

# **THE CONSTITUTION OF AFGHANISTAN 1976**

## **THE CONSTITUTION OF THE REPUBLICAN STATE OF AFGHANISTAN**

PROMULGATION BY THE PRESIDENT OF THE REPUBLIC OF AFGHANISTAN IN THE NAME OF ALMIGHTY GOD, DESIROUS OF THE PROSPERITY OF THE NOBLE PEOPLE OF AFGHANISTAN; I MOHAMMAD DAUD, THE FIRST PRESIDENT OF THE REPUBLIC OF AFGHANISTAN, PURSUANT TO THE MANDATE UNANIMOUSLY CONFERRED UPON ME BY THE REPRESENTATIVES OF THE FIRST LOYA JIRGA OF THE REPUBLICAN STATE ON THE BASIS OF ITS DECISION OF DALW 25TH, 1355 AH, THIS DAY, THURSDAY, HOOT 5, 1355, IN KABUL, CAPITAL OF AFGHANISTAN, SIGN THIS CONSTITUTION AND PROCLAIM ITS ENFORCEMENT.

MOHAMMAD DAUD

FIRST PRESIDENT OF THE REPUBLICAN STATE OF AFGHANISTAN

HOOT 5TH 1355 AH

IN THE NAME OF ALLAH THE COMPASSIONATE, THE MERCIFUL

### **PREAMBLE**

WHEREAS NATIONS AND SOCIETIES IN THE COURSE OF HISTORY ARE IN A STATE OF CONSTANT TRANSFORMATION AND EVOLUTION; AND, WHEREAS THIS REALITY HAS BEEN EVIDENT THROUGHOUT THE COURSE OF OUR HISTORY AS A PART OF THE HUMAN SOCIETY, THEREFORE: TO SECURE AN HONORABLE EXISTENCE FOUNDED ON THE FIRM PILLARS OF JUSTICE AND COMPETENCE AND ABOUNDING IN PROSPERITY, WELFARE AND CONFIDENCE; TO SECURE THE, SACRED NATIONAL, SOCIAL, ECONOMIC, POLITICAL AND CULTURAL ASPIRATION OF THE REVOLUTION OF SARATAN 26, OF THE YEAR 1352; TO STRENGTHEN AND CONSOLIDATE, EVER INCREASINGLY, NATIONAL UNITY, SECURITY, AND SOLIDARITY AND TO ENSURE SOCIAL JUSTICE AND TO ELIMINATE CONTRADICTIONS IN A POSITIVE AND PROGRESSIVE MANNER, IN ACCORDANCE WITH THE REALITIES OF HISTORY, NATIONAL CULTURE, AND THE OBJECTIVE AND SUBJECTIVE CONDITIONS PREVAILING IN OUR SOCIETY; TO RESPECT PROFOUNDLY THE GLORIOUS HISTORY AND THE PAST GRANDEUR OF THE PEOPLE OF OUR COUNTRY, AND THEIR PERSISTENT STRUGGLE FOR THE PRESERVATION OF NATIONAL IDENTITY, THE COUNTRIES'S INDEPENDENCE, AND TO FULFILL THEIR HISTORIC AND HUMAN MISSION: WITH TRUST IN ALMIGHTY GOD, AND ADHERING TO THE BASIC PRINCIPLES OF THE SACRED RELIGION OF ISLAM, AND ULTIMATELY IN ORDER TO ACHIEVE ALL THESE AIMS AND OBJECTIVES, WE THE PEOPLE OF AFGHANISTAN, REALIZING THE CONDITIONS AND REQUIREMENTS OF TIME, HAVE RESOLVED TO CONSOLIDATE OUR NATIONAL LIFE ON THE BASIS OF LIBERTY, PROGRESS, TRUTH, JUSTICE AND PEACE BASED ON THE PRINCIPLES OF BROTHERHOOD AND EQUALITY, AND TO FOUND THE PHILOSOPHY OF LIFE AND THE DESTINY OF THE PRESENT AND FUTURE GENERATIONS OF THE COUNTRY IN ACCORDANCE WITH THE FUNDAMENTAL AND

ECONOMIC OBJECTIVES OF AFGHANISTAN'S NATIONAL AND PROGRESSIVE REVOLUTION OF SARATAN 26, OF THE YEAR 1352.

WITH THE REALIZATION OF THESE FACTS, WE HAVE ENACTED THIS NATIONAL DOCUMENT AS THE CONSTITUTION OF OUR REPUBLICAN STATE IN ORDER TO SECURE THE PROSPERITY, THE WELFARE AND THE SPIRITUAL AND MATERIAL ADVANCEMENT OF THE NOBLE PEOPLE OF AFGHANISTAN, FOR OURSELVES AND FOR THE GUIDANCE OF FUTURE GENERATIONS.

IN THE NAME OF ALLAH, THE COMPASSIONATE, THE MERCIFUL

## **CHAPTER ONE**

### **FUNDAMENTAL OBJECTIVES**

ARTICLE ONE: THE DEFENSE OF INDEPENDENCE, NATIONAL SOVEREIGNTY AND TERRITORIAL INTEGRITY.

ARTICLE TWO: THE EXERCISE OF POWER BY THE PEOPLE, THE MAJORITY OF WHOM CONSISTS OF FARMERS, WORKERS, THE ENLIGHTENED PEOPLE AND THE YOUTH.

ARTICLE THREE: TO STRENGTHEN UNITY OF THOUGHT AND ACTION FOR THE FULL PARTICIPATION OF THE PEOPLE IN THE CONSTRUCTION, AND MATERIAL AND SPIRITUAL DEVELOPMENT, OF THE COUNTRY.

ARTICLE FOUR: TO SECURE DEMOCRACY BASED ON SOCIAL JUSTICE AND THE INTERESTS OF THE PEOPLE.

ARTICLE FIVE: TO RESPECT HUMAN LIBERTY AND DIGNITY AND TO ELIMINATE ALL FORMS OF TORTURE AND DISCRIMINATION.

ARTICLE SIX: TO EVER INCREASE THE STABILITY AND CONSOLIDATION OF THE REPUBLICAN ORDER.

ARTICLE SEVEN: TO INSTITUTE CONSTANT, PROFOUND AND BASIC ECONOMIC AND SOCIAL CHANGES BASED ON THE PRINCIPLES AND VALUES ENSHRINED IN THIS CONSTITUTION TO SECURE THE INTERESTS OF THE MAJORITY OF THE PEOPLE OF AFGHANISTAN.

ARTICLE EIGHT: THE ELIMINATION OF EXPLOITATION IN ALL ITS FORMS AND MANIFESTATIONS.

ARTICLE NINE: TO ENSURE THE RIGHT TO WORK.

ARTICLE TEN: TO ENSURE AND TO GENERALIZE COMPULSORY PRIMARY EDUCATION, TO EXPAND AND DEVELOP GENERAL AND VOCATIONAL SECONDARY EDUCATION AND HIGHER EDUCATION, FREE OF CHARGE, IN ORDER TO TRAIN AND FORM ACADEMIC AND TECHNICAL CADRES TO SERVE THE PEOPLE. ARTICLE ELEVEN: TO

EXPAND AND BROADEN PREVENTATIVE AND CURATIVE MEDICINE FOR THE PRESERVATION AND IMPROVEMENT OF PUBLIC HEALTH.

ARTICLE TWELVE: TO RESPECT THE PRINCIPLES OF THE CHARTER OF THE UNITED NATIONS, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND TO SUPPORT JUST PEACE. ULTIMATELY, THE FORMATION OF A PROSPEROUS AND PROGRESSIVE SOCIETY ON THE BASIS OF BROTHERHOOD, EQUALITY, COOPERATION, AND THE PRESERVATION OF HUMAN DIGNITY.

## **CHAPTER TWO**

### **ECONOMIC PRINCIPLES**

ARTICLE THIRTEEN: RESOURCES SUCH AS MINE, FORESTS AND ENERGY, LARGE INDUSTRIES, COMMUNICATIONS, IMPORTANT AIR AND SURFACE TRANSPORT ESTABLISHMENTS, PORTS, BANKS, INSURANCE IMPORTANT FOOD PROCUREMENT ESTABLISHMENTS, AND ARCHAEOLOGICAL AND HISTORICAL OBJECTS ARE PART OF THE NATIONAL PROPERTY AND THEIR ADMINISTRATION SHALL BELONG TO THE STATE, IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

ARTICLE FOURTEEN: LIMITS ON AGRICULTURAL PROPERTY SHALL BE DETERMINED AND FIXED BY THE LAND REFORM LAW.

ARTICLE FIFTEEN: PRIVATE PROPERTY AND ENTERPRISES, BASED ON THE PRINCIPLES OF NON EXPLOITATION SHALL BE REGULATED BY LAW.

ARTICLE SIXTEEN: COOPERATIVES, AND PRODUCTION AND CONSUMPTION COOPERATIVE COMPANIES, WITH THE PARTICIPATION OF THE PEOPLE THEREIN, SHALL BE ENCOURAGED, PROTECTED AND GUIDED BY THE GOVERNMENT IN ACCORDANCE WITH THE PROVISIONS OF THE LAW, TO ENSURE THE INTERESTS OF THE MAJORITY OF THE PEOPLE.

ARTICLE SEVENTEEN: PRIVATE INVESTMENTS AND ENTERPRISES IN THE FIELD OF INTERMEDIATE, SMALL AND COTTAGE INDUSTRIES SHALL BE ENCOURAGED, PROTECTED AND GUIDED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

ARTICLE EIGHTEEN: THE TRADE OF THE COUNTRY, BASED ON THE PRINCIPLE OF GUIDED TRADE, SHALL BE REGULATED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW IN THE INTEREST OF THE MAJORITY OF THE PEOPLE.

ARTICLE NINETEEN: TAXES SHALL BE COLLECTED ON THE BASIS OF SOCIAL JUSTICE IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

## **CHAPTER THREE**

### **THE STATE**

ARTICLE TWENTY: AFGHANISTAN IS A REPUBLICAN, DEMOCRATIC, INDEPENDENT, UNITARY AND INDIVISIBLE STATE.

