

La reconstruction juridique de l'Irak et de l'Afghanistan et l'influence des systèmes juridiques occidentaux

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Annexes

Annexe 1

La Constitution de la République islamique d'Afghanistan, du 4 janvier 2004

The Constitution of Afghanistan

January 4, 2004¹

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

THE CONSTITUTION OF AFGHANISTAN

In the name of God, Most Gracious, Most Merciful

Praise be to Allah, the Cherisher and Sustainer of the Worlds; and Praise and Peace be upon Mohammad, His last Messenger and his disciples and followers.

PREAMBLE

We the people of Afghanistan:

- Believing firmly in Almighty God, relying on His divine will and adhering to the Holy religion of Islam;
- Realizing the previous injustices, miseries and innumerable disasters which have befallen our country;
- Appreciating the sacrifices, historical struggles, jihad and just resistance of all the peoples of Afghanistan, admiring the supreme position of the martyr's of the country's freedom;
- Comprehending that a united, indivisible Afghanistan belongs to all its tribes and peoples;
- Observing the United Nations Charter as well as the Universal Declaration of Human Rights;

And in order to:

- Strengthen national unity, safeguard independence, national sovereignty and territorial integrity of the country;
- Establish an order based on the peoples' will and democracy;
- Form a civil society void of oppression, atrocity, discrimination as well as violence, based on rule of law, social justice, protecting integrity and human rights, and attaining peoples' freedoms and fundamental rights;
- Strengthen political, social, economic as well as defense institutions;

¹ Traduction non officielle de la Constitution de la République islamique d'Afghanistan, du 4 janvier 2004, disponible sur le site www.unama-afg.org, dernière consultation, le 22 mai 2006.

- Attain a prosperous life and sound living environment for all inhabitants of this land;
- And, eventually, regain Afghanistan's appropriate place in the international family;

Have, herein, approved this constitution in accordance with the historical, cultural and social realities as well as requirements of time through our elected representatives in the Loya Jirga, dated January 3, 2004, held in the city of Kabul.

Chapter One: State

Article One

Afghanistan shall be an Islamic Republic, independent, unitary and indivisible state.

Article Two

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

Followers of other faiths shall be free within the bounds of law in the exercise and performance of their religious rituals.

Article Three

No law shall contravene the tenets and provisions of the holy religion of Islam in Afghanistan.

Article Four

National sovereignty in Afghanistan shall belong to the nation, manifested directly and through its elected representatives.

The nation of Afghanistan is composed of all individuals who possess the citizenship of Afghanistan.

The nation of Afghanistan shall be comprised of Pashtun, Tajik, Hazara, Uzbek, Turkman, Baluch, Pachaie, Nuristani, Aymaq, Arab, Qirghiz, Qizilbash, Gujur, Brahwui and other tribes.

The word Afghan shall apply to every citizen of Afghanistan.

No individual of the nation of Afghanistan shall be deprived of citizenship.

The citizenship and asylum related matters shall be regulated by law.

Article Five

Implementing the provisions of this constitution and other laws, defending independence, national sovereignty, territorial integrity and attaining the security and defense capability of the country shall be the fundamental duties of the state.

Article Six

The state shall be obligated to create a prosperous and progressive society based on social justice, preservation of human dignity, protection of human rights, realization of democracy, attainment of national unity as well as equality between all peoples and tribes and balance development of all areas of the country.

Article Seven

The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

Article Eight

The state shall regulate the foreign policy of the country on the basis of preserving the independence, national interests and territorial integrity as well as non-interference, good neighborliness, mutual respect and equality of rights.

Article Nine

Mines and other subterranean resources as well as historical relics shall be the property of the state. Protection, management and proper utilization of public properties as well as natural resources shall be regulated by law.

Article Ten

The state shall encourage, protect as well as ensure the safety of capital investment and private enterprises in accordance with the provisions of the law and market economy.

Article Eleven

Matters related to domestic as well as foreign trade shall be regulated by law in accordance with the economic requirements of the country and public interests.

Article Twelve

Da Afghanistan Bank shall be independent and the central bank of the state. Currency issuance as well as formulating and implementing the monetary policy of the country shall be, according to provisions of the law, the authority of the central bank. The central bank shall consult the economic committee of the House of People about printing of money. The organization and operation method of Central Bank shall be regulated by law.

Article Thirteen

The state shall design and implement effective programs for developing industries, expanding production as well as protecting activities of craftsmen to raise the standard of living of the people.

Article Fourteen

The state, within its financial means, shall design and implement effective programs to develop agriculture and animal husbandry, improve economic, social and living conditions of farmers, herders and settlers as well as the nomads' livelihood. The state shall adopt necessary measures for provision of housing and distribution of public estates to deserving citizens in accordance with the provisions of law and within financial possibilities.

Article Fifteen

The state shall be obligated to adopt necessary measures to protect and improve forests as well as the living environment.

Article Sixteen

From amongst Pashto, Dari, Uzbeki, Turkmani, Baluchi, Pachaie, Nuristani, Pamiri and other current languages in the country, Pashto and Dari shall be the official languages of the state. In areas where the majority of the people speak in any one of Uzbeki, Turkmani, Pachaie, Nuristani, Baluchi or Pamiri languages, any of the aforementioned language, in addition to Pashto and Dari, shall be the third official language, the usage of which shall be regulated by law. The state shall design and apply effective programs to foster and develop all languages of Afghanistan. Usage of all current languages in the country shall be free in press publications and mass media. Academic and national administrative terminology and usage in the country shall be preserved.

Article Seventeen

The state shall adopt necessary measures to foster education at all levels, develop religious teachings, regulate and improve the conditions of mosques, religious schools as well as religious centers.

Article Eighteen

The source for the calendar year of the country shall be based upon the migration of The Prophet (PBUH). The basis for state offices shall be the solar calendar.

Fridays as well as the 28th of Asad and 8th of Saur shall be public holidays.

Other holidays shall be regulated by law.

Article Nineteen

The flag of Afghanistan shall be made up of three equal parts, with black, red and green colors juxtaposed from left to right vertically.

The width of every color shall be half of its length, and at the center of which the national insignia shall be located.

