

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

#### Article Twenty-Nine

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, imprisonment, or convicted to punishment.

Punishment contrary to human integrity is prohibited.

#### Article Thirty

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

Every person upon arrest shall 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 duties and authorities of advocates shall be regulated by law.

#### Article Thirty- Two

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

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

#### Article Thirty-Three

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

Freedom of expression is inviolable.

Every Afghan has the right to express his thought through speech, writing, illustration or other means, by observing the provisions stated in this Constitution.

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

Provisions related to printing houses, radio, television, press, and other mass media, will be regulated by law.

#### Article Thirty-Five

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 law.

The citizens of Afghanistan have the right to form political parties in accordance with the provisions of law, provided that:

1. The program and charter of the party are not contrary to the provision of the sacred religion of Islam, and the provisions and values of this Constitution.
2. The organizational structure and financial sources of the party are made public.
3. The party does not have military or paramilitary aims and structures.
4. The party is not affiliated to foreign political parties or sources.

Formation and functioning of a party based on ethnicity, language, religion and region shall not be 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

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

#### Article Thirty-Seven

Confidentiality and freedom of correspondence and communication whether in the form of letters or through telephone, telegraph and other mean, 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

The residence of a person is immune from invasion.

No person, including the state shall enter or inspect a private residence without prior permission of the resident or the order of an authorized court, except in situations and conditions specified by law.

In case of an evident crime, an official in-charge shall enter or conduct a house search prior to the permission of the court.

The official in-charge is required to obtain a court order for the house search within the period indicated by law.

#### Article Thirty-Nine

Every Afghan has the right to travel or settle in any part of the country except in the areas 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

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 person's property shall be confiscated except within the provisions of law and the order of an authorized court.

Acquisition of personal property is permitted only for securing public interest, in return for prior and just compensation according to law.

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

#### Article Forty-One

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 accordance with the provisions of 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

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

No taxes and duties are levied without the 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, duty, and collected income shall be delivered to the singular State account.

#### Article Forty-Three

Education is the right of all citizens of Afghanistan and shall be provided up to secondary level, 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 and provide the opportunity to teach native languages in the areas where they are spoken.

#### Article Forty-Four

The state shall devise and implement effective programs for balancing and promoting education for women, improving education of nomads and eliminating 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 shall develop the curriculum of religious subjects in schools on the basis of the Islamic sects existing in Afghanistan.

#### Article Forty-Six

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

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

The state can also permit foreign persons to establish higher, general and vocational educational institutions in accordance with law.

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

#### Article Forty-Seven

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

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

#### Article Forty-Eight

Work is the right of every Afghan.

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

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

#### Article Forty-Nine

Forced labor is forbidden.

Forced labor, in times of war, calamity, and other situations threatening lives and public welfare are exceptions to this rule.

Children shall not be subjected to forced labor.

#### Article Fifty

The state is obliged to adopt necessary measures for the creation of a strong and sound administration and the realization of reforms in the administrative system of the country. Government offices are required to carry their work with full neutrality and in compliance with the provisions of law.

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

This right has no limits, except where it harms the rights of others or national security.

The citizens of Afghanistan are employed for State services on the basis of qualification without any kind of discrimination and in accordance with provision of law.

#### Article Fifty-One

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

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

#### Article Fifty-Two

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

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

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

#### Article Fifty- Three

The state shall take necessary measures for regulating medical services and financial support to descendants of martyred, lost or disabled and handicapped individuals in accordance with provisions of law.

The state guarantees the rights of pensioners and renders necessary assistance to needy elders, women without caretakers, and needy orphans in accordance with the provision of law.

#### Article Fifty- Four

Family is the fundamental unit of society and is protected by the state.

The state shall adopt 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 provisions of sacred religion of Islam.

#### Article Fifty-Five

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

The conditions for military service are regulated by law.

#### Article Fifty-Six

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

Ignorance of the provisions of law shall not be considered an excuse.

#### Article Fifty-Seven

The state shall guarantee 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 International Law.