ARTICLE TWENTY ONE: NATIONAL SOVEREIGNTY IN AFGHANISTAN BELONGS TO THE PEOPLE. THE NATION OF AFGHANISTAN CONSISTS OF ALL THOSE INDIVIDUALS WHO HOLD THE CITIZENSHIP OF THE STATE OF AFGHANISTAN IN ACCORDANCE WITH THE PROVISIONS OF THE LAW. THE WORD AFGHAN SHALL APPLY TO EACH AND EVERY INDIVIDUAL OF THE NATION OF AFGHANISTAN.

ARTICLE TWENTY TWO: THE RELIGION OF AFGHANISTAN IS THE SACRED RELIGION OF ISLAM. THOSE CITIZENS WHO ARE NOT FOLLOWERS OF ISLAM SHALL BE FREE TO PERFORM THEIR RELIGIOUS RITES WITHIN THE LIMITS DETERMINED BY THE LAWS RELATING TO PUBLIC DECENCY AND PUBLIC PEACE.

ARTICLE TWENTY THREE: FROM AMONGST THE LANGUAGES OF AFGHANISTAN, PASHTU AND DARI SHALL BE THE OFFICIAL LANGUAGES.

ARTICLE TWENTY THREE: THE FLAG OF AFGHANISTAN CONSISTS OF BLACK, RED AND GREEN COLORS ARRANGED HORIZONTALLY IN FIXED PROPORTIONS FROM TOP DOWNWARDS WITH THE NATIONAL EMBLEM OF THE STATE AFFIXED IN ITS UPPER LEFT PORTION. THE DEFINITION AND THE PROPORTIONS FROM THE TOP DOWNWARDS WITH THE NATIONAL EMBLEM SHALL BE REGULATED BY LAW.

ARTICLE TWENTY FOUR: THE ARMED FORCES OF THE REPUBLICAN STATE OF AFGHANISTAN, LOYAL TO THE OBJECTIVES OF THE NATIONAL REVOLUTION AND ABIDING TO THE NATIONAL TRADITIONS, SHALL BE AT THE SERVICE OF THE PEOPLE UNDER THE ORDERS OF THE GOVERNMENT. IT IS THE DUTY OF THE ARMED FORCES TO DEFEND THE TERRITORY OF AFGHANISTAN AND THEY SHALL PARTICIPATE IN NATIONAL ACTIVITIES THROUGH THE HIGH COUNCIL OF THE ARMED FORCES.

ARTICLE TWENTY SIX: THE ADMINISTRATION OF AFGHANISTAN IS BASED UPON THE PRINCIPLE OF CENTRALIZATION IN ACCORDANCE WITH THE PROVISIONS OF THE LAW. THE CAPITAL OF AFGHANISTAN IS THE CITY OF KABUL.

## **CHAPTER FOUR**

### **RIGHTS AND OBLIGATIONS OF THE PEOPLE**

ARTICLE TWENTY SEVEN: ALL THE PEOPLE OF AFGHANISTAN, BOTH WOMEN AND MEN, WITHOUT DISCRIMINATION AND PRIVILEGE, HAVE EQUAL RIGHTS AND OBLIGATIONS BEFORE THE LAW.

ARTICLE TWENTY EIGHT: LIBERTY IS THE NATURAL RIGHT OF HUMAN BEINGS, UNLESS IT HARMS OR DAMAGES THE LIBERTY AND DIGNITY OF OTHERS, OR THE BENEFIT AND SECURITY OF THE PUBLIC AND THE NATIONAL INTERESTS. THIS RIGHT SHALL BE REGULATED BY LAW.

ARTICLE TWENTY NINE: EVERY AFGHAN WHO ATTAINS THE AGE OF EIGHTEEN HAS THE RIGHT TO VOTE IN ACCORDANCE WITH THE PROVISION OF THE LAW.

ARTICLE THIRTY: INNOCENCE IS THE ORIGINAL STATE. THE ACCUSED IS RECOGNIZED TO BE INNOCENT UNLESS FOUND GUILTY BY A FINAL JUDGMENT OF A

COMPETENT COURT. NO ONE CAN BE PUNISHED EXCEPT BY THE PROVISIONS OF THE LAW IN FORCE PRIOR TO THE COMMISSION OF THE ACT WITH WHICH THE ACCUSED IS CHARGED. NO ONE CAN BE PURSUED, ARRESTED OR DETAINED EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

ARTICLE THIRTY ONE: CRIME IS A PERSONAL DEED. THE PURSUIT, ARREST OR DETENTION OF THE ACCUSED, AND THE EXECUTION OF A SENTENCE AGAINST HIM, SHALL NOT AFFECT ANY OTHER PERSON. TORTURING, AND IMPOSING PUNISHMENT INCOMPATIBLE WITH HUMAN DIGNITY IS NOT PERMISSIBLE. EVERY PERSON HAS THE RIGHT TO APPOINT DEFENSE COUNSEL FOR THE DEFENSE OF A CHARGE LEGALLY BROUGHT AGAINST HIM.

ARTICLE THIRTY TWO: THE INDEBTEDNESS OF ONE PERSON TO ANOTHER PERSON CANNOT CAUSE THE DEPRIVATION, OR LIMITATION, OF THE LIBERTY OF THE DEBTOR. THE METHOD AND MEANS OF RECOVERING DEBTS SHALL BE REGULATED BY LAW.

ARTICLE THIRTY THREE: EVERY AFGHAN HAS THE RIGHT TO TRAVEL AND SETTLE ANYWHERE WITHIN THE TERRITORY OF THE COUNTRY, EXCEPT IN AREAS PROHIBITED BY THE LAW. EVERY AFGHAN ALSO HAS THE RIGHT TO TRAVEL ABROAD AND RETURN TO HIS HOMELAND IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

ARTICLE THIRTY FOUR: NO AFGHAN CAN BE SENTENCED TO EXILE WITHIN, OR OUTSIDE OF AFGHANISTAN. NO PERSON SHALL BE SENTENCED SO AS TO FORBID HIM FROM RESIDING AT A GIVEN PLACE, OR FROM MOVING THEREFROM, EXCEPT IN CIRCUMSTANCES PERMITTED BY LAW FOR ENSURING PUBLIC SECURITY AND INTERESTS. NO AFGHAN ACCUSED OF A CRIME SHALL BE EXTRADITED TO A FOREIGN STATE.

ARTICLE THIRTY FIVE: THE RESIDENCE OF A PERSON IS INVIOABLE. NO PERSON, INCLUDING TO STATE, CAN ENTER OR SEARCH A RESIDENCE OF A PERSON WITHOUT THE PERMISSION OF THE RESIDENT, OR A WARRANT OF A COMPETENT COURT, AND EXCEPT IN THE CIRCUMSTANCES AND PROCEDURES SPECIFIED BY THE LAW. IN THE CASE OF A WITNESSED CRIME, THE RESPONSIBLE OFFICIAL CAN ON HIS OWN RESPONSIBILITY, ENTER OR SEARCH A RESIDENCE OF A PERSON WITHOUT THE PERMISSION OF THE RESIDENT OR THE PRIOR PERMISSION OF THE COURT. THE OFFICIAL IS BOUND TO OBTAIN THE ORDER OF THE COURT AFTER SUCH ENTRY OR SEARCH, WITHIN THE TIME THE LAW DETERMINES.

ARTICLE THIRTY SIX: PROPERTY IS INVIOABLE. NO PERSON'S PROPERTY SHALL BE CONFISCATED WITHOUT THE PROVISION OF THE LAW AND THE DECISION OF A COMPETENT COURT. THE EXPROPRIATION OF PRIVATE PROPERTY IS PERMITTED ONLY BY VIRTUE OF THE LAW FOR THE PURPOSE OF ENSURING THE INTERESTS OF THE PUBLIC AND IN EXCHANGE FOR JUST COMPENSATION. NO PERSON SHALL BE PROHIBITED FROM ACQUIRING PROPERTY AND EXERCISING THE RIGHT OF OWNERSHIP THEREIN, EXCEPT WITHIN THE LIMITS OF THE LAW. THE WAYS OF UTILIZING PROPERTY SHALL BE REGULATED AND GUIDED BY THE LAWS FOR THE PURPOSE OF ENSURING THE INTERESTS OF THE PUBLIC.

ARTICLE THIRTY SEVEN: FREEDOM AND SECRECY OF COMMUNICATIONS OF PERSONS, WHETHER IN WRITTEN FORM OR BY TELEPHONE AND TELEGRAPH, OR OTHER MEANS, ARE INVIOABLE. THE STATE DOES NOT HAVE THE RIGHT TO SEARCH COMMUNICATIONS OF PERSONS, EXCEPT BY VIRTUE OF THE PROVISIONS OF THE LAW. IN URGENT CASES WHICH SHALL BE DEFINED BY LAW, THE RESPONSIBLE OFFICIAL, WITHOUT PRIOR PERMISSION OF THE COURT, CAN SEARCH COMMUNICATIONS ON HIS OWN RESPONSIBILITY. THE OFFICIAL IS BOUND TO OBTAIN THE ORDER OF THE COURT, AFTER CARRYING OUT SUCH A SEARCH, WITHIN THE TIME THE LAW DETERMINES.

ARTICLE THIRTY EIGHT: FREEDOM OF THOUGHT AND EXPRESSION ARE INVIOABLE. EVERY AFGHAN HAS THE RIGHT TO EXPRESS HIS THOUGHT THROUGH SPEECH, WRITING, PICTURES, OR SIMILAR MEANS, IN ACCORDANCE WITH THE PROVISIONS OF THE LAW. PERMISSION AND THE RIGHT TO ESTABLISH PRINTING HOUSES, AND ISSUE PUBLICATIONS, SHALL BE GRANTED ONLY TO CITIZENS OF AFGHANISTAN IN ACCORDANCE WITH THE PROVISIONS OF THE LAW. THE ESTABLISHMENT OF LARGE PRINTING HOUSES AND THE ESTABLISHMENT AND OPERATION OF PUBLIC RADIO AND TELEVISION TRANSMITTERS ARE THE EXCLUSIVE RIGHT OF THE STATE.

