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THURSDAY SUPPLEMENTARY

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THE

CONSTITUTION OF AFGHANISTAN

FUNDAMENTAL PRINCIPLES OF THE GOVERNMENT OF AFGHANISTAN

In the name of Allah the most merciful:

Article 1.---- The faith of Afghanistan is the sacred faith of Islam, and the official religion and that of the population in general is the Hanafi religion. The King of Afghanistan should be a follower of this religion. Followers of other religions, such as Hindus and Jews, who live in Afghanistan, provided they do not infringe the ordinary rules of conduct and propriety, also enjoy protection.

Article 2.---- As the Afghan Government enjoys complete independence in the administration of its internal and external affairs, all places and parts of the kingdom constitute a single entity under the command and exalted direction of His Majesty the King, and no distinction is made between different parts of the kingdom.

Article 3.---- The city of Kabul is the capital of Afghanistan, and all residents of the kingdom are equals in the eyes of the Government. The residents of the city of Kabul have no special rights as compared with those of other cities and towns of the Afghan kingdom.

Article 4.---- The official flag of Afghanistan is black, red and green, and bears in the centre an ear of wheat, a mihrab (arch) and a pulpit.

#### RIGHTS OF THE KING

Article 5.---- In appreciation of the devotion shown and services rendered by His Majesty Ghazi Mohammed Nadir Shah Afghan, in obtaining the independence and deliverance of the land of Afghanistan, and the uprooting of oppression and despotism, the Afghan nation in general has recognized His Majesty as a fit and worthy King of his

country and has accepted him as such with the greatest esteem and respect. His Majesty the King at the time of his accession to the throne of independent Afghanistan, publicly undertook, in the presence of the representatives and nobility of Afghanistan, to carry on the administration in accordance with the dictates of the expounders of the sacred Shariat of the Holy Prophet (peace be upon him) and the Hanafi religion, and the fundamental principles of the country, and to regard the preservation of the independence of Afghanistan as one of his most important duties, to be true to his nation and country, and not to infringe the abovementioned stipulations. The noble Afghan nation, therefore, agrees that the crown of Afghanistan will be transferred to the family of this king, who desires the progress of the country, and that succession to the throne will be in accordance with the selection of His Majesty and the people of Afghanistan.

Article 6.---- The King of Afghanistan, before his accession to the throne shall make and sign the following declaration in the chamber of the national Council and in the presence of the members:

"I swear by Almighty God and the Sacred Quran, knowing that God the Glorious is omnipresent and omniscient, to rule according to the Shariat of Muhammed (peace be upon him) and the fundamental rules of the country (and to strive) for the protection of the glorious religion of Islam, the independence of Afghanistan and the rights of the nation, and for the defence, progress and prosperity of the country. So help me God through the blessings of the sacred spiritual force of the blessed saints (the approval of God be upon them)."

Article 7.---- In Friday sermons the name of the King will be mentioned, and coin of the realm will bear his name, and other rights as follows will vest in the King:

"Bestowal of rank and office; awards of honours; appointment of the Prime Minister; sanction of the appointment transfer and dismissal of Ministers; assent to measures passed by the National Council; proclamation and enforcement of the same; protection and carrying out of the Shariat and civil laws; command of the military forces of Afghanistan in general;

declaration of war and conclusion of peace and treaties generally; remission and reduction of punishment in general according to the Shariat law."

Article 8.---- An allotment for the expenses of the King should be included in the budget of the country.

#### GENERAL RIGHTS OF AFGHAN SUBJECTS

Article 9.---- All persons residing in the kingdom of Afghanistan are called Afghan subjects without any distinction of creed and religion. Afghan nationality is acquired or lost in accordance with the nationality laws.

Article 10.---- All Afghan subjects, although required to observe the injunctions and prohibitions of their Government in religious and political matters, are free to enjoy all rights conferred by Shariat law.

Article 11.---- There is no interference with personal liberty. No one is imprisoned or punished without an order in accordance with the Shariat or the appropriate laws. The practice of slavery is forbidden in Afghanistan. No male or female may keep any person as a slave.

Article 12.---- Afghan subjects are free, within the limits of the appropriate regulation, in all matters relating to trade, industry and agriculture.

Article 13.---- All Afghan subjects have equal rights and duties under the Shariat law and the law of the State.

Article 14.----(In Afghanistan) Any Afghan subject, according to his ability and capacity, is taken into Government service as required.