#### Article Fifty-Eight.

The State for the purpose of monitoring the human rights in Afghanistan, and their protection, shall establish the Independent Human Rights Commission of Afghanistan. Every person in case of violation of his fundamental rights can submit a complaint to this Commission.

The Commission can refer persons whose fundamental rights have been violated, to legal authorities and assist defending their rights.

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

#### Article Fifty-Nine

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

## Chapter Three

### The Presidency

#### Article Sixty

The President is the head of the 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 is responsible to the nation.

The President shall have one Vice President.

The President shall declare at the time of his candidacy the name of the Vice President 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

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

The presidential term expires on the first of (Jawza) of the fifth year after the elections.

Elections for the new President shall be held within thirty to sixty days before the end of the presidential term.

If none of the candidates receives more than 50% of the votes in the first round, a run-off election shall be held within two weeks of the announcement of results of the elections.

In this round, only the 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 before the first or second round, 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 the President shall be held under the supervision of the Independent Electoral Commission for Supervising Elections.

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

#### Article Sixty-Two

Presidential candidates should possess the following qualifications:

- 1- Be a citizen of Afghanistan, a Muslim, born of Afghan parents, and not have citizenship of another country.
- 2- Not be less than forty years on the day becoming a candidate.
- 3- Not have been convicted of crimes against humanity, other crimes, or deprivation of the civil rights by a court.

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

The provisions of this article also apply to the Vice President.

### Article Sixty-three

The President-elect, prior to assuming his duties, performs the following oath:

“In the name Allah, the Merciful, the Compassionate

In the name Allah Almighty, in the presence of you representatives of the nation of Afghanistan, I swear to obey and safeguard 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

The President’s power and duties shall be as follows:

- 1- Supervising the implementation of the Constitution.
- 2- Determining the fundamental policies of the country.
- 3- Being the Commander-in-Chief of the Armed Forces of Afghanistan.
- 4- Declaring war and ceasefire with the approval of the National Assembly.
- 5- Taking the required decisions in defense of territorial integrity and in protecting independence.
- 6- Sending contingents of the Armed Forces to foreign countries with the approval of the National Assembly.
- 7- Convening Loya Jirgas except in situations stated in Article Sixty-eight of this Constitution.
- 8- Declaring a state of emergency with the approval of the National Assembly and ending it.
- 9- Inaugurating the National Assembly and the Loya Jirga.
- 10- Accepting the resignation of the Vice President.
- 11- Appointing Ministers and the Attorney General with the approval of the Wolesi Jirga, and dismissing and accepting their resignations.
- 12- Appointing the Head and members of the Supreme Court with the approval of the Wolesi Jirga.
- 13- Appointing and dismissing, or accepting the retirement or resignation of judges, officers of the Armed Forces, Police, National Security, and high-ranking officials in accordance with the law.
- 14- Appointing heads of diplomatic missions of Afghanistan in foreign countries and international organizations.
- 15- Accepting credentials of diplomatic missions in Afghanistan.
- 16- Signing of laws and decrees.
- 17- Issuing credential letters for the conclusion of bi-lateral and international treaties in accordance with the provisions of law.
  
- 18- Reducing and pardoning penalties in accordance with the provisions of law.
- 19- Issuing medals and honorary titles in accordance with the provisions of law.
- 20- Appointing Governor of Central Bank with the approval of the Wolesi Jirga.

- 21- Establishing commissions for improvement of the administration of the country, in accordance with the provisions of law.
- 22- Exercising other duties and authorities in accordance with the provisions of this Constitution.

#### Article Sixty-Five

The President shall call referendum on important national, political, social or economic issues.

Referendums shall not be contrary to the provisions of this Constitution or for amending it.

#### Article Sixty-Six

The President shall take 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 law.

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

#### Article Sixty-Seven

In case of resignation, impeachment or death of the President, or of a serious illness that hinders the performance of duties, the Vice President undertakes his duties and authorities.

The President declares his resignation personally to the National Assembly.