ARTICLE THIRTY NINE: THE CITIZENS OF AFGHANISTAN HAVE THE RIGHT A ASSEMBLE FOR SECURING PERMISSIBLE AND PEACEFUL OBJECTIVES, WITHOUT CARRYING WEAPONS, IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

ARTICLE FORTY: FOR THE REFLECTION OF SOCIAL DEMANDS AND FOR THE POLITICAL EDUCATION OF THE PEOPLE OF AFGHANISTAN, UNTIL SUCH TIME AS THIS ASPIRATION IS REALIZED AND ATTAINS ITS NATURAL MATURITY, THE ONE PARTY SYSTEM LED BY THE HEZB-E-ENQELAB-E-MELI (NATIONAL REVOLUTION PARTY), WHICH IS THE FOUNDER AND VANGUARD OF THE POPULAR AND PROGRESSIVE REVOLUTION OF SARATAN 26, OF THE YEAR 1352 OF THE PEOPLE OF AFGHANISTAN, WILL PREVAIL IN THE COUNTRY.

ARTICLE FORTY ONE: WORK IS THE RIGHT, HONOR, AND DUTY OF EVERY AFGHAN WHO HAS THE CAPABILITY OF DOING IT. THE MAJOR PURPOSE OF THE LAWS THAT SHALL BE PROMULGATED TO REGULATE WORK IS TO REACH THE STAGE IN WHICH THE RIGHTS AND INTERESTS OF ALL TOILERS, FARMERS, WORKERS, AND TRADES ARE PROTECTED, SUITABLE WORKING CONDITIONS PROVIDED, AND IN WHICH RELATIONS BETWEEN THE WORKER AND THE EMPLOYER ARE REGULATED ON A JUST AND PROGRESSIVE BASIS. THE CHOICE OF WORK AND VOCATION IS FREE, WITHIN THE TERMS DETERMINED BY LAW.

ARTICLE FORTY TWO: CITIZENS OF AFGHANISTAN, SHALL BE ADMITTED TO THE SERVICE OF THE STATE ON THE BASIS OF MERIT, AND BY VIRTUE OF THE PROVISIONS OF THE LAW.

ARTICLE FORTY THREE: THE IMPOSITION OF FORCED LABOR IS NOT PERMISSIBLE, EVEN FOR THE STATE. THE PROHIBITION OF FORCED LABOR SHALL NOT BAR THE APPLICATION OF THE LAWS THAT SHALL BE PROMULGATED FOR THE REGULATION OF COLLECTIVE ACTIVITY TO SECURE THE PUBLIC INTEREST.

ARTICLE FORTY FOUR: EVERY AFGHAN IS BOUND TO PAY TAX AND DUTY TO THE STATE. NO TAX OR DUTY SHALL BE LEVIED WITHOUT THE PROVISION OF THE LAW. THE AMOUNT OF TAX AND DUTY, AND THE METHOD OF THEIR PAYMENT, SHALL BE DETERMINED BY LAW, WITH CONSIDERATION TO SOCIAL JUSTICE. THIS PROVISION SHALL ALSO APPLY TO FOREIGN PERSONS.

ARTICLE FORTY FIVE: THE DEFENSE OF THE HOME LAND IS THE SACRED DUTY OF ALL CITIZENS OF AFGHANISTAN. ALL THE CITIZENS OF AFGHANISTAN ARE BOUND TO SERVE UNDER THE FLAG IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

ARTICLE FORTY SIX: ADHERENCE TO THE PROVISIONS OF THE CONSTITUTION, LOYALTY TO THE OBJECTIVES OF THE REVOLUTION OF SARATAN 26, OF THE YEAR 1352 AND TO THE REPUBLICAN ORDER, RESPECT FOR THE PRESIDENT OF THE REPUBLIC, OBEDIENCE TO THE LAWS, OBSERVANCE OF PUBLIC ORDER AND SECURITY, PROTECTION OF THE INTERESTS OF THE HOMELAND, AND PARTICIPATION IN THE NATIONAL LIFE IS THE DUTY OF ALL PEOPLE OF AFGHANISTAN.

ARTICLE FORTY SEVEN: NO ONE CAN HARM NATIONAL INDEPENDENCE, TERRITORIAL INTEGRITY, NATIONAL UNITY, AND THE DICTATES OF THE INTERESTS OF THE MAJORITY OF THE PEOPLE, OR THE OBJECTIVES OF THE REVOLUTION OF SARATAN 26, OF THE YEAR 1352, BY THE EXERCISE OF THE RIGHTS AND FREEDOMS EMBODIED IN THIS CONSTITUTION.

## **CHAPTER FIVE**

### **THE MELI JIRGA**

ARTICLE FORTY EIGHT: THE MELI JIRGA OF AFGHANISTAN IS WHERE THE WILL OF THE PEOPLE IS MANIFESTED AND IT REPRESENTS THE WHOLE OF THE NATION.

ARTICLE FORTY NINE: MEMBERS OF THE MELI JIRGA, 50 % OF WHOM SHALL BE COMPOSED OF FARMERS AND WORKERS, ARE NOMINATED BY THE PARTY AND SHALL BE ELECTED BY THE PEOPLE IN ACCORDANCE WITH THE PROVISIONS OF THE LAW FOR A PERIOD OF FOUR YEARS THROUGH FREE UNIVERSAL, SECRET AND DIRECT ELECTIONS. FOR THIS PURPOSE, AFGHANISTAN SHALL BE DIVIDED INTO ELECTORAL CONSTITUENCIES. THE NUMBER AND THE SIZE OF THE CONSTITUENCIES SHALL BE DETERMINED BY LAW.

ARTICLE FIFTY: THE PROCEDURE AND CONDITIONS OF THE ELECTION OF THE DEPUTIES OF THE MELI JIRGA AND THEIR DUTIES SHALL BE REGULATED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW. THE METHOD OF VERIFICATION OF THE AUTHENTICITY OF THE MEMBERSHIP DOCUMENTS AND ... TIONS TO THE LEGALITY OF THE ELECTION OF A DEPUTY SHALL TAKE PLACE IN ACCORDANCE WITH THE RULES OF PROCEDURE OF THE MELI JIRGA.

ARTICLE FIFTY ONE: THE MEMBERSHIP PRIVILEGE OF A DEPUTY SHALL ONLY BE WITHDRAWN BY AGREEMENT OF TWO THIRDS OF THE MEMBERS OF THE MELI JIRGA.

ARTICLE FIFTY TWO: THE QUALIFICATIONS FOR VOTERS SHALL BE DETERMINED BY THE ELECTORAL LAW. TO BE ELECTED TO MEMBERSHIP IN THE MELI JIRGA, IN ADDITION TO THE QUALIFICATIONS FOR VOTERS, A PERSON MUST MEET THE FOLLOWING QUALIFICATIONS:

- 1) HAVE ACQUIRED THE CITIZENSHIP OF THE STATE OF AFGHANISTAN AT LEAST TEN YEARS PRIOR TO THE DATE OF ELECTION.
- 2) NOT HAVE BEEN PUNISHED BY A COURT WITH DEPRIVATION OF POLITICAL RIGHTS.
- 3) HAVE ATTAINED THE AGE OF TWENTY FIVE AT THE TIME OF ELECTION.

ARTICLE FIFTY THREE: EVERY MEMBER OF THE MELI JIRGA HAS THE RIGHT TO EXPRESS HIS VIEWS WITHIN THE JIRGA ON ANY SUBJECT UNDER DISCUSSION IN ACCORDANCE WITH ITS RULE OF PROCEDURE.

ARTICLE FIFTY FOUR: NO MEMBER OF THE MELI JIRGA SHALL BE SUBJECT TO LEGAL PROCEEDINGS FOR EXPRESSING ANY VIEW OR OPINION WHILE DISCHARGING HIS DUTIES. WHENEVER A MEMBER OF THE MELI JIRGA IS ACCUSED OF AN OFFENSE, THE RESPONSIBLE OFFICIAL SHALL NOTIFY THE MELI JIRGA AND AFTER THE MELI JIRGA GRANTS PERMISSION BY A MAJORITY VOTE, LEGAL PROCEEDINGS SHALL BE BROUGHT AGAINST THE ACCUSED. IN THE CASE OF A WITNESSED CRIME, THE RESPONSIBLE OFFICIAL CAN BRING LEGAL PROCEEDINGS AGAINST THE ACCUSED AND ARREST HIM WITHOUT THE PERMISSION OF THE JIRGA. WHENEVER LEGAL PROCEEDINGS REQUIRE DETENTION ACCORDING TO THE LAW, THE RESPONSIBLE OFFICIAL IS BOUND TO NOTIFY IMMEDIATELY THE JIRGA OF THE MATTER, AND WHEN THE JIRGA IS IN RECESS, TO INFORM THE ADMINISTRATIVE BOARD OF THE JIRGA. THE ADMINISTRATIVE BOARD IS BOUND TO NOTIFY THE MELI JIRGA OF THE MATTER AT ITS FIRST SESSION AFTER THE RECESS.

ARTICLE FIFTY FIVE: THE GOVERNMENT MAY ATTEND THE MEETINGS OF THE MELI JIRGA. THE MELI JIRGA MAY DEMAND THE PRESENCE OF THE MEMBERS OF THE GOVERNMENT AT ITS MEETINGS AND PUT QUESTIONS TO THEM. DISCUSSIONS AT THE MEETINGS OF THE MELI JIRGA SHALL BE OPEN, UNLESS: THE PRESIDENT OF THE REPUBLIC DECLARES THE MEETING TO BE A CLOSED SESSION; OR THE PRESIDENT OF THE MELI JIRGA, ANY MEMBER OF THE GOVERNMENT OR AT LEAST TEN MEMBERS OF THE MELI JIRGA REQUEST A CLOSED MEETING, PROVIDED THIS REQUEST IS APPROVED BY THE JIRGA. NO ONE SHALL FORCIBLY ENTER THE MEETING PLACE OF THE MELI JIRGA. VIOLATIONS SHALL BE PUNISHED ACCORDING TO THE PROVISIONS OF THE LAW.

ARTICLE FIFTY SIX: EXCEPT IN CASES EXPLICITLY PROVIDED IN THIS CONSTITUTION, DECISIONS BY THE MELI JIRGA SHALL BE MADE BY A MAJORITY VOTE OF THE MEMBERS PRESENT.

ARTICLE FIFTY SEVEN: THE MELI JIRGA SHALL HOLD ONE ORDINARY SESSION EVERY YEAR FOR FOUR CONSECUTIVE MONTHS BEGINNING ON THE FIRST OF QAU.