The national insignia of Afghanistan shall be comprised of an emblem and a pulpit in white color—at the two corners of which are two flags, inscribed in the top middle the holy phrase “There is no God but Allah and Mohammad is his Prophet, and Allah is Great.” This shall be inscribed and superseded on rays of a rising sun, and in its lower part, the year 1919 in the solar calendar, and the word “Afghanistan” encircled on two sides by sheaves of wheat shall be inscribed.

The law shall regulate the use of the flag and insignia.

Article Twenty

The national anthem of Afghanistan shall be in Pashto with the mention of “God is Great” as well as the names of the tribes of Afghanistan.

Article Twenty-One

The capital of Afghanistan shall be the city of Kabul.

Chapter Two: Fundamental Rights and Duties of Citizens

Article Twenty-Two

Any kind of discrimination and distinction between citizens of Afghanistan shall be forbidden.

The citizens of Afghanistan, man and woman, have equal rights and duties before the law.

Article Twenty-Three

Life is the gift of God as well as the natural right of human beings. No one shall be deprived of this except by legal provision.

Article Twenty-Four

Liberty is the natural right of human beings. This right has no limits unless affecting others freedoms as well as the public interest, which shall be regulated by law.

Liberty and human dignity are inviolable.

The state shall respect and protect liberty as well as human dignity.

Article Twenty-Five

Innocence is the original state.

The accused shall be innocent until proven guilty by the order of an authoritative court.

Article Twenty-Six

Crime is a personal act.

Investigation, arrest and detention of an accused as well as penalty execution shall not incriminate another person.

Article Twenty-Seven

No deed shall be considered a crime unless ruled by a law promulgated prior to commitment of the offense.

No one shall be pursued, arrested, or detained without due process of law.

No one shall be punished without the decision of an authoritative court taken in accordance with the provisions of the law, promulgated prior to commitment of the offense.

Article Twenty-Eight

No citizen of Afghanistan accused of a crime shall be extradited to a foreign state without reciprocal arrangements as well as international treaties to which Afghanistan has joined.

No Afghan shall be deprived of citizenship or sentenced to domestic or foreign exile.

Article Twenty-Nine

Persecution of human beings shall be forbidden.

No one shall be allowed to or order torture, even for discovering the truth from another individual who is under investigation, arrest, detention or has been convicted to be punished.

Punishment contrary to human dignity shall be prohibited.

Article Thirty

A statement, confession or testimony obtained from an accused or of another individual by means of compulsion shall be invalid.

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

Article Thirty-One

Upon arrest, or to prove truth, every individual can appoint a defense attorney.

Immediately upon arrest, the accused shall have the right to be informed of the nature of the accusation, and appear before the court within the time limit specified by law.

In criminal cases, the state shall appoint a defense attorney for the indigent.

Confidentiality of conversations, correspondence, and communications between the accused and their attorney shall be secure from any kind of violation.

The duties and powers of defense attorneys shall be regulated by law.

Article Thirty-Two

Debt shall not curtail or deprive the freedom of the individual.

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

Article Thirty-Three

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

The conditions of exercising this right shall be regulated by law.

Article Thirty-Four

Freedom of expression shall be inviolable.

Every Afghan shall have the right to express thoughts through speech, writing, illustrations as well as other means in accordance with provisions of this constitution.

Every Afghan shall have the right, according to provisions of law, to print and publish on subjects without prior submission to state authorities.

Directives related to the press, radio and television as well as publications and other mass media shall be regulated by law.

Article Thirty-Five

To attain moral and material goals, the citizens of Afghanistan shall have the right to form associations in accordance with provisions of the law.

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

1. Their manifesto and charter shall not contravene the Holy religion of Islam and principles and values enshrined in this constitution;
2. Their organizations and financial resources shall be transparent;
3. They shall not have military or quasi-military aims and organizations; and
4. They shall not be affiliated with foreign political parties or other sources.

Formation and operation of a party on the basis of tribalism, parochialism, language, as well as religious sectarianism shall not be permitted.

A party or association formed according to provisions of the law shall not be dissolved without legal causes and the order of an authoritative court.

Article Thirty-Six

The people of Afghanistan shall have the right to gather and hold unarmed demonstrations, in accordance with the law, for attaining legitimate and peaceful purposes.

Article Thirty-Seven

Freedom and confidentiality of correspondence, as well as communications of individuals, whether in the form of a letter or via telephone, telegraph, as well as other means, shall be secure from intrusion.

The state shall not have the right to inspect personal correspondence and communications, unless authorized by provisions of the law.

Article Thirty-Eight

Personal residences shall be immune from trespassing.

No one, including the state, shall have the right to enter a personal residence or search it without the owners permission or by order of an authoritative court, except in situations and methods delineated by law.

In case of an evident crime, the responsible official shall enter or search a personal residence without prior court order. The aforementioned official, shall, after entrance or completion of search, obtain a court order within the time limit set by law.

Article Thirty-Nine

Every Afghan shall have the right to travel and settle in any part of the country, except in areas forbidden by law.

Every Afghan shall have the right to travel outside Afghanistan and return, according to the provisions of the law.

The state shall protect the rights of the citizens of Afghanistan outside the country.

Article Forty

Property shall be safe from violation.

No one shall be forbidden from owning property and acquiring it, unless limited by the provisions of law.

No one's property shall be confiscated without the order of the law and decision of an authoritative court.

Acquisition of private property shall be legally permitted only for the sake of public interests, and in exchange for prior and just compensation.

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

Article Forty-One

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

Lease of immovable property for the purpose of capital investment shall be permitted in accordance with the provisions of the law.

The sale of estates to diplomatic missions of foreign countries as well as international organization's to which Afghanistan is a member, shall be allowed in accordance with the provisions of the law.

Article Forty-Two

Every Afghan shall pay taxes and duties to the state in accordance with the provisions of the law.

No taxes or duties shall be levied without legal representation.

Tax rates and duties as well as the method of payment shall be determined, with due respect to social justice, by law.

This provision shall also apply to foreign individuals and organizations.

Every kind of tax, duty as well as paid incomes shall be deposited to a single state account.

Article Forty-Three

Education is the right of all citizens of Afghanistan, which shall be offered up to the B.A. level in the state educational institutes free of charge by the state.

To expand balanced education as well as to provide mandatory intermediate education throughout Afghanistan, the state shall design and implement effective programs and prepare the ground for teaching mother tongues in areas where they are spoken.