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

In such case, election for the new President shall be held within the period of three months in accordance with article 61 of this Constitution.

The Vice-President while acting in as the interim President cannot perform the following:

1. Amend of the Constitution
2. Dismiss of ministers.
3. Hold a referendum.

The Vice President can nominate himself as a candidate for the post of the President in accordance with the provisions of this constitution.

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

#### Article Sixty-Eight

In case of resignation and or death of the Vice President, another person shall replace him by the proposal of the President and approval of the Wolesi Jirga.

In case of deaths of the President and the Vice President at the same time the duties of the President shall be assumed one after another by the Chair of the Meshrano Jirga, Chair of the Wolesi Jirga, the Foreign Minister in accordance with article 67 of this Constitution.

#### Article Sixty-Nine

Accusations of crimes against humanity, national treason or other crimes 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 approves the accusation by a two-third majority of votes the President shall be then dismissed, and the case referred to a special court.

The special court shall be 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 shall be conducted by a person appointed by the Loya Jirga.

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

#### Article Seventy

The salary and expenditures of the President shall be regulated by law.

After the end of his term, with the exception of his dismissal, the President shall be entitled to the financial benefits of the presidency for the rest of his life in accordance with law.

## Chapter Four The Government

#### Article Seventy-one

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

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

The number and duties of the Ministers shall be regulated by law.

#### Article Seventy-two

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

- 1- Be a citizen of Afghanistan.
- 2- Have higher education, work experience and good reputation.
- 3- NOT be less than thirty-five years of age.
- 4- Not have been convicted of crimes against humanity, criminal acts, or have been deprived of his civil rights by a court.

#### Article Seventy-three

The Ministers can be appointed from within or 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

Prior to taking office, the Minister shall 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 sacred religion of Islam, follow the Constitution and other laws of Afghanistan, protect the fundamental 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

The government has the following duties.

1. Execute the provision of this Constitution, other laws, and final orders of the courts.
2. 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 all types of administrative corruption.
3. Prepare the budget, regulate financial affairs, and protect public wealth.
4. Devise and implement programs for social, cultural, economic, and technological progress.
5. 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.
6. Perform other duties as recognized by this Constitution and other laws to be duties of the government.

#### Article Seventy-six

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

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

#### Article Seventy- seven

The Ministers perform their duties within the limits determined by this Constitution and other laws as heads of administrative units and members of the government.

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

#### Article Seventy-eight

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

#### Article Seventy-nine

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

The decrees become laws after they are signed by the President.



The decrees shall be submitted to the National Assembly within thirty days of the first session of the National Assembly.

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

#### Article Eighty

The Ministers shall not use their posts during the course of their work for linguistic, regional, ethnic, religion and partisan purposes.

## Chapter Five The National Assembly

#### Article Eighty-one

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

Every member of the National Assembly casts his votes on the basis of general welfare and supreme interests of all people of Afghanistan.

#### Article Eighty-two

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

No person shall become a member of both Houses simultaneously.

#### Article Eighty-three

Members of the Wolesi Jirga are elected by the people through free, general, secret, and direct elections.

The term of the Wolesi Jirga ends on the 1<sup>st</sup> of Saratan of the fifth year after the announcement of the results of the elections, and the new assembly begins its work.

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

The number of members of the Wolesi Jirga shall be between two hundred and twenty (220) and two hundred and fifty (250), proportionate to the population of each constituency.

Electoral constituencies and other related issues shall be determined by the election law.

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

#### Article Eighty-four

Members of the Meshrano Jirga are elected and appointed as follows:

- 1- From among the members of each provincial council, the respective council elects one person for a period of four years.
- 2- From among the district councils of each province, the respective councils elect one person for a period of three years.
- 3- The President, from among experts and experienced personalities, 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 shall replace him in accordance with the law.

#### Article Eighty-five

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.