ARTICLE FIFTY EIGHT: THE MELI JIRGA, AT THE BEGINNING OF THE LEGISLATIVE TERM, SHALL ELECT ONE OF ITS MEMBERS AS PRESIDENT. THE JIRGA, AT THE BEGINNING OF ITS ANNUAL SESSION, SHALL ELECT FROM AMONGST ITS MEMBERS TWO PERSONS AS FIRST AND SECOND VICE PRESIDENTS AND TWO OTHER PERSONS AS SECRETARY AND ASSISTANT SECRETARY, FOR A PERIOD OF ONE YEAR. THE ABOVE MENTIONED PERSONS SHALL CONSTITUTE THE ADMINISTRATIVE BOARD OF THE MELI JIRGA AND SHOULD BE ELECTED WITHIN A MAXIMUM PERIOD OF FIFTEEN DAYS FROM THE BEGINNING OF THE SESSION.

ARTICLE FIFTY NINE: THE MELI JIRGA, IN ACCORDANCE WITH IT RULES OF PROCEDURE, SHALL APPOINT COMMITTEES TO UNDERTAKE DETAILED AND THOROUGH STUDY OF THE SUBJECTS UNDER CONSIDERATION.

ARTICLE SIXTY: THE MELI JIRGA SHALL FORMULATE ITS OWN RULES OF PROCEDURE.

ARTICLE SIXTY ONE: APPROPRIATE SALARIES SHALL BE FIXED FOR THE MEMBERS OF THE MELI JIRGA IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

ARTICLE SIXTY TWO: TO ORGANIZE THE AFFAIRS OF LIFE OF AFGHANISTAN, THE MELI JIRGA, IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION, AFTER STUDYING AND CONSIDERING DRAFT LAWS PROPOSED BY THE GOVERNMENT AND THE JUDICIAL ORGAN, SHALL ADOPT NECESSARY DECISIONS THEREON. THE ADOPTION OF DECISIONS ON THE BUDGET, THE RATIFICATION OF INTERNATIONAL TREATIES, AND THE DISPATCH OF DETACHMENTS OF THE ARMED FORCES OF THE REPUBLICAN STATE OF AFGHANISTAN ABROAD ARE WITHIN THE COMPETENCE OF THE MELI JIRGA. DURING RECESS OR THE DISSOLUTION OF THE MELI JIRGA, THE GOVERNMENT MAY DRAFT AND PREPARE ORDINANCES FOR REGULATING URGENT MATTERS. THESE ORDINANCES SHALL COME INTO FORCE AFTER SIGNATURE AND PROCLAMATION BY THE PRESIDENT OF THE REPUBLIC. THESE ORDINANCES SHALL BE SUBMITTED TO THE MELI JIRGA FOR A DECISION WITHIN THIRTY DAYS FROM ITS FIRST MEETING.

ARTICLE SIXTY THREE: A LAW IS A RESOLUTION ENACTED BY THE MELI JIRGA AND SIGNED BY THE PRESIDENT OF THE REPUBLIC.

ARTICLE SIXTY FOUR: THERE CAN BE NO LAW REPUGNANT TO THE BASIC PRINCIPLES OF THE SACRED RELIGION OF ISLAM, THE REPUBLICAN ORDER, AND OTHER VALUES EMBODIED IN THE CONSTITUTION.

## **CHAPTER SIX**

### **THE LOYA JIRGA**

ARTICLE SIXTY FIVE: IN AFGHANISTAN, THE LOYA JIRGA IS THE SUPREME MANIFESTATION OF THE POWER AND WILL OF ITS PEOPLE.

THE LOYA JIRGA IS COMPOSED OF:

THE MEMBERS OF THE MELI JIRGA;

THE MEMBERS OF THE CENTRAL COUNCIL OF THE PARTY;

THE MEMBERS OF THE GOVERNMENT AND THE HIGH COUNCIL OF THE ARMED FORCES;

THE MEMBERS OF THE SUPREME COURT;

FIVE TO EIGHT REPRESENTATIVES FROM EACH PROVINCE, AND,

THIRTY MEMBERS WHO SHALL BE APPOINTED THROUGH A DECREE OF THE PRESIDENT OF THE REPUBLIC.

ARTICLE SIXTY SIX: THE LOYA JIRGA SHALL BE CONVENED IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION THROUGH A DECREE OF THE PRESIDENT OF THE REPUBLIC. THE PRESIDENT OF THE REPUBLIC IS THE CHAIRMAN OF THE LOYA JIRGA. IN THE CASE OF THE DEATH OR RESIGNATION OF THE PRESIDENT OF THE REPUBLIC, THE OFFICE OF THE PRESIDENCY SHALL CONVENE THE LOYA JIRGA WITHIN TWENTY DAYS OF THE DATE OF DEMISE OR RESIGNATION OF THE PRESIDENT.

ARTICLE SIXTY SEVEN: THE LOYA JIRGA SHALL BE CONVENED UNDER THE CHAIRMANSHIP OF THE PRESIDENT OF THE REPUBLIC, OR THE VICE CHAIRMAN OF THE LOYA JIRGA, IN THE FOLLOWING CIRCUMSTANCE:

- 1) THE AMENDMENT OF THE CONSTITUTION.
- 2) THE ELECTION AND ACCEPTANCE OF THE RESIGNATION OF THE PRESIDENT OF THE REPUBLIC.
- 3) THE APPROVAL OF DECLARATION OF WART AND ARMISTICE
- 4) ANY OTHER IMPORTANT EVENT WHICH MAY REQUIRE THE APPROVAL OF THE LOYA JIRGA.

ARTICLE SIXTY EIGHT: DURING THE SESSION OF THE LOYA JIRGA, THE PROVISIONS OF ARTICLE FIFTY FOUR OF THIS CONSTITUTION SHALL BE APPLICABLE TO ITS MEMBERS.

ARTICLE SIXTY NINE: THE DELIBERATIONS OF THE LOYA JIRGA SHALL BE OPEN UNLESS MORE THAN TWO THIRDS OF THE MEMBERS OF THE GOVERNMENT, OR THE CENTRAL COUNCIL OF THE PARTY, OR THIRTY OF MEMBERS OF THE JIRGA, REQUEST THEIR SECRECY AND THE LOYA JIRGA APPROVES THIS REQUEST.

ARTICLE SEVENTY: THE LOYA JIRGA, IN ITS FIRST SITTING AFTER INAUGURATION; SHALL ELECT FROM AMONGST ITS MEMBERS A VICE CHAIRMAN AND TWO SECRETARIES BY A MAJORITY VOTE OF ITS MEMBERS.

ARTICLE SEVENTY ONE: EXCEPT IN CASES EXPLICITLY PROVIDED IN THIS CONSTITUTION, DECISIONS OF THE LOYA JIRGA SHALL BE ADOPTED BY A MAJORITY VOTE OF THE MEMBERS PRESENT.

ARTICLE SEVENTY TWO: THE PROCEDURE OF THE LOYA JIRGA SHALL BE REGULATED BY LAW, SUBJECT TO THE PROVISIONS OF THIS CONSTITUTION.

ARTICLE SEVENTY THREE: THE LOYA JIRGA SHALL HAVE SUCH POWERS AS ARE DETERMINED IN THIS CONSTITUTION.

ARTICLE SEVENTY FOUR: IN THE CASE OF THE DISSOLUTION OF THE MELI JIRGA, ITS MEMBERS SHALL RETAIN THEIR STATUS AS MEMBERS OF THE LOYA JIRGA UNTIL A NEW MELI JIRGA IS CONVENED. WHEN THE LOYA JIRGA IS IN SESSION, ALL ITS MEMBERS SHALL ENJOY EQUAL RIGHTS REGARDLESS OF OFFICE, RANK OR DUTY.

## **CHAPTER SEVEN**

### **THE PRESIDENT OF THE REPUBLIC**

ARTICLE SEVENTY FIVE: THE PRESIDENT OF THE REPUBLIC, IS THE HEAD OF THE STATE OF AFGHANISTAN AND SHALL ADMINISTER AND GUIDE, THROUGH THE ORGANS CONCERNED, THOSE FUNCTIONS OF THE EXECUTIVE AND THE PARTY WHICH HAVE BEEN DIRECTLY ENTRUSTED TO HIM IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION AND THE CHARTER OF THE PARTY.

ARTICLE SEVENTY SIX: THE PRESIDENT OF THE REPUBLIC, AFTER NOMINATION BY THE PARTY, SHALL BE ELECTED BY THE LOYA JIRGA WITH A TWO THIRDS MAJORITY VOTE OF ITS MEMBERS FOR A TERM OF SIX YEARS.

ARTICLE SEVENTY SEVEN: THE PRESIDENT OF THE REPUBLIC MUST BE A CITIZEN OF AFGHANISTAN AND A MUSLIM AND BOTH THE PRESIDENT AND HIS SPOUSE MUST BE BORN OF AFGHAN PARENTS. THE PRESIDENT MUST ENJOY CIVIL AND POLITICAL RIGHTS AND MUST NOT BE UNDER FORTY YEARS OF AGE.

ARTICLE SEVENTY EIGHT: THE PRESIDENT OF THE REPUBLIC SHALL HAVE THE FOLLOWING DUTIES:

- 1) SUPREME COMMAND OF THE ARMED FORCES OF THE COUNTRY.
- 2) DECLARING WAR AND ARMISTICE WITH THE ADVICE OF THE LOYA JIRGA. IN THE CASE IN WHICH AN IMMEDIATE AND OPEN DANGER THREATENS INDEPENDENCE AND TERRITORIAL INTEGRITY, OR IN OTHER URGENT CIRCUMSTANCES THE PRESIDENT OF THE REPUBLIC MAY ADOPT EXCEPTIONAL DECISIONS, AND CONVENE THE LOYA JIRGA.
- 3) DECLARING A STATE OF EMERGENCY AND ITS TERMINATION.
- 4) CONVENING AND INAUGURATING THE LOYA JIRGA.
- 5) INAUGURATING THE ORDINARY SESSION OF THE MELI JIRGA AND CONVENING AND INAUGURATING ITS EXTRAORDINARY SESSIONS.