Article Forty-Four

The state shall devise and implement effective programs to create and foster balanced education for women, improve education of nomads as well as eliminate illiteracy in the country.

Article Forty-Five

The state shall devise and implement a unified educational curricula based on the tenets of the sacred religion of Islam, national culture as well as academic principles, and develop religious subjects curricula for schools on the basis of existing Islamic sects in Afghanistan.

Article Forty-Six

Establishing and administering higher, general and specialized educational institutions shall be the duty of the state.

The citizens of Afghanistan shall establish higher, general and specialized educational as well as literacy institutions with permission of the state.

The state shall permit foreign individuals to establish higher, general and specialized institutions in accordance with the provisions of the law.

Admission terms to higher educational institutes of the state and other related matters shall be regulated by law.

Article Forty-Seven

The state shall devise effective programs for fostering knowledge, culture, literature and arts.

The state shall guarantee the copyrights of authors, inventors and discoverers, and, shall encourage and protect scientific research in all fields, publicizing their results for effective use in accordance with the provisions of the law.

Article Forty-Eight

Work is the right of every Afghan.

Working hours, paid holidays, employment and employee rights and related matters shall be regulated by the law.

Choice of occupation and craft shall be free within the bounds of law.

Article Forty-Nine

Forced labor shall be forbidden.

Active participation in times of war, disaster, and other situations that threaten public life and comfort shall be among the national duties of every Afghan.

Forced labor on children shall not be allowed.

Article Fifty

The state shall adopt necessary measures to create a healthy administration and realize reforms in the administrative system of the country.

The administration shall perform its duties with complete neutrality and in compliance with the provisions of the laws.

The citizens of Afghanistan shall have the right of access to information from state departments in accordance with the provisions of the law. This right shall have no limit except when harming rights of others as well as public security.

The citizens of Afghanistan shall be recruited by the state on the basis of ability, without any discrimination, according to the provisions of the law.

Article Fifty-One

Any individual suffering damage without due cause from the administration shall deserve compensation, and shall appeal to a court for acquisition.

Except in conditions stipulated by law, the state shall not, without the order of an authoritative court, claim its rights.

Article Fifty-Two

The state shall provide free preventative healthcare and treatment of diseases as well as medical facilities to all citizens in accordance with the provisions the law.

Establishment and expansion of private medical services as well as health centers shall be encouraged and protected by the state in accordance with the provisions of the law.

The state shall adopt necessary measures to foster healthy physical education and development of the national as well as local sports.

Articles Fifty-Three

The state shall adopt necessary measures to regulate medical services as well as financial aid to survivors of martyrs and missing persons, and for reintegration of the disabled and handicapped and their active participation in society, s in accordance with provisions of the law.

The state shall guarantee the rights of retirees, and shall render necessary aid to the elderly, women without caretaker, disabled and handicapped as well as poor orphans, in accordance with provisions of the law.

Article Fifty-Four

Family is the fundamental pillar of the society, and shall be protected by the state.

The state shall adopt necessary measures to attain the physical and spiritual health of the family, especially of the child and mother, upbringing of children, as well as the elimination of related traditions contrary to the principles of the sacred religion of Islam.

Article Fifty-Five

Defending the country shall be the duty of all citizens of Afghanistan.

Conditions for compulsory military service shall be regulated by law.

Article Fifty-Six

Observance of the provisions of the constitution, obedience of laws and respect of public order and security shall be the duty of all citizens of Afghanistan.
Ignorance of the laws shall not be considered an excuse.

Article Fifty-Seven

The state shall guarantee the rights and liberties of foreign citizens in Afghanistan in accordance with the law.

These people shall be obliged to respect the laws of the state of Afghanistan within the limits of the provisions of international law.

Article Fifty-Eight

To monitor respect for human rights in Afghanistan as well as to foster and protect it, the state shall establish the Independent Human Rights Commission of Afghanistan.

Every individual shall complain to this Commission about the violation of personal human rights.

The Commission shall refer human rights violations of individuals to legal authorities and assist them in defense of their rights.

Organization and method of operation of the Commission shall be regulated by law.

Article Fifty-Nine

No individual shall be allowed to manipulate the rights and liberties enshrined in this Constitution and act against independence, territorial integrity, sovereignty as well as national unity.

Chapter Three: President

Article Sixty

The President shall be the head of state of the Islamic Republic of Afghanistan, executing his authorities in the executive, legislative and judiciary fields in accordance with the provisions of this Constitution.

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

The Presidential candidate shall declare to the nation names of both vice presidential running mates.

In case of absence, resignation or death of the President, the first Vice-President shall act in accordance with the provisions of this Constitution.

In the absence of the first Vice-President, the second Vice-President shall act in accordance with the provisions of this Constitution.

Article Sixty-One

The President shall be elected by receiving more than fifty percent of votes cast by voters through free, general, secret and direct voting.

The presidential term shall expire on 1st of Jawza of the fifth year after elections.

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

If in the first round none of the candidates gets more than fifty percent of the votes, elections for the second round shall be held within two weeks from the date election results are proclaimed, and, in this round, only two candidates who have received the highest number of votes in the first round shall participate.

In case one of the presidential candidates dies during the first or second round of voting or after elections, but prior to the declaration of results, re-election shall be held according to provisions of the law.

Article Sixty-Two

The individual who becomes a presidential candidate shall have the following qualifications:

1. Shall be a citizen of Afghanistan, Muslim, born of Afghan parents and shall not be a citizen of another country;
2. Shall not be less than forty years old the day of candidacy;
3. Shall not have been convicted of crimes against humanity, a criminal act or deprivation of civil rights by court.

No individual shall be elected for more than two terms as President.

The provision of this article shall also apply to Vice-Presidents.

Article Sixty-Three

Before assuming office, the President shall take, in accordance with special procedures set by law, the following oath of allegiance:

“In the name of God, Most Gracious, Most Merciful

I swear by the name of God Almighty that I shall obey and protect the Holy religion of Islam, respect and supervise the implementation of the Constitution as well as other laws, safeguard the independence, national sovereignty and territorial integrity of Afghanistan, and, in seeking God Almighty’s help and support of the nation, shall exert my efforts towards the prosperity and progress of the people of Afghanistan.”