1. Be the citizen of Afghanistan or have obtained the citizenship of the state of Afghanistan at least ten years before becoming a candidate.
2. Not have been convicted by a court for committing crimes against humanity, other crimes, or sentenced to deprivation of his civil rights.
3. Members of Wolesi Jirga should be Twenty-Five years (25) old at the date of candidacy, and members of the Meshrano Jirga should be Thirty-Five years (35) old at the date of candidacy or appointment.

#### Article Eighty-six

Credentials of members of the National Assembly shall be reviewed by the Independent Electoral Commission for Supervising Elections in accordance with the provision of law.

#### Article Eighty-seven

In the beginning of the legislative period, each one of the two Houses elects one of its members as the Chairperson, and two persons as the first and second Vice Chairpersons, and two persons as the Secretary and Assistant Secretary for a period of one year.

These individuals constitute the administrative committee in their respective Houses. The duties of the administrative committee are determined by the regulations pertaining to the internal affairs of each House.

#### Article Eighty-eight

Each House of the National Assembly shall set up commissions to study the topics under discussion in accordance with their respective internal regulations.

#### Article Eighty-nine

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 in the internal regulations of Wolesi Jirga.

#### Article Ninety

The National Assembly has the following authorities:

- 1- Ratification, modification, or abrogation of laws and or decrees.

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

#### Article Ninety-one

The Wolesi Jirga has the following special authorities:

1. Deciding on interpellation of each of the ministers in accordance with the provisions of article 92 of this Constitution.
2. Taking the final decision about the state's development programs and state budget, in case of differences between the Wolesi Jirga and the Meshrano Jirga.
3. Approval of appointments according to the provisions of this Constitution.

#### Article Ninety-two

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

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

The vote of no confidence against 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

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

The person questioned can provide verbal or written responses.

#### Article Ninety-four

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 with a bill passed by the National Assembly, he can send back the bill 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 the bill again with a majority of two-third votes, the bill is considered endorsed and enforceable.

#### Article Ninety-five

A bill can be initiated by the government, or by members of the National Assembly, or in the domain of the regulation of judicial affairs, through the Supreme Court by the government.

#### Article Ninety-six

Proposals for budgetary and financial affairs shall be initiated only by the government.

#### Article Ninety-seven

Bills initiated by the government shall be submitted first to the Wolesi Jirga.

If a bill includes imposition of new taxes or reduction in state incomes, it shall be included in the working agenda of the Wolesi Jirga on the condition that an alternative source is also foreseen.

The Wolesi Jirga approves or rejects as a whole a bill, including proposals for budgetary and financial affairs and the proposals of taking or giving loans.

The Wolesi Jirga cannot delay a bill for more than a month.

The proposed bill is submitted to the Meshrano Jirga, after its approval by the Wolesi Jirga.

The Meshrano Jirga shall decide on the bill within fifteen days

The National Assembly shall give priority to the bills, treaties, and development plans of the government that require urgent consideration and decision at the request of the government.

If a bill is initiated by ten members of one of the two Houses and then approved by one fifth of the members of the respective Houses, it can be admitted to the agenda of the respective Houses.

#### Article Ninety-eight

The state budget and development plan of the government are 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 it is signed by the President.

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 new budget is approved.

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

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 the law.

The Wolesi Jirga shall not delay the approval of the budget for more than one month or delay permission to give or take a loan for more than 15 days.

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

#### Article Ninety-nine

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

#### Article One hundred

In case the decision of one House is rejected by another e, a joint committee composed of equal members of each house shall be formed to resolve the differences.

The decision of the committee shall be enforced after its approval by the President. In case the Joint Committee cannot resolve the differences, the bill is considered defeated. However, if the bill was approved by the Wolesi Jirga in the first place, 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 differences between the two Houses are over legislation involving financial affairs, and the joint committee is not able to resolve it, the Wolesi Jirga can approve the bill by the majority vote of its members.

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

#### Article One hundred-one

No member of the National Assembly shall be legally prosecuted for expressing his views while performing his duties.

#### Article One hundred-two

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 National Assembly is in recess, the permission of arrest is obtained from the administrative committee of the respective House and the decision of this committee shall be presented to the first session of that House for a decision.