6) DISSOLVING THE MELI JIRGA AND DECREERING NEW ELECTIONS. NEW ELECTIONS SHALL BE HELD WITHIN THREE MONTHS FROM THE DATE OF THE DISSOLUTION OF THE MELI JIRGA.

7) CONSOLIDATING NATIONAL UNITY AND UPHOLDING THE INTERESTS OF THE PEOPLE OF AFGHANISTAN.

8) GUIDING AND HARMONIZING THE COUNTRY'S DOMESTIC AND FOREIGN POLICY IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION.

9) COMMUTING AND THE PARDON OF SENTENCES.

10) AWARDING MEDAL IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

11) APPOINTING THE VICE PRESIDENT OF THE REPUBLIC FROM AMONGST THE MEMBERS OF THE PARTY AND ALSO APPOINTING THE MINISTERS FROM WITHIN AND WITHOUT THE PARTY, AND DISMISSING THEM AND ACCEPTING THEIR RESIGNATION.

12) APPOINTING THE JUSTICES OF THE SUPREME COURT AND THE CHIEF JUSTICE.

13) APPOINTING, RETIRING, ACCEPTING THEIR RESIGNATION, AND DISMISSING JUDGES, OFFICERS OF THE ARMED FORCES AND HIGH RANKING OFFICIALS IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

14) ACCREDITING HEADS OF AFGHANISTAN'S DIPLOMATIC MISSIONS IN FOREIGN STATES, APPOINTING AFGHANISTAN'S PERMANENT REPRESENTATIVES TO INTERNATIONAL ORGANS AND ACCEPTING THE LETTERS OF CREDENCE OF FOREIGN DIPLOMATIC REPRESENTATIVES.

15) SIGNING LAWS AND ORDINANCES AND PROCLAIMING THEIR ENFORCEMENT: GRANTING CREDENTIALS FOR THE CONCLUSION OF INTERNATIONAL TREATIES IN ACCORDANCE WITH THE PROVISIONS OF THE LAW AND SIGNING INTERNATIONAL TREATIES.

ARTICLE SEVENTY NINE: THE PRESIDENT OF THE REPUBLIC MAY HAVE RECOURSE TO A GENERAL VOTE OF THE PEOPLE OF AFGHANISTAN ON IMPORTANT NATIONAL MATTERS.

ARTICLE EIGHTY: THE PRESIDENT OF THE REPUBLIC, PRIOR TO ASSUMING OFFICE, SHALL TAKE THE FOLLOWING OATH IN THE PRESENCE OF THE MEMBERS OF THE LOYA JIRGA:

'IN THE PRESENCE OF YOU, THE REPRESENTATIVES OF THE NATION OF AFGHANISTAN, I ..... SWEAR IN THE NAME OF GOD THE ALMIGHTY THAT I WILL PROTECT THE BASIC PRINCIPLES OF THE SACRED RELIGION OF ISLAM AND RESPECT THE CONSTITUTION AND OTHER LAWS OF AFGHANISTAN AND ABIDE BY THEM, WILL PRESERVE NATIONAL INDEPENDENCE, AND TERRITORIAL INTEGRITY, AND WILL DEVOTE ALL MY ENERGY TO THE DEFENSE OF THE RIGHTS AND INTERESTS OF THE

PEOPLE AND THE OBJECTIVES OF THE REVOLUTION OF SARATAN 26, OF THE YEAR 1352, AND THE REPUBLIC OF AFGHANISTAN."

ARTICLE EIGHTY ONE: EXCEPT IN CASES DEFINED IN ARTICLE THIRTY SIX OF THIS CONSTITUTION, DURING THE TENURE OF HIS OFFICE THE PRESIDENT OF THE REPUBLIC SHALL NOT CONDUCT ANY TRANSACTION.

ARTICLE EIGHTY TWO: THE PRESIDENT OF THE REPUBLIC, IN THE EVENT OF HIS ILLNESS OR WHEN TRAVELING, SHALL DEPUTIZE THE VICE PRESIDENT OR VICE PRESIDENTS TO ACT IN HIS STEAD IN ACCORDANCE WITH THE INSTRUCTIONS HE ISSUES. ARTICLE EIGHTY THREE: THE SALARY AND EXPENDITURE OF THE PRESIDENT OF THE REPUBLIC SHALL BE FIXED BY LAW.

ARTICLE EIGHTY FOUR: FOR THE ELECTION OF THE PRESIDENT OF THE REPUBLIC, NECESSARY MEASURES MUST BE ADOPTED FORTY FIVE DAYS BEFORE THE END OF THE TERM OF THE PRESIDENCY IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION, AND THE CHARTER OF THE PARTY.

ARTICLE EIGHTY FIVE: SHOULD THE PRESIDENT OF THE REPUBLIC DECIDE TO RESIGN, HE SHALL CONVENE THE LOYA JIRGA AND SUBMIT HIS RESIGNATION DIRECTLY TO THE LOYA JIRGA. IN CASE THE LOYA JIRGA ACCEPTS THE RESIGNATION, THE ELECTION OF THE NEW PRESIDENT OF THE REPUBLIC SHALL TAKE PLACE IN ACCORDANCE WITH ARTICLE EIGHTY EIGHT OF THIS CONSTITUTION.

ARTICLE EIGHTY SIX: IN THE EVENT THE PRESIDENT OF THE REPUBLIC DIES OR RESIGNS, THE PRESIDENTIAL FUNCTIONS SHALL BE ENTRUSTED TEMPORARILY TO THE PRESIDENT OF THE MELI JIRGA. IN SUCH CASES, THE PRESIDENT OF THE MELI JIRGA CANNOT BE NOMINATED AS A CANDIDATE FOR ELECTION TO THE OFFICE OF PRESIDENT. DURING THE TENURE OF OFFICE BY THE PRESIDENT OF THE MELI JIRGA AS ACTING PRESIDENT OF THE REPUBLIC, THIS CONSTITUTION CANNOT BE AMENDED.

THE NEW PRESIDENT OF THE REPUBLIC MUST BE ELECTED WITHIN THIRTY DAYS OF THE DATE THE OFFICE OF THE PRESIDENT BECOMES VACANT, IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION. THE ACTING PRESIDENT OF THE REPUBLIC, SUBJECT TO THE PROVISIONS OF THIS ARTICLE, WITH THE AGREEMENT OF THE MEMBERS OF THE GOVERNMENT AND THE CENTRAL COUNCIL OF THE PARTY, MAY UTILIZE THE POWERS EMBODIED IN ARTICLE SEVENTY EIGHT OF THIS CONSTITUTION SHOULD THE OCCURRENCE OF URGENT AND IMPORTANT NATIONAL EVENTS COMPEL TO ACTING PRESIDENT OF THE REPUBLIC TO EXERCISE THE POWERS STIPULATED IN ARTICLE SEVENTY EIGHT OF THIS CONSTITUTION.

ARTICLE EIGHTY SEVEN: AN ACCUSATION OF HIGH TREASON AGAINST THE PRESIDENT OF THE REPUBLIC CAN BE REQUESTED BY TWO THIRDS OF THE MEMBERS OF THE MELI JIRGA. AFTER THE AGREEMENT OF THE MEMBERS OF THE CENTRAL COUNCIL OF THE PARTY BY A TWO THIRDS VOTE, SUCH A REQUEST SHALL BE SUBMITTED TO THE LOYA JIRGA. IN THIS CASE THE PRESIDENT OF THE REPUBLIC IS BOUND TO CONVENE THE LOYA JIRGA. THE PRESIDENT OF THE MELI JIRGA SHALL PRESIDE OVER THE MEETING OF THE LOYA JIRGA. SHOULD THE LOYA JIRGA

APPROVE THE ASCRIBED ACCUSATION, WITH THE EVIDENCE SUBMITTED THEREON, BY A TWO THIRDS MAJORITY VOTE OF ITS MEMBERS, THE PRESIDENT OF THE REPUBLIC SHALL BE RELIEVED OF HIS OFFICE. THE COMPOSITION OF THE COURT AND THE TRIAL PROCEDURE SHALL BE REGULATED BY A SPECIAL LAW. IN THIS CASE THE PRESIDENTIAL FUNCTIONS SHALL BE ENTRUSTED TEMPORARILY TO THE PRESIDENT OF THE MELI JIRGA. THE ACTING PRESIDENT OF THE REPUBLIC IS SUBJECT TO THE PROVISIONS OF ARTICLE EIGHTY SIX OF THIS CONSTITUTION.

## **CHAPTER EIGHT**

### **THE GOVERNMENT**

ARTICLE EIGHTY EIGHT: THE GOVERNMENT IS THE SUPREME EXECUTIVE AND ADMINISTRATIVE ORGAN OF THE STATE AND CONSISTS OF THE VICE PRESIDENT OR VICE PRESIDENTS OF THE REPUBLIC AND THE MINISTERS, WHO SHALL PERFORM THEIR DUTIES UNDER THE LEADERSHIP OF THE PRESIDENT OF THE REPUBLIC.

ARTICLE EIGHTY NINE: THE VICE PRESIDENT OR VICE PRESIDENTS OF THE REPUBLIC AND THE MINISTERS MUST BE CITIZENS OF AFGHANISTAN, MUST ENJOY ALL THEIR CIVIL AND POLITICAL RIGHTS, AND THEY AND THEIR SPOUSE MUST BE BORN OF AFGHAN PARENTS.

ARTICLE NINETY: THE VICE PRESIDENT OR VICE PRESIDENTS OF THE REPUBLIC AND THE MINISTERS, PRIOR TO ASSUMING OFFICE, SHALL TAKE THE FOLLOWING OATH IN THE PRESENCE OF THE PRESIDENT OF THE REPUBLIC: 'IN THE NAME OF GOD, THE ALMIGHTY, I SWEAR TO REPRESENT THE CONSTITUTION AND OTHER LAWS OF AFGHANISTAN AND TO ABIDE BY THEM AND TO DEVOTE ALL MY ENERGY TO THE DEFENSE OF NATIONAL RIGHTS AND INTERESTS AND TO PROTECT THE OBJECTIVES OF THE REVOLUTION OF SARATAN 26, 1352, AND THE REPUBLIC OF AFGHANISTAN.