Article Sixty-Four

The President shall have the following authorities and duties:

1. Supervise the implementation of the Constitution;
2. Determine the fundamental lines of the policy of the country with the approval of the National Assembly;
3. Being the Commander in Chief of the armed forces of Afghanistan;
4. Declare war and peace with the endorsement of the National Assembly;
5. Take necessary decisions to defend territorial integrity and preserve independence;
6. Dispatch armed forces units outside of Afghanistan with the endorsement of the National Assembly;
7. Convene the Loya Jirga except in the situation prescribed in Article 69 of this Constitution;
8. Proclaim as well as terminate the state of emergency with the endorsement of the National Assembly;
9. Inaugurate the sessions of National Assembly and Loya Jirga.
10. Accept the resignations of vice-presidents of the Republic;
11. Appoint the Ministers, the Attorney General, the Head of the Central Bank, the National Security Director as well as the Head of the Red Cross with the endorsement of the House of People, and their dismissal and acceptance of resignation;
12. Appoint the Justice of the Supreme Court as well as justices of the Supreme Court with the endorsement of the House of People;
13. Appointing, retiring and accepting the resignation and dismissal of judges, officers of the armed forces, police, national security as well as high ranking officials according to the provisions of law;
14. Appoint heads of political representatives of Afghanistan to foreign states as well as international organizations;
15. Accept credentials of foreign political representatives in Afghanistan;
16. Endorse laws as well as judicial decrees;
17. Issue credential letter for conclusion of international treaties in accordance with the provisions of the law;
18. Reduce and pardon penalties in accordance with the provisions of the law;
19. Bestow medals, insignias as well as honorary titles in accordance with the provisions of the law;
20. Establish commissions to improve the administration of the country in accordance with the provisions of the law;

21. Perform other authorities and duties enshrined in this Constitution.

Article Sixty-Five

On important national, political, social as well as economic issues the President can call for a referendum of the people of Afghanistan.

The referendum shall not be contrary to the provisions of this Constitution or require its amendment.

Article Sixty-Six

The President shall take into consideration the supreme interests of the people of Afghanistan to enforce the authorities enshrined in this Constitution. .

The President shall not sell or bestow state properties without the provision of the law.

During the term of office, the Presidential position shall not be used for linguistic, sectarian, tribal, and religious as well as party considerations.

Article Sixty-Seven

In case of resignation, impeachment or death of the President, as well as an incurable illness impeding performance of duty, the First Vice-President shall assume authorities and duties of the President.

The President shall personally tender resignation to the National Assembly.

Affirmation of an incurable illness shall be verified by an authoritative medical team assigned by the Supreme Court.

In such cases, elections for the new President shall be held within three months in accordance with Article Sixty-One of the Constitution.

The First Vice-President, in acting as interim President, shall not perform the following duties:

1. Amend the Constitution;
2. Dismiss ministers;
3. Call a referendum.

The Vice-Presidents can according to the provisions of this Constitution, nominate themselves as presidential candidates.

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

Article Sixty-Eight

In case any of the Vice-Presidents resign or die, another person shall be appointed by the President with the endorsement of the House of the People.

In case of simultaneous death of the President and the First Vice-President, the Second Vice-President, the President of the House of Elders, the President of the House of Representatives and the Foreign Minister shall succeed respectively and, in that order, and, according to Article Sixty-Seven of this Constitution, shall assume the duties of the President.

Article Sixty-Nine

The President shall be responsible to the nation as well as the House of People in accordance with the provisions of this Article.

Accusations of crimes against humanity, national treason as well as a crime against the President shall be demanded by one third of all members of the House of People. If this demand is approved by two thirds of the House of People, the House of People shall convene the Loya Jirga within one month.

If the Loya Jirga, by two-thirds majority, approves the accusation, the President shall be released from duty and the issue shall be referred to a special court, which shall be comprised of the President of the House of Elders, three members of the House of People, and three members of the Supreme Court appointed by the Loya Jirga. The case shall be presented by the individual appointed by the Loya Jirga.

In such a situation the provisions of Article Sixty-Seven of this Constitution shall be applied.

Article Seventy

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

The President, after completion of his term of service, except when dismissed, shall be entitled to financial benefits of the presidency for the rest of his life in accordance with the law.

Chapter Four: Government

Article Seventy-One

The Government shall be comprised of Ministers who work under the chairmanship of the President.

The number of Ministers as well as their duties shall be regulated by law.

Article Seventy-Two

The individual appointed as Minister shall have the following qualifications:

1. Shall have only the citizenship of Afghanistan; if the ministerial candidate has the citizenship of another country as well, the House of People shall have the right to approve or reject the nomination;
2. Shall have higher education, work experience as well as a good reputation;
3. Shall not be less than thirty five years of age;
4. Shall not have been convicted of crimes against humanity, a criminal act or deprivation of civil rights by a court.

Article Seventy-Three

The Ministers shall be appointed from amongst members of the National Assembly or outside.

If a member of the National Assembly is appointed as Minister, that individual loses membership in the National Assembly and instead, another individual shall be appointed in accordance with the provisions of the law.

Article Seventy-Four

Before assuming office, the Ministers shall take the following oath in the presence of the President:

“In the name of God, Most Gracious, Most Merciful,

I swear in the name of God Almighty that I shall protect the Holy religion of Islam, respect the Constitution and other laws of Afghanistan, safeguard the rights of citizens as well as independence, territorial integrity and the national unity of the people of Afghanistan, and, in all my deeds consider the Almighty’s presence, performing the entrusted duties honestly.”

Article Seventy-Five

The Government shall have the following duties:

1. Execute the provisions of this Constitution, other laws, as well as the final decisions of the courts;
2. Preserve the independence, defend the territorial integrity and safeguard the interests and prestige of Afghanistan in the international community;
3. Maintain public law and order and eliminate every kind of administrative corruption;
4. Prepare the budget, regulate financial conditions of the state as well as protect public wealth;
5. Devise and implement social, cultural, economic and technological development programs;
6. Report to the National Assembly, at the end of the fiscal year, about the tasks achieved as well as important programs for the new fiscal year;
7. Perform other duties that, in accordance with this Constitution and other laws, fall within the Government responsibilities.