#### Article One Hundred three

Ministers can participate in the sessions of each House of the National Assembly. Each House of the National Assembly can demand the participation of Ministers in its session.

#### Article One Hundred and four

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

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

1. When the legislative session or the annual session is inaugurated by the President.
2. 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

The sessions of the National Assembly are open unless the Chairman of the Assembly, or at least ten members of the National Assembly, request that the sessions be secret and the Assembly accepts this request.

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

Article One Hundred and six

The quorum of the sessions of each House of the National Assembly for voting is complete with the presence of the majority of the members, and its decisions are taken with the majority of the members present, unless this Constitution states otherwise.

Article One Hundred and seven

The National Assembly convenes for two ordinary sessions each year.

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

The Assembly can extend this period when necessary.

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

Article One Hundred and eight

In cases of death, resignation and dismissal of a member of the National Assembly, and/or disability or handicap that prevents performance of duties permanently, election shall be held for a new representative for the rest of the legislative period, in accordance with the provision of law.

Matters involving the presence or absence of members of the National Assembly shall be regulated according to the internal regulations of the Assembly.

Article One Hundred and nine

Proposal for amending the electoral law shall not be included in the agenda of the Assembly during the last year of the legislative term.

## Chapter Six

### The Loya Jirga

Article One Hundred and ten

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

The Loya Jirga consists of the following:

- 1- Members of the National Assembly.
- 2- Chairpersons of the provincial and district councils.

The Ministers, Chief Justice and Members of the Supreme Court, shall participate in the sessions of the Loya Jirga without the right to vote.

Article One Hundred and eleven

The Loya Jirga is convened in the following situations:

- 1- Take decision on issues related to the independence, national sovereignty, territorial integrity, and supreme interests of the country. Amend the provisions of this Constitution.
- 2- Prosecute the President in accordance with the provisions of Article 69 of this Constitution.

#### Article One Hundred and twelve

The Loya Jirga in its first session elects from among its members a Chairperson, a Deputy-chair, and two persons as Secretary and an Assistant Secretary.

#### Article One Hundred and thirteen

The quorum of the Loya Jirga for voting is completed by the majority of members. The decisions of the Loya Jirga shall be taken by majority of all members except in explicit cases stated otherwise in this Constitution.

#### Article One Hundred and fourteen

Discussions of the Loya Jirga are open except when one –fourth of its members demand that its discussions be secret, and the Loya Jirga approve this demand.

#### Article One Hundred and fifteen

During the Loya Jirga sessions, the provisions of Articles 101 and 102 of this Constitution shall apply to the Loya Jirga members.

## Chapter Seven

### The Judiciary

#### Article One Hundred and sixteen

The judiciary is an independent branch of the state of the Islamic Republic of Afghanistan.

The judiciary consists of the Supreme Court, and Appeals Court, and Courts the structure and authorities of which are determined by law.

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

#### Article One Hundred and seventeen

The Supreme Court is composed of nine members who are appointed by the President with the approval of the Wolesi Jirga for a period of ten years and in accordance with the provisions of last paragraph of the article 50 and article 118 of this Constitution.

The appointment of any justice for a second term shall not be permissible.

The President appoints one of its justices as the Chief Justice of the Supreme Court.

The Justices shall not be dismissed from their service until the end of their term, except under circumstances stated in Article 127 of this Constitution.

#### Article One Hundred and eighteen

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

- 1- Not be less than forty years of age at the time of appointment
- 2- Be a citizen of Afghanistan.
- 3- Have higher education in law or in Islamic jurisprudence, and have sufficient expertise and experience in the judicial system of Afghanistan.
- 4- Be known for high moral character and good reputation.
- 5- Not have been convicted of crimes against humanity, other crimes, or have been deprived of his civil rights by a court.
- 6- Not be member of any political party during the term of official duty.