ARTICLE NINETY ONE: THE GOVERNMENT SHALL HAVE THE FOLLOWING DUTIES AND POWERS:

- 1) IMPLEMENTING THE COUNTRY'S DOMESTIC AND FOREIGN POLICY IN ACCORDANCE WITH THE PROVISIONS OF THE LAW AND THE BASIC PRINCIPLES OF THE PARTY.
- 2) ADMINISTERING, COORDINATING AND SUPERVISING THE AFFAIRS OF THE MINISTRIES AND OTHER DEPARTMENTS AND PUBLIC INSTITUTIONS.
- 3) RENDERING EXECUTIVE AND ADMINISTRATIVE DECISIONS IN ACCORDANCE WITH LAWS AND DECREES ISSUED AND SUPERVISING THEIR IMPLEMENTATION.
- 4) DRAFTING LAWS AND FORMULATING REGULATIONS.
- 5) PREPARING THE STATE BUDGET AND ADOPTING MEASURES TO STRENGTHEN THE ECONOMY AND THE MONETARY AND FINANCIAL SYSTEM.

6) DRAFTING THE DEVELOPMENT PLANS OF THE STATE AND ADOPTING MEASURES FOR THEIR IMPLEMENTATION AND EXECUTION.

7) DISCUSSING AND NEGOTIATING FOR THE PURPOSE OF OBTAINING OR GRANTING DOMESTIC OR FOREIGN LOANS.

8) ADOPTING MEASURES TO ENSURE PUBLIC ORDER AND SECURITY.

9) ADOPTING NECESSARY AND EFFECTIVE MEASURES TO ERADICATE ALL FORMS OF ADMINISTRATIVE CORRUPTION IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

10) CONCLUDING AGREEMENTS WITH FOREIGN COUNTRIES AND ORGANIZATIONS IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

11) PERFORMING THE DUTIES ENTRUSTED TO THE GOVERNMENT BY THIS CONSTITUTION.

ARTICLE NINETY TWO: THE GOVERNMENT SHALL PROMULGATE REGULATIONS TO ORGANIZE ITS AFFAIRS ON THE BASIS OF THE LAW. THESE REGULATIONS CANNOT BE REPUGNANT TO THE LETTER OR THE SPIRIT OF THE LAW.

ARTICLE NINETY THREE: EXCEPT IN CASES DEFINED IN ARTICLE THIRTY SIX OF THIS CONSTITUTION, THE, VICE PRESIDENT OR VICE PRESIDENTS OF THE REPUBLIC AND THE MINISTERS, DURING THEIR TENURE, SHALL NOT CONDUCT ANY TRANSACTION FOR PROFIT WITH THE STATE.

ARTICLE NINETY FOUR: THE VICE PRESIDENT OR VICE PRESIDENT OF THE REPUBLIC SHALL BE RESPONSIBLE TO THE PRESIDENT OF THE REPUBLIC, THE CENTRAL COUNCIL OF THE PARTY AND THE MELI JIRGA IN RESPECT TO THE PERFORMANCE OF THEIR DUTIES.

ARTICLE NINETY FIVE: AN ACCUSATION OF OFFENSE AGAINST THE VICE PRESIDENT OR VICE PRESIDENTS OR AGAINST ANY OF THE MINISTERS CAN BE REQUESTED BY ONE THIRD OF THE MEMBERS OF THE MELI JIRGA. SUCH A REQUEST CAN BE APPROVED ONLY BY A TWO THIRDS MAJORITY VOTE OF THE MEMBERS OF THE MELI JIRGA. THE ACCUSED SHALL BE REMOVED FROM OFFICE AFTER SUCH AN APPROVAL. THE TRIAL OF THE ACCUSED SHALL BE CONDUCTED BEFORE A SPECIAL COURT. THE COMPOSITION OF THE COURT AND ITS TRIAL PROCEDURE AND THE PUNISHMENT SHALL BE REGULATE SEPARATELY BY A SPECIAL LAW.

## **CHAPTER NINE**

### **THE JUDICIARY**

ARTICLE NINETY SIX: THE JUDICIAL POWER IS AN ORGAN OF THE STATE AND CONSISTS OF THE SUPREME COURT AND OTHER COURTS THE NUMBER OF WHICH SHALL BE DETERMINED BY LAW. THE MAIN OBJECTIVE OF THE LAWS SHALL BE THE

UNIFORMITY OF JUDICIAL PRACTICE AND THE REGULATION OF THE ORGANIZATION AND JURISDICTION OF THE COURTS AND TRIAL PROCEDURE.

ARTICLE NINETY SEVEN: IT IS WITHIN THE JURISDICTION OF THE JUDICIARY TO ADJUDICATE IN ALL LITIGATIONS WHICH ARE BROUGHT BEFORE IT IN ACCORDING TO THE PROVISIONS OF THE LAW, AND IN WHICH REAL OR LEGAL PERSONS, INCLUDING THE STATE, ARE INVOLVED EITHER AS PLAINTIFF OR DEFENDANT.

ARTICLE NINETY EIGHT: UNDER NO CIRCUMSTANCES EXCEPT WAR SHALL A CASE OR SPHERE OF COMPETENCE BE EXCLUDED FROM THE JURISDICTION OF THE JUDICIAL POWER OF THE STATE, AS DEFINED IN THIS CHAPTER, AND BE ASSIGNED TO OTHER AUTHORITIES. THIS PROVISION SHALL NOT PREVENT THE ESTABLISHMENT OF MILITARY COURTS; BUT THE JURISDICTION OF THESE COURTS SHALL BE CONFINED TO OFFENSES RELATING TO THE ARMED FORCES OF AFGHANISTAN. THE ORGANIZATION AND JURISDICTION OF THE MILITARY COURTS SHALL BE REGULATED BY LAW.

ARTICLE NINETY NINE: THE COURTS, IN CASES UNDER THEIR CONSIDERATION, SHALL APPLY THE PROVISIONS OF THIS CONSTITUTION AND THE LAWS OF THE STATE. WHENEVER NO PROVISION EXISTS IN THE CONSTITUTION OR IN THE LAWS OF THE STATE FOR A CASE OR CASES UNDER CONSIDERATION, THE COURTS, BY FOLLOWING THE BASIC PRINCIPLES OF THE HANAFI JURISPRUDENCE OR THE SHARIAT OF ISLAM AND WITHIN THE LIMITATIONS SET FORTH IN THIS CONSTITUTION, SHALL RENDER A JUDGMENT THAT IN THEIR OPINION SECURES JUSTICE IN THE BEST POSSIBLE WAY.

ARTICLE ONE HUNDRED: THE JUDGES SHALL BE APPOINTED BY THE PRESIDENT OF THE REPUBLIC UPON THE RECOMMENDATION OF THE CHIEF JUSTICE.

ARTICLE ONE HUNDRED AND ONE: THE DISMISSAL OF JUDGES ON THE GROUND OF COMMITTING AN OFFENSE SHALL BE DONE WITH THE APPROVAL OF THE PRESIDENT OF THE REPUBLIC UPON RECOMMENDATION OF THE SUPREME COURT. WHENEVER A JUDGE IS ACCUSED OF COMMITTING AN OFFENSE, THE SUPREME COURT SHALL CONSIDER THE CASE OF THE JUDGE ACCORDING TO THE PROVISIONS OF THE LAW AND AFTER HEARING HIS DEFENSE, SHOULD THE SUPREME COURT FIND THE ACCUSATION TO BE SUSTAINED, IT WILL RECOMMEND HIS DISMISSAL TO THE PRESIDENT OF THE REPUBLIC; WITH ITS APPROVAL BY THE PRESIDENT OF THE REPUBLIC, THE JUDGE SHALL BE DISMISSED FROM OFFICE AND BE PUNISHED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

ARTICLE ONE HUNDRED AND TWO: THE TRANSFER, PROMOTION, RETIREMENT, ACCEPTANCE OF THE RESIGNATION AND THE CALLING TO ACCOUNT OF THE JUDGES SHALL BE DONE BY THE SUPREME COURT IN ACCORDANCE WITH THE PROVISIONS OF THE LAW.

ARTICLE ONE HUNDRED AND THREE: APPROPRIATE SALARIES FOR THE JUDGES SHALL BE FIXED BY LAW.

ARTICLE ONE HUNDRED AND FOUR: EXCEPT IN CASES DEFINED IN ARTICLE THIRTY SEVEN OF THIS CONSTITUTION, DURING THE TENURE OF THEIR OFFICE, THE MEMBERS OF THE SUPREME COURT AND THE CHIEF JUSTICE CANNOT CONDUCT ANY TRANSACTION FOR PROFIT WITH THE STATE.

ARTICLE ONE HUNDRED AND FIVE: IN THE COURTS OF AFGHANISTAN TRIALS SHALL BE HELD OPENLY, AND EVERYONE HAS THE RIGHT TO ATTEND IN ACCORDANCE WITH THE PROVISIONS OF THE LAW. THE ENFORCEMENT OF FINAL DECISIONS OF THE COURTS IS OBLIGATORY, EXCEPT IN THE CASE OF DEATH SENTENCE IN WHICH INSTANCE THE EXECUTIVE OF THE JUDGMENT OF THE HIGHEST COURT SHALL BE SUBJECT TO THE ENDORSEMENT OF THE PRESIDENT OF THE REPUBLIC. THE COURTS ARE BOUND TO STATE THE REASONS FOR THEIR DECISIONS IN THE JUDGMENTS THAT THEY PASS.

ARTICLE ONE HUNDRED AND SIX: THE DETECTION OF CRIMES BY THE POLICE, AND THE INVESTIGATION, PURSUIT, AND PROSECUTION THEREOF BY THE ATTORNEY GENERAL, WHO ARE PART OF THE EXECUTIVE ORGAN, SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW. THE DETECTION AND INVESTIGATION OF CRIMES RELATING TO THE ARMED FORCES OF AFGHANISTAN SHALL BE REGULATED BY SPECIAL LAW.

ARTICLE ONE HUNDRED AND SEVEN: THE SUPREME COURT IS COMPOSED OF NINE JUSTICES WHO SHALL BE APPOINTED BY THE PRESIDENT OF THE REPUBLIC. A MEMBER OF THE SUPREME COURT MUST POSSESS THE FOLLOWING QUALIFICATIONS:

1) HAVE ATTAINED THE AGE OF THIRTY FIVE.