Article Seventy-Six

To implement the fundamental lines of the policy of the country and regulate its duties, the government shall devise as well as approve regulations, which shall not be contrary to the body or spirit of any law.

Article Seventy-Seven

The Ministers shall perform their duties as heads of administrative units within the framework of this Constitution as well as other laws prescribe.

The Ministers shall be responsible to the President and House of Representatives for their specified duties.

Article Seventy-Eight

If a Minister is accused of crimes against humanity, national treason or other crimes, the case, in accordance with Article One Hundred Thirty Four of this Constitution, shall be submitted to a special court.

Article Seventy-Nine

During the recess of the House of Representatives, the Government shall, in case of an immediate need, issue legislative decrees, except in matters related to budget and financial affairs.

Legislative decrees, after endorsement by the President, shall acquire the force of law. Legislative decrees shall be presented to the National Assembly within thirty days of convening its first session, and if rejected by the National Assembly, they become void.

Article Eighty

During their tour of duty, the Ministers shall not use their positions for linguistic, sectarian, tribal, religious or partisan purposes.

Chapter Five: National Assembly

Article Eighty-One

The National Assembly of the Islamic Republic of Afghanistan, as the highest legislative organ, shall manifest the will of its people as well as represent the entire nation.

Every member of the Assembly, when voting, shall judge according to the general interests as well as the supreme benefits of the people of Afghanistan.

Article Eighty-Two

The National Assembly consists of two houses: House of People and House of Elders.

No individual shall be a member of both houses at the same time.

Article Eighty-Three

Members of the House of People shall be elected by the people through free, general, secret and direct balloting.

The work period of the House of People shall terminate, after the disclosure of the results of the elections, on the 1st of Saratan of the fifth year and the new parliament shall commence work.

The elections for members of the House of People shall be held 30-60 days prior to the expiration of the term of the House of People.

The number of the members of the House of People shall be proportionate to the population of each constituency, not exceeding the maximum of two hundred fifty individuals.

Electoral constituencies as well as other related issues shall be determined by the elections law.

The elections law shall adopt measures to attain, through the electorate system, general and fair representation for all the people of the country, and proportionate to the population of every province, on average, at least two females shall be the elected members of the House of People from each province.

Article Eighty-Four

Members of the House of Elders shall be elected and appointed as follows:

1. From amongst each provincial council members, one individual shall be elected by the respective council for a four year term;
2. From amongst district councils of each province, one individual, elected by the respective councils, for a three year term;
3. The remaining one third of the members shall be appointed by the President, for a five year term, from amongst experts and experienced personalities, including two members from amongst the impaired and handicapped, as well as two from nomads.

The President shall appoint fifty percent of these individuals from amongst women.

The individual selected as a member of the House of Elders shall lose membership to the related Council, and, another individual shall be appointed in accordance with the provisions of the law.

Article Eighty-Five

The individual who becomes a candidate or appointed to the membership of the National Assembly, in addition to the completion of the conditions of the election, shall have the following qualifications:

1. Shall be a citizen of Afghanistan or shall have obtained citizenship of the state of Afghanistan at least ten years prior to candidacy date or appointment;
2. Shall not have been convicted of crimes against humanity, as well as a crime or deprivation from civil rights by a court;
3. Shall have completed twenty-five years of age on candidacy day for the House of People, and thirty-five years on candidacy day or appointment for the House of Elders.

Article Eighty-Six

Elections credentials of members of the National Assembly shall be reviewed by the Independent Elections Commission in accordance with the provisions of the law.

Article Eighty-Seven

Each of the two houses of the National Assembly, at the commencement of their work period, shall elect one member as president for the term of the legislature, and two members as first and second deputies and two members as secretary and assistant secretary for a period of one year.

These individuals shall form the administrative teams of the House of People as well as House of Elders.

Duties of the administrative teams shall be determined by the Regulations on Internal Duties of each house.

Article Eighty-Eight

Each of the two houses of the National Assembly shall form commissions to study issues under discussion in accordance with the Regulations of Internal Duties.

Article Eighty-Nine

The House of People shall have the authority to establish a special commission, on the proposal of one third of its members, to review as well as investigate the actions of the Government.

The composition and method of operation of the aforementioned commission shall be determined by the Regulations on Internal Duties.

Article Ninety

The National Assembly shall have the following duties:

1. Ratification, modification or abrogation of laws or legislative decrees;
2. Approval of social, cultural, economic as well as technological development programs;
3. Approval of the state budget as well as permission to obtain or grant loans;
4. Creation, modification and or abrogation of administrative units;
5. Ratification of international treaties and agreements, or abrogation of membership of Afghanistan in them;

6. Other authorities enshrined in this Constitution.

Article Ninety-One

The House of People shall have the following special authorities:

1. Decide about elucidation session from each Minister in accordance with Article Ninety-Two of this Constitution;
2. Decide on the development programs as well as the state budget;
3. Approve or reject appointments according to provisions of this Constitution.

Article Ninety-Two

The House of People, on the proposal of twenty percent of all its members, shall make inquiries from each Minister.

If the explanations given are not satisfactory, the House of People shall consider the issue of a no-confidence vote.

The no- confidence vote on a Minister shall be explicit, direct, as well as based on convincing reasons. The vote shall be approved by the majority of all members of the House of People.

Article Ninety-Three

Any commission of both houses of the parliament can question any Minister about special issues.

The individual questioned shall provide an oral or written response.

Article Ninety-Four

Law shall be what both houses of the National Assembly approve and the President endorses, unless this Constitution states otherwise.

In case the President rejects what the National Assembly has approved, the President shall send it back, within fifteen days from the date it was presented, to the House of People mentioning the reasons for rejection, and, with expiration of the period or if the House of People re-approves it with two thirds of all the votes, the draft shall be considered endorsed and enforceable.

Article Ninety-Five

The proposal for drafting laws shall be made by the Government or members of the National Assembly or, in the domain of regulating the judiciary, by the Supreme Court, through the Government.

Proposals for drafting the budget and financial affairs laws shall be made only by the Government.

Article Ninety-Six

If the proposal for drafting a law includes imposition of new taxes or reduction of state incomes, it shall be included in the work agenda of the National Assembly on condition the compensation source shall also be forecasted in the text of the proposal.