#### Article One Hundred and nineteen

The Justices of the Supreme Court shall prior to assuming their offices take the following oath in the presence of the President:

“In the name Allah, the Merciful and the Compassionate

I swear in the name of God Almighty to support judicial 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 judicial duties with utmost honesty, righteousness and nonpartisanship.”

#### Article One Hundred and twenty

It is within the jurisdiction of the judiciary to attend to all lawsuits in which real individuals or non-real legal persons including the state stand before it as plaintiff or defendant and brought before it in accordance with the provisions of law.

#### Article One Hundred and twenty one

The Supreme Court shall only by the request of the Government and/or the Courts review the compatibility of laws, decrees, inter-state treaties, and international covenants with the Constitution.

The Supreme Court shall have the authority to interpret the Constitution, laws, and decrees.

#### Article One Hundred and twenty two

Under no circumstances shall the law exclude from the jurisdiction of the judiciary, as defined in this Constitution, a case or sphere, and assign it to other authorities.

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

The structure and authorities of these courts shall be regulated by law.

#### Article One Hundred twenty three

In accordance with the provisions of this Constitution, the rules related to the jurisdiction and administration of courts, and the duties of judges shall be regulated by law.

#### Article One Hundred and twenty four

The administrative personnel and other officials of the judicial branch shall be 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 shall be regulated by the Supreme Court in accordance with law.



Article One Hundred and twenty five

The budget of the judiciary shall be prepared by the Supreme Court in consultation with the government and presented to the National Assembly by the government as part of the state budget.

Implementation of the budget of the judiciary is the authority of the Supreme Court.

Article One Hundred and twenty six

The Justices 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

When more than one - third of the members of the Wolesi Jirga demand the trial of the Chief Justice, or a Justice of the Supreme Court due to a crime committed during the performance of duty, and the Wolesi Jirga approves this demand by a majority of two-third votes, the accused shall be dismissed from his post and the case be referred to a special court.

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

Article One Hundred and twenty eight

In the courts of Afghanistan, trials are held open and everyone may attend trials in accordance with the provision 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 hold closed trials, however, the judgment shall be always proclaimed.

Article One Hundred and twenty nine

The courts are bound to state in their judgment the reasons for their verdict.

The enforcement of all final judgments of the courts is obligatory, except in the case capital punishment, which is subject to the approval of the President.

Article One Hundred and thirty

The courts in the cases under their consideration shall apply the provisions of this Constitution and other laws.

Whenever no provision exists in the constitution or the laws for a case under consideration, the court shall follow the provisions of the Hanafi jurisprudence within the provisions set forth in this Constitution render a decision that secures justice in the best possible way.

Article One Hundred and thirty one

Courts shall apply Shia jurisprudence in cases dealing with personal matters involving the followers of Shia Sect in accordance with the provisions of the law.

In other cases as well, where no provisions of this constitution and other laws apply and both sides of the case are followers of the Shia Sect, courts shall resolve the case according to laws of this Sect.

Article One Hundred and thirty two

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

The appointment, transfer, promotion, punishment, and proposal for retirement of the judges are within the authority of the Supreme Court in accordance with law.

The Supreme Court shall in order to improve the administrative and judicial affairs establish the General Administration Office of the Judiciary.

Article One Hundred and thirty three

Whenever a judge is accused of having committed a crime, the Supreme Court shall investigate the case involving the judge in accordance with law.

After hearing his defense, if the Supreme Court regards the accusation to be valid, it shall propose the dismissal of the judges to the President.

Subject to Presidential approval, the accused judge shall be dismissed from duty, and punished in accordance with the provisions of law.

Article One Hundred and thirty four

Discovery of crimes is the duty of the police and investigation and prosecution are conducted by the Attorney General's Office in accordance with the provisions of the law. The Office of the Attorney General is part the Executive branch, and is independent in its functions.

The structure, authority, and activities of the Office of the Attorney General shall be regulated by law.

Discovery and investigation of crimes related to the armed forces, police and officials of national security shall be regulated by a special law.