2) HAVE ACQUIRED THE CITIZENSHIP OF THE STATE OF AFGHANISTAN AT LEAST TEN YEARS PRIOR TO THE DATE OF APPOINTMENT.

3) NOT HAVE BEEN SENTENCED BY A COURT WITH DEPRIVATION OF POLITICAL RIGHTS.

4) HAVE SUFFICIENT KNOWLEDGE OF NATIONAL OBJECTIVES, LEGAL SCIENCE AND THE LEGAL SYSTEM OF AFGHANISTAN. THE PRESIDENT OF THE REPUBLIC SHALL APPOINT ONE OF THE MEMBERS OF THE SUPREME COURT, WHO MUST NOT BE UNDER FORTY YEARS OF AGE, AS THE CHIEF JUSTICE. THE PRESIDENT OF THE REPUBLIC CAN REVIEW THE APPOINTMENT OF THE MEMBERS OF THE SUPREME COURT AND THE CHIEF JUSTICE AFTER FIVE YEARS OF THEIR APPOINTMENT TO THE SAID OFFICES. SUBJECT TO THIS PROVISION, THE MEMBERS OF THE SUPREME COURT AND THE CHIEF JUSTICE SHALL NOT BE REMOVED FROM THEIR OFFICES BY ANY OTHER MEANS EXCEPT IN THE CASE OF ARTICLE ONE HUNDRED AND ELEVEN OF THIS CONSTITUTION.

ARTICLE ONE HUNDRED AND EIGHT: THE MEMBERS OF THE SUPREME COURT AND THE CHIEF JUSTICE, BEFORE ASSUMING OFFICE, SHALL TAKE THE FOLLOWING OATH IN THE PRESENCE OF THE PRESIDENT OF THE REPUBLIC: 'IN THE NAME OF GOD, THE ALMIGHTY, I SWEAR TO DISCHARGE MY JUDICIAL DUTIES WITH UTMOST HONESTY

AND INTEGRITY; TO SECURE TRUTH AND JUSTICE WITH REGARD FOR THE BASIC PRINCIPLES OF THE SACRED RELIGION OF ISLAM, AND OTHER PROVISIONS AND VALUES EMBODIED IN THE CONSTITUTION OF THE REPUBLIC OF AFGHANISTAN; TO BE CONSCIOUS OF THE OMNIPRESENCE OF THE ALMIGHTY IN THE PERFORMANCE OF ALL MY DUTIES AND TO PROTECT THE RIGHTS OF THE PEOPLE AND THE HOMELAND IN THE INTEREST OF JUSTICE.'

ARTICLE ONE HUNDRED AND NINE: EXCEPT IN THE CASE DEFINED IN ARTICLE ONE HUNDRED ELEVEN OF THIS CONSTITUTION, THE MEMBERS OF THE SUPREME COURT AND THE CHIEF JUSTICE, AFTER THEIR TERM OF SERVICE, LEGALLY EXPIRES, SHALL ENJOY FOR THE REST OF THEIR LIVES ALL THE FINANCIAL PRIVILEGES OF THEIR TERM OF SERVICE.

ARTICLE ONE HUNDRED AND TEN: EVERY MEMBER OF THE SUPREME COURT AND THE CHIEF JUSTICE MAY RESIGN ACCORDING TO THE PROVISIONS OF THE LAW. THE RESIGNATION OF THE MEMBERS OF THE SUPREME COURT AND THE CHIEF JUSTICE SHALL BECOME EFFECTIVE FROM THE DATE OF ITS APPROVAL BY THE PRESIDENT OF THE REPUBLIC. THE CHIEF JUSTICE OR THE MEMBER OF THE SUPREME COURT WHO HAS RESIGNED, CANNOT BENEFIT FROM THE FINANCIAL PRIVILEGE EMBODIED IN ARTICLE ONE HUNDRED AND NINE OF THIS CONSTITUTION. THE RESTRICTIONS MENTIONED IN THE LAST SECTION OF ARTICLE ONE HUNDRED AND NINE SHALL BE APPLICABLE TO THE MEMBER OF THE SUPREME COURT OR THE CHIEF JUSTICE WHO HAS RESIGNED.

ARTICLE ONE HUNDRED AND ELEVEN: SHOULD ONE THIRD OF THE MEMBERS OF THE MELI JIRGA REQUEST THE IMPEACHMENT OF THE CHIEF JUSTICE OR OF ONE OR MORE OF THE MEMBERS OF THE SUPREME COURT ON A CHARGE OF AN OFFENSE ARISING FROM THE PERFORMANCE OF HIS DUTIES, AND SHOULD THE MELI JIRGA APPROVE THIS REQUEST BY A MAJORITY OF TWO THIRDS OF ITS MEMBERS, THE ACCUSED SHALL BE RELIEVED OF HIS OFFICE. THE MELI JIRGA SHALL APPOINT ONE OF ITS MEMBERS TO FILE A SUIT AND SHALL APPOINT A PANEL OF EIGHT PERSONS TO ACT AS TRIBUNAL. THIS PANEL, PRESIDED OVER BY THE PRESIDENT OF THE MELI JIRGA, SHALL TRY THE ACCUSED IN ACCORDANCE WITH THE PROCEDURE OF A CRIMINAL COURT AND, IF PROVED GUILTY, THE ACCUSED SHALL BE DISMISSED FROM OFFICE AND SENTENCED TO PUNISHMENT.

ARTICLE ONE HUNDRED AND TWELVE: THE SUPREME COURT SHALL REGULATE THE ORGANIZATION AND FUNCTIONS OF THE COURTS AND THE JUDICIAL AFFAIRS OF THE STATE IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION AND THE LAWS. EXCEPT IN CASES DEFINED IN THIS CONSTITUTION, THE JUDICIAL AND ADMINISTRATIVE JURISDICTION OF THE SUPREME COURT SHALL BE REGULATED BY LAW. THE SUPREME COURT SHALL ADOPT NECESSARY MEASURES TO ORGANIZE THE ADMINISTRATIVE AFFAIRS OF THE COURTS. THE BUDGET OF THE JUDICIAL ORGAN SHALL BE PREPARED BY THE CHIEF JUSTICE IN CONSULTATION WITH THE GOVERNMENT AND SHALL BE SUBMITTED BY THE GOVERNMENT TO THE MELI JIRGA AS A PART OF THE STATE BUDGET. THE IMPLEMENTATION OF THE JUDICIARY BUDGET SHALL BE WITHIN THE JURISDICTION OF THE SUPREME COURT. THE SUPREME COURT MAY DRAFT LAWS IN THE SPHERE OF ORGANIZING THE JUDICIAL AFFAIRS AND SUBMIT THEM TO THE MELI JIRGA IN ACCORDANCE WITH THE

PROVISIONS OF ARTICLE SIXTY TWO OF THIS CONSTITUTION. ARTICLE ONE HUNDRED AND THIRTEEN: THE PROVISIONS OF THE LAWS CONCERNING CIVIL SERVANTS AND OTHER ADMINISTRATIVE EMPLOYEES OF THE STATE SHALL BE APPLICABLE TO THE CIVIL SERVANTS AND OTHER ADMINISTRATIVE EMPLOYEES OF THE JUDICIARY ORGAN; BUT THEIR APPOINTMENT, PROMOTION, THE ACCEPTANCE OF THEIR RESIGNATIONS, THEIR CALLING TO ACCOUNT AND RETIREMENT SHALL BE ADMINISTERED BY THE SUPREME COURT.

## **CHAPTER TEN**

### **EMERGENCY**

ARTICLE ONE HUNDRED AND FOURTEEN: WHENEVER WAR, THE DANGER OF WAR, REBELLION OR ANY SIMILAR SITUATION WHICH MAY THREATEN THE COUNTRY, DISRUPTS THE PRESERVATION OF INDEPENDENCE, NATIONAL LIFE, OR SECURITY IN SUCH A WAY AS TO RENDER THEM IMPOSSIBLE TO SECURE THROUGH THE CHANNEL PROVIDED FOR IN THIS CONSTITUTION, A STATE OF EMERGENCY SHALL BE DECLARED BY THE PRESIDENT OF THE REPUBLIC. SHOULD THE STATE OF EMERGENCY CONTINUE FOR MORE THAN FOUR MONTH, THE AGREEMENT OF THE MELI JIRGA IS IMPERATIVE FOR ITS EXTENSION.

ARTICLE ONE HUNDRED AND FIFTEEN: IN A STATE OF EMERGENCY, THE PRESIDENT OF THE REPUBLIC MAY TRANSFER ALL OR PART OF THE POWERS OF THE MELI JIRGA TO THE GOVERNMENT.

ARTICLE ONE HUNDRED AND SIXTEEN: IN A STATE OF EMERGENCY THE PRESIDENT OF THE REPUBLIC, SUBJECT TO THE PROVISIONS OF ARTICLE NINETY EIGHT OF THIS CONSTITUTION, MAY TRANSFER A PART OF THE JURISDICTION OF THE JUDICIARY TO MILITARY COURTS.

ARTICLE ONE HUNDRED AND SEVENTEEN: IN A STATE OF EMERGENCY THE GOVERNMENT, WITH THE AGREEMENT OF THE SUPREME COURT MAY, BY PRESIDENTIAL DECREE, SUSPEND OR IMPOSE RESTRICTION UPON THE FOLLOWING PROVISIONS OF THE CONSTITUTION:

- 1) THE PROVISIONS OF SECTION FIVE OF ARTICLE THIRTY;
- 2) THE PROVISIONS OF SECTION ONE OF ARTICLE THIRTY FIVE;
- 3) THE PROVISIONS OF SECTIONS THREE AND FOUR OF ARTICLE THIRTY SIX;
- 4) THE PROVISIONS OF SECTION TWO OF ARTICLE THIRTY SEVEN; AND,
- 5) THE PROVISIONS OF ARTICLE THIRTY NINE.

ARTICLE ONE HUNDRED AND EIGHTEEN: IN A STATE OF EMERGENCY THE PRESIDENT OF THE REPUBLIC MAY TRANSFER THE CAPITAL OF AFGHANISTAN TO A PLACE OTHER THAN THE CITY OF KABUL.