Article 15.---- In Afghanistan the movable and immovable property of everyone is protected. In the event of any movable property being required by Government in the public interests, the value of it will be paid to the owner according to Shariat law and the special Code concerned, before it is taken over.

Article 16.---- The residence of every Afghan subject is safe from every sort of interference. No official or other person may enter

into a private residence without an order under Shariat law or the law of the land.

Article 17.--- Confiscation of both movable and immovable property is forbidden, with the exception of that belonging to persons residing abroad, making propaganda or intrigues against the Afghan Government.

Article 18.--- Levies of money and forced labour are prohibited, except during war.

Article 19.--- The rack and other kinds of torture are absolutely abolished. No punishment can be inflicted which is not prescribed by the law of the land and the sacred Shariat law.

Article 20.--- Primary education for the children of Afghan subjects is compulsory.

Article 21.--- In Afghanistan instruction in the knowledge of Islam is unrestricted. Every Afghan subject is permitted to impart Islamic religious instruction. Foreigners, however with the exception of those engaged to teach arts, industries, and foreign languages, are not permitted to open and conduct schools in the kingdom of Afghanistan.

Article 22.--- The public schools in Afghanistan are under the supervision of the Government, so that the education and culture imparted by these institutions may, with out infringing the articles of the Islamic faith, provide the benefits which accrue from the study of literature, art and science. But there will be no interference with principles of education which are concerned with the faith and religion of the "Ahl-e-Zimma".

Article 23.--- Publications and newspapers of Afghanistan, such as are not against religion, are under no restrictions save as provided by the special law relating to them. The right of publishing news belongs to the Government and to Afghan subjects. The entree into Afghanistan of foreign newspapers which do not contain matter against religion and the policy of the Afghan Government is unrestricted.

Article 24.--- The settlement of personal disputes and other matters between subjects falls within the province of the courts of Justice and other official departments connected herewith,

and such persons as are not satisfied with a decision and order of a court may appeal to higher authorities up to the Ministry concerned, and, if still not satisfied, to the Prime Minister and His Majesty the King.

Article 25.--- Fixed revenues and taxes are recovered in accordance with a separate code.

Article 26.--- **Nothing may be recovered from anyone beyond what is laid down in the Government Codes.**

### SHURRA-I-MILLI (NATIONAL COUNCIL)

#### Formation of the Body

Article 27.--- The National Council was introduced at the instance of His Majesty the King with the approval of the Jirga, held at Kabul in the year 1309 A.H.

Article 28.--- This body is solely composed of individuals who are interested in the social and political affairs of Afghanistan i.e., they are representatives of the all the inhabitants of the country.

Article 29.--- The National Council is composed of members elected from the province of Kabul and other provinces and districts, and it assembles at the capital.

Article 30.--- The number of members of the National Council is stated in the election rules and is fixed.

Article 31.--- The first session commences from the opening day of the National Council and it is laid down that new elections will be held at the expiry of each term of three years. If voters wish to re-elect the same member they are at liberty to do so.

Article 32.--- Dates of sessions and recesses of the National Council will be laid down in the National Council regulations.

If during a recess the Government deems it necessary to frame regulations for the National Council, these will be approved by the Government as a temporary measure, and brought into force by His Majesty's Command. If these regulations are approved by the National Council when it re-assembles, they will be added to the regulations, otherwise they may be modified or rejected by the aforesaid National Council.

Article 33.--- A meeting of the National Council can also be summoned during a recess to consider and settle important questions, and, should it be impossible to call a general meeting on account of the urgency of the matter to be discussed, the members for Kabul and neighbouring districts only will held a meeting of the National Council.

Article 34.--- When the National Council meets at least half of the members must be present, and a decision will be reached on the unanimous vote or on a majority of votes.

Article 35.--- The National Council will, at the opening of each session, present an address to His Majesty the King, who will make a reply.

Article 36.--- Members attending the Council for the first time will take and sign the following oath:

Article 37.--- For of oath: "We the undersigned, on account of the confidence imposed in us by the nation and the Government, swear by God the Great and the sacred Quran that we will remain true to our nation and Government."

Article 38.--- Members of the National Council have full liberty to express their views before the Council, and no objection can be raised on these grounds.

Article 39.--- All debates of the National Council, since the results of debates will later become law, will be open to representatives of newspapers and visitors, who, however, in accordance with the restrictions, laid down in the National Council regulations, have only the right to attend and listen.