Article Ninety-Seven

Proposals for drafting laws shall be first submitted to the House of People by the government.

The House of People shall consider the draft laws, including budgetary and financial affairs as well as the proposal for obtaining or granting loans, and, after debate, either approve or reject as a whole.

The House of People shall not delay more than one month the draft proposal.

The House of People, after approving the proposed draft, shall send it to the House of the Elders.

The House of Elders shall decide on it within fifteen days.

In deciding about the proposed laws, the National Assembly shall give priority to treaties and development programs of the state that, according to the proposal of the government, require urgent consideration.

If the proposal for drafting a law is made by ten members of either of the two houses, it shall be, after approval of one fifth of the House where it was initiated, included in the work agenda of that House.

Article Ninety-Eight

The state budget and development program of the government shall be submitted, through the House of Elders to the House of People along with its advisory views.

The decision of the House of People shall be implemented without presentation to the House of Elders, after endorsement 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 shall be applied pending the passage of the new budget.

The Government shall present during the fourth quarter of the financial year the budget for the next year, with the brief account of the current year budget, to the National Assembly.

The precise account of the previous year financial budget shall be presented to the National Assembly during the next six months according to the provisions of the law.

The House of People shall not delay approval of the budget for more than one month after receiving it and give permission to obtain or grant loans not included in the budget, for more than fifteen days.

If the House of People during this period does not decide on obtaining or granting loans, the proposal shall be considered approved.

Article Ninety-Nine

If, during the sessions of the National Assembly, the annual budget, or development program, or issues related to national security, territorial integrity and independence of the country is under discussion, the sessions of the Assembly shall not end pending decision of the matter.

Article One Hundred

If one House rejects decisions of the other, a joint commission comprised of an equal number of members from each House shall be formed to solve the difference.

The decision of the commission, after endorsement by the President, shall be enforced. If the joint commission does not solve the difference, the decision shall be considered rejected. In such situation, the House of People shall pass it with two-thirds majority in its next session.

This decision, without submission to the House of Elders, shall be promulgated once endorsement by the President.

Article One Hundred One

No member of the National Assembly shall be legally prosecuted for reasons of voting or views expressed during performance of duty.

Article One Hundred Two

If a member of the National Assembly is accused of a crime, the responsible official shall inform the House of which the accused is a member, and the accused shall be legally prosecuted.

In case of an evident crime, the responsible official shall legally pursue and arrest the accused without the permission of the House of which the accused is a member.

In both cases, if the legal prosecution requires detention, the responsible official shall immediately inform the respective House and obtain its approval.

If the accusation takes place during an Assembly recess, the permission for arrest or detention shall be obtained from the administrative board of the respective House, and the issue shall be referred to the first session of the aforementioned House for decision.

Article One Hundred Three

The Ministers can participate in the sessions of either House of the National Assembly.

Either House of the National Assembly can demand the participation of the Ministers in its session.

Article One Hundred Four

Both Houses of the National Assembly shall convene their sessions concurrently, but separately.

Sessions of the two Houses shall be held jointly under the following circumstances:

1. When the legislative term or annual sessions are inaugurated by the President;
2. When deemed necessary by the President.

The President of the House of People shall preside over the joint sessions of the National Assembly.

Article One Hundred Five

The sessions of the National Assembly shall be open unless the President of the Assembly or at least ten members of the National Assembly request their secrecy and the Assembly grants their request.

No one shall enter the National Assembly building by force.

Article One Hundred Six

The quorum for voting of each House of the National Assembly shall be complete with the majority presence of members and decisions shall be taken with the majority of votes of members present, unless this Constitution states otherwise.

Article One Hundred Seven

The National Assembly shall hold two regular sessions annually.

The term of both regular sessions shall be nine months every year, and when needed, the Assembly shall extend its term.

Extraordinary sessions of the Assembly during recess shall be convened by Presidential order.

Article One Hundred Eight

In cases of death, resignation, and dismissal of a member of the National Assembly or disability or handicap, which impedes permanent performance of duty, the placement of the new representative for the remaining period of the legislative term shall be in accordance with provisions of the law.

Matters related to the presence and absence of members of the National Assembly shall be regulated by the Internal Duties Statute.

Article One Hundred Nine

Proposals for amending elections law shall not be included in the work agenda of the National Assembly during the last year of the legislative term.

Chapter Six: Loya Jirga

Article One Hundred Ten

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

The Loya Jirga consists of:

1. Members of the National Assembly;
2. Presidents of the provincial as well as district assemblies.

Ministers, Chief Justice and members of the Supreme Court as well as the attorney general shall participate in the Loya Jirga sessions without voting rights.

Article One Hundred Eleven

The Loya Jirga shall convene in the following situations:

1. To decide on issues related to independence, national sovereignty, territorial integrity as well as supreme national interests;
2. Amend provisions of this Constitution;
3. Impeach the President in accordance with the provisions of Article Sixty Nine of the Constitution.

Article One Hundred Twelve

In its first session, the Loya Jirga shall elect, from amongst its members, a Chairperson, a Deputy-Chair, and a Secretary and an Assistant Secretary.

Article One Hundred Thirteen

The quorum of the Loya Jirga shall be complete for voting with the presence of the majority of members. The decision of the Loya Jirga, except in situations explicitly stated in this Constitution, shall be adopted by a majority of members present.

Article One Hundred Fourteen

Sessions of the Loya Jirga shall be open unless one fourth of its membership demand secrecy, and the Loya Jirga accept this demand.

Article One Hundred Fifteen

During the sessions of the Loya Jirga, provisions of Articles One Hundred One and One Hundred Two of this Constitution shall be applied to its members.

Chapter Seven: Judiciary**Article One Hundred Sixteen**

The judiciary shall be an independent organ of the state of the Islamic Republic of Afghanistan. The judiciary shall be comprised of one Supreme Court, Courts of Appeal as well as Primary Courts whose organization and authority shall be regulated by law. The Supreme Court shall be the highest judicial organ, heading the judicial power of the Islamic Republic of Afghanistan.

Article One Hundred Seventeen

The Supreme Court shall be comprised of nine members, appointed by the President and with the endorsement of the House of People, and in observance of the provisions of clause three of Article Fifty as well as Article One Hundred Eighteen of this Constitution, shall be initially appointed in the following manner:

Three members for a period of four years, three members for seven years, and three members for ten years. Later appointments shall be for period of ten years. Appointment of members for a second term shall not be permitted.