ARTICLE ONE HUNDRED AND NINETEEN: SHOULD THE TERM OF OFFICE OF THE MEMBERS OF THE MELI JIRGA COME TO AN END DURING A STATE OF EMERGENCY, THE PRESIDENT OF THE REPUBLIC MAY POSTPONE THE HOLDING OF NEW ELECTIONS AND EXTEND THE TERM OF OFFICE OF THE MEMBERS OF THE MELI JIRGA UNTIL THE STATE OF EMERGENCY IS OVER. ELECTIONS SHALL BE HELD IMMEDIATELY AFTER THE TERMINATION OF THE STATE OF EMERGENCY.

ARTICLE ONE HUNDRED AND TWENTY: IN A STATE OF EMERGENCY THE CONSTITUTION SHALL NOT BE AMENDED.

## **CHAPTER ELEVEN**

### **AMENDMENT**

ARTICLE ONE HUNDRED AND TWENTY ONE: THE PRINCIPLE OF ADHERENCE TO THE BASIC PRINCIPLES OF ISLAM, AND THE REPUBLICAN ORDER, IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION, SHALL NOT BE AMENDED. AMENDING OTHER PROVISIONS OF THE CONSTITUTION, IN VIEW OF EXPERIENCE AND THE REQUIREMENTS OF THE TIME, SHALL TAKE PLACE IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER ON THE PROPOSAL OF THE GOVERNMENT, OR OF THE CENTRAL COUNCIL OF THE PARTY, OR OF ONE THIRD OF THE MELI JIRGA.

ARTICLE ONE HUNDRED AND TWENTY TWO: THE PROPOSAL FOR AMENDMENT SHALL BE CONSIDERED BY THE LOYA JIRGA AND SHOULD A MAJORITY OF ITS MEMBERS APPROVE THE NECESSITY OF AMENDMENT, THE JIRGA SHALL APPOINT FROM AMONGST ITS MEMBERS A COMMITTEE TO PREPARE THE DRAFT AMENDMENT. THIS COMMITTEE SHALL DRAFT THE AMENDMENT IN CONSULTATION WITH THE GOVERNMENT AND THE SUPREME COURT AND SUBMIT IT TO THE LOYA JIRGA. SHOULD THE DRAFT AMENDMENT BE APPROVED BY A MAJORITY OF THE MEMBERS OF THE LOYA JIRGA, IT SHALL COME INTO FORCE AFTER SIGNATURE AND PROCLAMATION BY THE PRESIDENT OF THE REPUBLIC.

## **CHAPTER TWELVE**

### **TRANSITIONAL PROVISIONS**

ARTICLE ONE HUNDRED AND TWENTY THREE: WITH THE ENFORCEMENT OF THE CONSTITUTION THE PRESIDENT OF THE REPUBLIC SHALL ISSUE A DECREE THEREBY DISSOLVING THE GOVERNMENT AND HE SHALL FORM A NEW GOVERNMENT IN CONFORMITY WITH THE SPIRIT OF THIS CONSTITUTION OF THE REPUBLICAN STATE.

ARTICLE ONE HUNDRED AND TWENTY FOUR: THE PRESIDENT OF THE REPUBLIC SHALL CONVENE THE MELI JIRGA, I ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION, ON THE FIRST OF QAWS, 1358, AH. THE PERIOD BETWEEN THE ENFORCEMENT OF THIS CONSTITUTION AND THE INAUGURATION OF THE MELI JIRGA SHALL BE CONSIDERED THE TRANSITIONAL PERIOD. DURING THE TRANSITIONAL PERIOD THE POWERS OF THE MELI JIRGA SHALL BELONG TO THE GOVERNMENT.

ARTICLE ONE HUNDRED AND TWENTY FIVE: WHENEVER DURING THE TRANSITIONAL PERIOD ANY SITUATION SHOULD ARISE WHICH, IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE SIXTY SEVEN OF THIS CONSTITUTION, REQUIRES THE CONVENING OF THE LOYA JIRGA, THE PRESIDENT OF THE REPUBLIC SHALL ISSUE A PROCLAMATION CONVENING THE LOYA JIRGA. IN THESE CIRCUMSTANCES THE RESIDENT OF THE REPUBLIC SHALL HAVE ALL THE POWERS OF THE LOYA JIRGA UNTIL IT IS CONVENED. IMMEDIATELY AFTER THE INAUGURATION OF THE LOYA JIRGA, THE PRESIDENT OF THE REPUBLIC SHALL INFORM THE LOYA JIRGA OF THE ACTIONS TAKEN IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, AND THE LOYA JIRGA SHALL ADOPT DECISIONS THEREON. IF DURING THE OCCURRENCE OF ANY OF THE ABOVE MENTIONED CIRCUMSTANCES, THE CENTRAL COUNCIL OF THE PARTY OR THE HIGH COUNCIL OF THE ARMED FORCES OR THE SUPREME COURT IS NOT CONSTITUTED IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION, THE LOYA JIRGA SHALL BE CONVENED IN THE TRADITIONAL MANNER.

ARTICLE ONE HUNDRED AND TWENTY SIX: THE PRESIDENT OF THE REPUBLIC, IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE ONE HUNDRED AND SEVEN OF THIS CONSTITUTION, SHALL PROCLAIM THE ESTABLISHMENT OF THE SUPREME COURT ON THE FIRST OF SARATAN, 1357 AH. DURING THE PERIOD BETWEEN THE ENFORCEMENT OF THIS CONSTITUTION AND THE ESTABLISHMENT OF THE SUPREME COURT, THE PRESIDENT OF THE REPUBLIC SHALL ADOPT NECESSARY MEASURES TO ENSURE THE PERFORMANCE OF THE FUNCTIONS OF THE SUPREME COURT.

ARTICLE ONE HUNDRED AND TWENTY SEVEN: ORDINANCES ENFORCED DURING THE TRANSITIONAL PERIOD SHALL BE PRESENTED FOR DECISION TO THE FIRST SESSION OF THE MELI JIRGA WITHIN THIRTY DAYS OF ITS CONVENING.

ARTICLE ONE HUNDRED AND TWENTY EIGHT: DURING THE TRANSITIONAL PERIOD THE GOVERNMENT HAS THE DUTY TO PREPARE ORDINANCES RELATING TO THE MELI JIRGA ELECTIONS, THE PRESS, ASSEMBLY AND THE BASIC ORGANIZATION OF THE STATE, AND TO SUBMIT THEM FOR SIGNATURE BY THE PRESIDENT OF THE REPUBLIC.

ARTICLE ONE HUNDRED AND TWENTY NINE: DURING THE TRANSITIONAL PERIOD THE GOVERNMENT SHALL ADOPT NECESSARY MEASURES TO COORDINATE THE PERFORMANCE, AND THE IMPLEMENTATION AND EXECUTION OF THE PROGRAM OF THE STATE IN ACCORDANCE WITH THE PROVISIONS OF THIS CONSTITUTION.

ARTICLE ONE HUNDRED AND THIRTY: DURING THE TRANSITIONAL PERIOD THE PRESIDENT OF THE REPUBLIC SHALL ENFORCE AND PROCLAIM IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE FORTY OF THIS CONSTITUTION THE CHARTER OF HEZB-E-ENQELAB-E-MELI, WHICH IS THE FOUNDER AND VANGUARD OF THE NATIONAL AND PROGRESSIVE REVOLUTION OF SARATAN 26, OF THE YEAR 1352 OF THE PEOPLE OF AFGHANISTAN, AS THE FIRST PARTY.

ARTICLE ONE HUNDRED AND THIRTY ONE: DURING THE TRANSITION PERIOD THE PRESIDENT OF THE REPUBLIC SHALL ESTABLISH AND PROCLAIM THE HIGH COUNCIL OF THE ARMED FORCES.

ARTICLE ONE HUNDRED AND THIRTY TWO: DURING THE TRANSITIONAL PERIOD, THE PRESIDENT OF THE REPUBLIC HAS THE POWER TO ANTICIPATE BY DECREE, THE FORMATION OF AN INTERIM COUNCIL OF THE OFFICE OF THE PRESIDENCY, FOR THE PERFORMANCE OF THE FUNCTIONS OF THE PRESIDENT IN THE EVENT OF HIS DEATH. THE INTERIM COUNCIL OF THE OFFICE OF THE PRESIDENCY IS BOUND TO CONVENE THE LOYA JIRGA IN THE TRADITIONAL MANNER, FOR THE ELECTION OF THE NEW PRESIDENT OF THE REPUBLIC WITHIN TEN DAYS FROM THE DATE OF DEMISE.

## **CHAPTER THIRTEEN**

### **GENERAL PROVISIONS**

ARTICLE ONE HUNDRED AND THIRTY THREE: THE FIRST LOYA JIRGA TO BE CONVENED UNDER THE REPUBLICAN ORDER ON THE 10TH OF DALW 1355 AH IN KABUL, THE CAPITAL OF AFGHANISTAN, SHALL ELECT WITH A TWO THIRDS MAJORITY VOTE OF ITS MEMBERS THE FIRST PRESIDENT OF THE REPUBLIC OF AFGHANISTAN FOR A TERM OF SIX YEARS.

ARTICLE ONE HUNDRED AND THIRTY FOUR: OFFICERS OF THE ARMED FORCES, THE POLICE, AND THE OFFICIALS OF THE MINISTRY FOR FOREIGN AFFAIRS, THEMSELVES AND THEIR SPOUSES MUST BE BORN OF AFGHAN PARENTS.

ARTICLE ONE HUNDRED AND THIRTY FIVE: THE COMPETENT AUTHORITY FOR THE INTERPRETATION OF THIS CONSTITUTION SHALL BE THE SUPREME COURT.

ARTICLE ONE HUNDRED AND THIRTY SIX: WITH THE ENFORCEMENT OF THIS CONSTITUTION, THE FORMER CONSTITUTION AND REPUBLICAN DECREES NUMBER ONE, TWO AND THREE, DATED ASSAD 4, 1352 SHALL BE ABROGATED, THE PROVISIONS OF THE LAWS ISSUED PRIOR TO THE ENFORCEMENT OF THIS CONSTITUTION SHALL BE EFFECTIVE PROVIDED THEY ARE NOT REPUGNANT TO THE PROVISIONS AND VALUES OF THIS CONSTITUTION.