## CONSTITUTION OF AFGHANISTAN

### DUTIES

Article 40.--- The National Council will manage its internal affairs, such as selection of President and Vice-President, clerical staff and other members, framing of rules of debate, etc., as laid down in the National Council regulations.

Article 41.--- All regulations and procedure, the framing and existence of which are essential to strengthen the foundation of the Government, and for the administration of the affairs of the country, will be passed the National Council.

Article 42.--- Adjustment of financial matters, rejection of adoption of taxes and revenues, and fresh proposals emanating from the Government, will be subject to the approval of the National Council.

Article 43.--- One of the duties for the National Council is to examine and pass the national budget, after it has been prepared and submitted by the Revenue Ministry.

Article 44.--- New regulations will be brought into force, and existing laws amended or repealed, on being passed by the National Council, whether the necessity for them has been expressed by the Council itself or by Ministers.

Article 45.--- Grants of concessions or the formation of companies and public firms of every kind will be sanctioned by the National Council.

Article 46.--- Contracts, agreements and grants of concessions, (monopolies) whether relating to trade, industry, agriculture etc., and whether Afghan or foreign, will be concluded with the approval of the National Council.

Article 47.--- Every loan raised by the Government whether in the country or abroad, shall first be approved by the National Council.

Article 48.--- Extension of public high ways and (building of) railways, whether to be paid for by the Government or Afghan or foreign firms or companies, depend entirely up on the approval of the National Council.

Article 49.--- The National Council has the right whenever necessary to submit a petition to the King. The petition, however, will in all circumstances be submitted by a deputation composed of the President and six members among themselves. The deputation will first request the Minister of Court to arrange an audience.

Article 50.--- Ministers may attend the sittings of the National Council to hear debates. They have also the right, having obtained

the permission of the President, to explain and elucidate matters (under discussion). Seats are reserved in the Council Chamber for Ministers.

Article 51.--- Whenever the necessity for new laws is felt, the proposal is initiated by a Ministry, and put before the National Council by a Minister or the Prime Minister, and will come in to force after it has passed the National Council and received the assent of His Majesty the King.

Article 52.--- In case of need, the president may, either of his motion or on the proposal of ten members of the Council, or that of a Minister, call a secret meeting, from which newspaper correspondents and visitors will be excluded, and may also appoint a secret committee composed of certain selected members, to which other members will not have the right of entry. But the outcome of deliberations of the secret committee or meeting, as the case may be, will be regarded as passed, provided the matter is discussed in the presence of three-quarters of the selected members, and supported by a majority of votes. If the measure is not agreed to in the secret meetings it will not be announced to the Council, and the latter will not discuss it.

Article 53.--- In the event of a secret meeting being convened on the motion of the president, the latter is authorized to publish its deliberations so far as may be suitable. But if the meeting is called at the instance of a Minister, the publication will be contingent up on the permission of such Minister.

Article 54.--- Ministers have the right to withdraw any measure, however much it may have been discussed by the Council; but if a measure is introduced by a Minister at the desire of the Council, withdrawal of such measure is contingent up on the consent of the Council.

Article 55.--- A bill introduced by a Minister and rejected by the Council will be returned with the latter's observations. The bill will again be ready in the Council, when the Ministry may accept or refuse the observations of the Council.

Article 56.--- When rejecting or accepting a measure the members of the National Council will give a clear and explicit statement of their views; and no one may seek to influence or threaten them. Members



of the Council will indicate their approval or disapproval of a measure by visible means, such as a black or white (voting) paper, and in such a manner as to be obvious to newspaper representatives and visitors.

#### INTRODUCTION OF MEASURES BY THE COUNCIL

Article 57.--- Every measure introduced by a member of the Council may debated, provided that at least a quarter of the members approve it. The measure will then be forwarded to the President in writing, and the letter may first refer it to a committee for investigation.

Article 58.--- A group of members of the National Council, selected by the rest of the members, approved by the President, and called a "Committee", will, in the first instance, carefully investigate measures brought before the National Council, and submit to the Council, through the President, such matters as require discussion with a statement of its own views. The measure will then, with the permission of the President, be discussed by the Council. Proposals which are incomplete or do not require the assent of the Council will be returned by the President to the Ministry concerned with a statement of his reasons for doing so. A committee will consist of at least ten persons.

Article 59.--- A Minister who is interested in a bill admitted for discussion in the Council under Article 57 should be informed of the time of debate at which the bill be discussed in Committee, or in the Council, so that he may either attend in person or send an assistant. A copy of the bill and connected papers, except in the case of urgent measure, should be forwarded by the Council to the Ministry concerned for the information of the Minister or his assistant ten or fifteen days in advance.