Article One Hundred and thirty five

If parties involved in a case do not understand 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 Administrative Division

Article One Hundred and thirty six

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

The central administration shall be 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 shall be regulated by law on the basis of population, social and economic conditions, and geographic location.

#### Article One Hundred and thirty seven

The government, while preserving the principle of centralism, shall 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

In every province a provincial council shall be formed.

Members of the provincial council shall be 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 law.

Each provincial council shall elect one of its members as Chairman.

#### Article One Hundred and thirty nine

The provincial councils take part in securing the developmental targets of the state and improving its affairs in a way stated in the law, and give advice on important issues falling within the domain of the respective province.

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

#### Article One Hundred and forty

In order to organize activities and provide people the opportunity to actively participate in the local administration, councils shall be set up in districts and villages in accordance with the provisions of law.

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

The participation of nomads in these councils shall be regulated by law.

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

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

The municipally affairs shall be regulated by law.

#### Article One Hundred forty two

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

## Chapter Nine The State of Emergency

#### Article One Hundred and forty three

If due to war, threat of war, serious rebellion, natural disasters, or similar situation, the protection of the independence or survival of the nation becomes impossible by following the provision of this Constitution, the President, with the endorsement of the National Assembly may 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 approval of the National Assembly shall be required for its extension.

Article One Hundred and forty four

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

Article One Hundred and forty five

During the state of emergency, the President with the consent of the heads of the National Assembly, and the Supreme Court, may suspend the following Articles or restrict 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

The Constitution shall not be amended during the state of emergency.

Article One Hundred and forty seven

If the Presidential term of office and/or the legislative period end during a state of emergency, new elections shall be postponed, and the presidential and legislative terms 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 the state of emergency, elections shall be held.

Article One Hundred and forty eight

Immediately following the termination of the state of emergency the measures adopted on the basis of articles 144 and 145 of this Constitution shall be considered invalid.

## Chapter Ten

### Amendments

Article One Hundred and forty nine

The provisions of adherence to the provisions of the sacred religion of Islam and the republican regime 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

In order to implement proposals regarding amending the Constitution, a commission composed of members of the government, National Assembly, and the Supreme Court would 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 Loya Jirga Chapter.

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

The President, Vice President, Ministers, Head and members of the Supreme Court, cannot engage in any profitable business contracts with the government or individuals during their terms of office.

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

### Article One Hundred and fifty two

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

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

Property of the President, Vice President, and Ministers and Members of the Supreme Court before and after their terms of office shall be registered and monitored by an organ to be established by law.

### Article One Hundred and fifty five

Appropriate salaries shall be paid to Ministers, Members of the National Assembly and the Supreme Court, in accordance with the provisions of law.

## Chapter Twelve The Transitional Provisions

### Article One Hundred fifty six

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 seven

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

During the transitional period, the Transitional Islamic State of Afghanistan shall perform the following tasks:

- 1- Issue decrees related to the elections of the President members of the National Assembly and local councils within six months.
- 2- Issue decrees regarding the structure and authorities of the courts and basic administration structures within one year.
- 3- Establish an Independent Electoral Commission for Supervising Elections.
- 4- Take necessary measures for reform of the executive and judicial affairs
- 5- Adopt necessary measures for preparing the ground for enforcement of the provisions of this Constitution.

#### Article One Hundred and fifty eight

The first President elected shall take up his duties thirty days after the result of the election has been proclaimed, in accordance with this Constitution.

#### Article One Hundred and fifty nine

Elections of the National Assembly will be held within one year of the Presidential elections. The powers of the National Assembly under this constitution until the establishment of the National Assembly shall be transferred to the Government and the Supreme Court shall be formed by the decree of the President.

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

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

The executive and judicial branches of the state in accordance with the 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 shall be enforceable until they are annulled by the National Assembly.

#### Article One Hundred sixty

This Constitution is enforced upon its approval by the Loya Jirga, and will be signed and proclaimed by the President of the Transitional Islamic State of Afghanistan.

Upon the enforcement of it, laws and decrees contrary to the provisions of this Constitution are invalid.