The President shall appoint one of its members as Chief Justice of the Supreme Court.

Members of the Supreme Court, except under circumstances stated in Article One Hundred Twenty Seven of this Constitution, shall not be dismissed till the end of their term.

Article One Hundred Eighteen

Supreme Court members shall have the following qualifications:

1. At time of appointment the age of the Chief Justice of the Supreme Court and its members shall not be less than forty year.
2. Shall be a citizen of Afghanistan.
3. Shall have higher education in legal studies or Islamic jurisprudence as well as expertise and adequate experience in the judicial system of Afghanistan.
4. Shall have good character as well as good reputation.
5. Shall not have been convicted, by a court, for crimes against humanity, crimes, or deprivation of civil rights.
6. Shall not be a member of any political party during his term of duty.

Article One Hundred Nineteen

Members of the Supreme Court shall take the following oath of office in the presence of the President:

“In the of God, Most Gracious, Most Merciful

I swear in the name of God Almighty to attain justice and righteousness in accordance with tenets of the Holy religion of Islam, provisions of this Constitution as well as other laws of Afghanistan, and to execute the judicial duty with utmost honesty, righteousness and impartiality.”

Article One Hundred Twenty

The authority of the judicial organ shall include consideration of all cases filed by real or incorporeal persons, including the state, as plaintiffs or defendants, before the court in accordance with the provisions of the law.

Article One Hundred Twenty-One

At the request of the Government, or courts, the Supreme Court shall review the laws, legislative decrees, international treaties as well as international covenants for their compliance with the Constitution and their interpretation in accordance with the law.

Article One Hundred Twenty-Two

No law shall, under any circumstances, exclude any case or area from the jurisdiction of the judicial organ as defined in this chapter and submit it to another authority.

This provision shall not prevent formation of special courts stipulated in Articles Sixty- Nine, Seventy-Eight and One Hundred Twenty Seven of this Constitution, as well as cases related to military courts.

The organization and authority of these courts shall be regulated by law.

Article One Hundred Twenty-Three

With respect to the provisions of this Constitution, statutes related to the formation, authority, as well as proceedings of courts and matters related to judges, shall be regulated by law.

Article One Hundred Twenty-Four

Provision of Laws related to civil servants as well as other administrative staff of the state shall also apply to the officials and the administrative personnel of the judiciary; but the Supreme Court in accordance with the law shall regulate their appointment, dismissal, promotion, retirement, rewards and punishments.

Article One Hundred Twenty-Five

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

The Supreme Court shall implement the budget of the judiciary.

Article One Hundred and Twenty-Six

Supreme Court judges shall receive lifetime pensions at the end of their term of service provided they do not hold state and political offices.

Article One Hundred Twenty-Seven

If more than one third of the members of the House of People demand the trial of the Chief Justice of the Supreme Court or any of its members accused of a crime related to job performance or committing a crime, and, the House of People approves this demand by two thirds majority of all members, the accused shall be dismissed and the issue referred to a special court.

The formation of the court and procedure of the trial shall be regulated by law.

Article One Hundred Twenty-Eight

In the courts in Afghanistan, trials shall be held openly and every individual shall have the right to attend in accordance with the law.

In situations clarified by law, the court shall hold secret trials when it considers necessary, but pronouncement of its decision shall be open in all cases.

Article One Hundred Twenty-Nine

In issuing decision, the court is obligated to state the reason for its verdict.

All final decisions of the courts shall be enforced, except for capital punishment, which shall require Presidential approval.

Article One Hundred Thirty

In cases under consideration, the courts shall apply provisions of this Constitution as well as other laws.

If there is no provision in the Constitution or other laws about a case, the courts shall, in pursuance of Hanafi jurisprudence, and, within the limits set by this Constitution, rule in a way that attains justice in the best manner.

Article One Hundred Thirty-One

The courts shall apply the Shia jurisprudence in cases involving personal matters of followers of the Shia sect in accordance with the provisions of the law.

In other cases, if no clarification in this Constitution and other laws exist, the courts shall rule according to laws of this sect.

Article One Hundred Thirty-Two

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

Appointment, transfer, promotion, punishment and proposals for retirement of judges, carried out according to provisions of the laws, shall be within the authority of the Supreme Court.

To better regulate judicial as well as judicial administrative matters and attain necessary reforms, the Supreme Court shall establish the Office of General Administration of the Judiciary.

Article One Hundred Thirty-Three

When a judge is accused of a crime, the Supreme Court shall, in accordance with the provisions of the law, consider the case.

After hearing the defense, if the Supreme Court considers the accusation valid, it shall present a proposal to the President for dismissal of the judge.

After Presidential approval, the accused judge shall be dismissed and punished according to the provisions of the law.

Article One Hundred Thirty-Four

Discovery of crimes shall be the duty of police, and investigation and filing the case against the accused in the court shall be the responsibility of the Attorney's Office, in accordance with the provisions of the law.

The Attorney's Office shall be part of the Executive organ and shall be independent in its performance.

The organization, authority as well as method of work of the Attorney's Office shall be regulated by law.

Special law shall regulate discovery and investigation of crimes of duty by the armed forces, police and officials of national security.

Article One Hundred Thirty-Five

If a party in lawsuit does not know the language, the right to know the materials and documents of the case as well as conversation in the court, shall be provided in the party's mother tongue through a translator appointed by the court.

Chapter Eight: Administration

Article One Hundred Thirty-Six

The administration of the Islamic Republic of Afghanistan, based on the units of the central government and local offices, shall be regulated according to the law.

The central administration shall be divided into several administrative units, each headed by a Minister.

The local administrative unit shall be a province.

The number, area, divisions and related provincial organizations as well as number of offices shall be regulated on the basis of population, social and economic conditions, as well as geographical location.

Article One Hundred Thirty-Seven

The government, in preserving the principles of centralism, shall transfer necessary powers, in accordance with the law, to local administrations in order to accelerate and improve economic, social as well as cultural matters, and foster peoples' participation in developing national life.

Article One Hundred Thirty-Eight

There shall be a provincial council in every province.