Article 60.--- Should a Minister for any reason disapprove of a bill brought before the Council, he must explain his objections and satisfy the Council of their validity.

Article 61.--- If the National Council ask for information from a Minister, he is obliged to reply, and, in the absence of rea-

sonable grounds, he is not permitted to delay his reply except when the matter is secret and it is to the interest of the nation and the Government that it should not be revealed for a certain period. After the lapse of that period, however, the matter must be announced to the Council.

Article 62.--- Personal petitions on subjects which have not been considered by official departments up to the Ministry concerned can be made to the National Council by a petitioner's local member. Such petitions are forwarded by the President of the National Council to the Prime Minister for consideration.

Article 63.--- The National Council, if it is not in session at the time of the King's death, must assemble within twenty days at most.

Article 64.--- If the terms of office of members has expend before the death of the King, and other members have not been elected, the Council will be composed of the former members.

Article 65.--- Measures passed by the Council should not contravene the canons of the religion of Islam or the policy of the country.

Article 66.--- Measures passed by the National Council will generally come into force after they have been signed by His Majesty the King.

#### THE HOUSE OF NOBLES

Article 67.--- The House of Nobles consists of experienced and farsighted persons who will be selected and appointed directly by His Majesty the King. It will meet at Kabul.

Article 68.--- Passing of measures rests with the National Council and the House of Nobles. Proposals placed before the later House by Ministers are decided, after consideration and debate by a majority of votes and forwarded to the National Council for approval. As a counterpart to this, measures approved by the National Council are examined and confirmed by the House of Nobles.

Article 69.--- If the House of Nobles be not in session at the time of the opening of the National Council, measures passed by the latter do not remain suspended but come into force after receiving the Royal assent.

Article 70.--- Measures passed by the House of Nobles and sent to the National Council, if not approved by the latter, are, in view of their importance, referred to another Committee composed of an equal number: of members of each house.

The minimum number is twenty. This Select Committee investigates the matters in question and communicates its opinion to the National Council. In the event of the Select Committee being opposed to that of the National Council, the matter will be referred to His Majesty the King and decided under his exalted direction.

#### PROVINCIAL ADVISORY COMMITTEE

Article 71.--- In the chief town of each Governor's province, whether Naib-ul-Hukuma, Hukumat-i-Ala or Hukumat-i-Kalan, an Advisory Committee will be set up.

Article 72.--- The mode of selection, number of members and duties of this Committee are set forth in the appropriate regulations.

#### DUTIES AND RIGHTS OF MINISTERS

Article 73.--- The administration of the country is carried on by Ministers, who are selected by the Prime Minister with the approval of His Majesty.

Article 74.--- The Prime Minister is the President of the Cabinet, and in his absence the Minister in charge of the Prime Minister's office will perform the duties of President.

Article 75.--- Moslems, being Afghan subjects, are alone eligible for appointment as Ministers.

Article 76.--- Ministers are responsible to the National Council as regards the Policy of the Government in general, and the Ministry <sup>is</sup> under their charge in particular. His Majesty the King, therefore, free from all responsibility.

Article 77.--- The responsibility of Ministers and the policy relating to them will be fixed by regulation.

Article 78.--- Ministers dispose of matters within their powers, and submit those beyond their powers to the Prime Minister, who deals with them up to the limit of his authority, and submits such cases as may be beyond his powers for the orders of His Majesty the King.

Article 79.--- When a Minister is suspected of an offence connected with his official duties he will take his trial in the Diwan-i-Ala (Supreme Court). Charges against a Minister in his private capacity will be referred to the Courts of Justice as in the case of other subjects.

Article 80.--- A Minister under suspicion will be suspended from public duties until the result of his trial is published and he is acquitted.

Article 81.--- During the absence of a Minister the assistant in the Ministry, or a deputy who may be appointed for the purpose, will exercise all the powers of a Minister.

Article 82.--- With the permission of His Majesty the King a Committee of Enquiry will be selected from, and appointed by, the National Council, in accordance with the appropriate regulations, to investigate the conduct of Ministers and Government servants.

Article 83.--- The number of Minister, the organization of departments and the duties of each have been laid in the fundamental regulations.

#### RIGHTS OF CIVIL SERVANTS

Article 84.--- Civil servants in general are appointed to posts for which they are fit and suitable, in accordance with the articles laid down in the appropriate regulations. Unless he resigns or the exigencies of Government service require his transfer or dismissal, no civil servant will be dismissed. Civil servants who behave well to promotion in their grades and ranks, and pension according to the appropriate regulations.

Article 85.--- All civil servants, in order of seniority, are required to obey their superiors in accordance with the regulations on the subject. Officers and their subordinates should in no circumstance issue an order which contravenes the regulations. In the event of a subordinate being ordered by a superior to act in contravention of the rules in any instance, the subordinate should, before taking such action, report to the central office of his Ministry or the Prime Minister.

Article 86.--- Duties of civil servants are laid down in the respective codes. Every civil servant is held responsible for discharging his duties in accordance with the instructions laid down in the regulations on the subject.

#### COURTS

Article 87.--- General ~~suits~~ suits under Shariat law will be filed in the Court of Justice.

Article 88.--- Suits filed in the Shariat courts are dealt with in accordance with the principles of the Hanafi religion.

Article 89.--- All courts are free from any kind of interference.

Article 90.--- Cases are tried openly in the Courts of Justice, with the exception of those which the judge directs shall be heard in Camera.

Article 91.--- Every person may plead in court any provision of Shariat law to protect his rights.

Article 92.--- Courts of Justice may not delay the hearing and decision of cases, except as provided by Shariat law.

Article 93.--- None may set a special Tribunal to settle particular cases out of court.

Article 94.--- The classification of courts and their powers have been laid down in the fundamental regulations.

DIWAN'I'ALA (SUPREME COURT)

Article 95.--- A Supreme Court is summoned temporarily as required, to try Government Ministers and is dissolved after dealing with the cases referred to it.

Article 96.--- The Method of summoning a Supreme Court and the procedure therein are laid down in a special Code.

FINANCIAL MATTERS

Article 97.--- All Government taxes are realized in accordance with a special Code.

Article 98.--- Every year a budget, showing the income and expenditure of the Government, is prepared according to Article 43. The budget is the basis on which revenue is collected and expenditure made.

Money for Government expenditure will be recovered and spent in accordance therewith.

Article 99.--- After the annual budget has been checked, a final statement of accounts, comprising actual figures of income and expenditure for the year, is prepared.

Article 100.-- There is a special Code governing the form of the final statement of accounts, the preparation of of the budget and the method of checking.

Article 101.-- Reduction or remission of revenues are dealt with in accordance with a special Code.

ADMINISTRATION OF PROVINCES

Article 102.-- The principle of the administration of the province is based on three fundamental rules, i.e., delegation of authority, allotment of duties and fixation of responsibility. On the basis of the above mentioned rules, the duties of provincial civil servants are classified and fixed, and their authority limited according to the appropriate principles. Every civil servant is

held responsible to his superior in all official matters.

Article 103.-- Civil servants are posted to provinces from each Ministry separately. The public approach the appropriate branches for the disposal of business and the satisfaction of their requirements.

Article 104.-- If signs of unrest and rebellion, tending to the disturbance of the public peace, be discovered in any part of the country, the Government has the power to adopt the measures necessary to put down the incurrection and restore peace.

Article 105.-- The formation of municipalities and their duties are governed by a special Code.

#### ARMY

Article 106.-- Recruitment of the army and its duties and rights are governed by a special Code.

Article 107.-- No member of the army may be deprived of his pay or rank otherwise as laid down in the regulations.

Article 108.-- Foreign subjects, with the exception of doctors and military instructors, are not accepted in military employment.

#### MISCELLENEOUS PRICIPLES

Article 109.-- Immunity of correspondence is one of the rights of the people. Letters and other communications from the public, on which postage has been paid will not be opened by any office or at any other place, except under an order of search from a court, but will be delivered close to the addresses.

Article 110.-- Whenever a verbal order is given to a Minister or a civil servant by His Majesty or the Prime Minister, he should obtain such orders in writing and signed by the King or the Prime Minister.

Idirect that these orders and regulations be brought into force.

Dated the 8th Aqrab, 1310 (the 31st October, 1931)

(Seal of the King)

ADDENDUM

Article 1.--- Officials of the Foreign Ministry, military officers and such Afghan students as are sent abroad to be educated at Government expenses are not allowed to marry foreign subjects.

Article 2.--- Foreign subjects have absolutely no right to own land in Afghanistan. Foreign Legations in Afghanistan will, in accordance with agreements concluded with their respective countries, be accorded reciprocal treatment.