Members of the provincial councils according to law, shall be elected for four years by the residents of the province, proportionate to the population, through free, general, secret as well as direct elections.

The provincial council shall elect one of its members as President.

Article One Hundred Thirty-Nine

The provincial council shall participate in the attainment of the development objectives of the state and improvement of the affairs of the province in the manner prescribe by laws, and shall advise the provincial administrations on related issues.

The provincial assembly council shall perform its duties with the cooperation of the provincial administration.

Article One Hundred Forty

Councils shall be established to organize activities as well as attain active participation of the people in provincial administrations in districts and in villages, in accordance with the provisions of the law.

Local residents shall elect members of these councils for three years through free, general, secret as well as direct elections.

Participation of nomads in these local councils shall be regulated in accordance with the provisions of the law.

Article One Hundred Forty-One

To administer city affairs, municipalities shall be established.

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

Matters related to municipalities shall be regulated by law.

Article One Hundred Forty-Two

To implement the provisions as well as attain values enshrined in this Constitution, the state shall establish necessary offices.

Chapter Nine: The State of Emergency

Article One Hundred Forty-Three

If because of war, threat of war, serious rebellion, natural disasters or similar conditions, protection of independence and national life become impossible through the channels specified in this Constitution, the

state of emergency shall be proclaimed by the President, throughout the country or part thereof, with endorsement of the National Assembly.

If the state of emergency continues for more than two months, the consent of the National Assembly shall be required for its extension.

Article One Hundred Forty-Four

During the state of emergency, the President can, in consultation with the presidents of the National Assembly as well as the Chief Justice of the Supreme Court, transfer some powers of the National Assembly to the government.

Article One Hundred Forty-Five

During the state of emergency, the President can, after approval by the presidents of the National Assembly as well as the Chief Justice of the Supreme Court, suspend the enforcement of the following provisions or place restrictions on them:

1. Clause Two of Article Twenty-Seven;
2. Article Thirty-Six;
3. Clause Two of Article Thirty-Seven;
4. Clause Two of Article Thirty-Eight.

Article One Hundred Forty-Six

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

Article One Hundred Forty-Seven

If the presidential term or the legislative term of the National Assembly expires during the state of emergency, the new general elections shall be postponed, and the presidential as well as parliamentary terms shall extend up to four months.

If the state of emergency continues for more than four months, the President shall call the Loya Jirga.

Within two months after the termination of the state of emergency, elections shall be held.

Article One Hundred Forty-Eight

At the termination of the state of emergency, measures adopted under Article One Hundred Forty-Four and One Hundred Forty-Five of this Constitution shall be void immediately.

Chapter Ten: Amendments

Article One Hundred Forty-Nine

The principles of adherence to the tenets of the Holy religion of Islam as well as Islamic Republicanism shall not be amended.

Amending fundamental rights of the people shall be permitted only to improve them.

Amending other articles of this Constitution, with due respect to new experiences and requirements of the time, as well as provisions of Articles Sixty-Seven and One Hundred Forty-Six of this Constitution, shall become effective with the proposal of the President and approval of the majority of National Assembly members.

Article One Hundred Fifty

To process the amendment proposals, a commission comprised of members of the Government, National Assembly as well as the Supreme Court shall be formed by presidential decree to prepare the draft proposal.

To approve the amendment, the Loya Jirga shall be convened by a Presidential decree in accordance with the provisions of the Chapter on Loya Jirga.

If the Loya Jirga approves the amendment with the majority of two thirds of its members, the President shall enforce it after endorsement.

Chapter Eleven: Miscellaneous Provisions

Article One Hundred Fifty-One

The President, Vice-Presidents, Ministers, Chief Justice and members of the Supreme Court, the Attorney General, Heads of the Central Bank and National Directorate of Security, Governors and Mayors, during their term of offices, shall not engage in any profitable business with the state.

Article One Hundred Fifty-Two

The President, Vice-Presidents, Ministers, Chief Justice and members of the Supreme Court, Presidents and members of the National Assembly, the Attorney General and judges shall not engage in other jobs during their term of office.

Article One Hundred Fifty-Three

Judges, Attorneys, Officers of the Armed Forces, Police and officials of the National Security shall not become members of political parties during their term of office.

Article One Hundred Fifty-Four

The wealth of the President, Vice-Presidents, Ministers, members of the Supreme Court as well as the Attorney General, shall be registered, reviewed and published prior to and after their term of office by an organ established by law.

Article One Hundred Fifty-Five

Suitable salaries shall be fixed for Vice-Presidents, Ministers, Presidents, as well as members of the National Assembly and Supreme Court, judges, and Attorney General in accordance with the provisions of the law.

Article One Hundred Fifty-Six

The Independent Elections Commission shall be established to administer and supervise every kind of elections as well as refer to general public opinion of the people in accordance with the provisions of the law.

Article One Hundred Fifty-Seven

The Independent Commission for supervision of the implementation of the Constitution shall be established in accordance with the provisions of the law.

Members of this Commission shall be appointed by the President with the endorsement of the House of People. .

Chapter Twelve: Transitional Provisions

Article One Hundred Fifty-Eight

The title of the Father of the Nation and privileges bestowed upon His Majesty Mohammad Zahir Shah, the former King of Afghanistan, by the Emergency Loya Jirga of one thousand three hundred and eighty one (HS), (2002), with due respect to provisions of this Constitution, shall be preserved during his lifetime.

Article One Hundred Fifty-Nine

The interim period between the adoption of the Constitution and the inauguration of the National Assembly shall be considered the transition period.

The Islamic Transitional Government of Afghanistan, during the transitional period, shall perform the following duties:

1. Issuing legislative decrees related to elections of the President, National Assembly as well as local councils within six months;
2. Issuing decrees regarding the organization and authority of courts as well as the commencement of work on fundamental organizations law in less than one year;
3. Establishing the Independent Elections Commission;
4. Completing necessary reforms to better regulate executive as well as judicial affairs;
5. Adopting necessary measures to prepare the ground for implementing provisions of the Constitution.

Article One Hundred Sixty

The first President-Elect shall, according to provisions of this Constitution, commence work thirty days after election results are declared.

Multilateral efforts shall be made to hold presidential as well as National Assembly elections concurrently and simultaneously.

Pending the establishment of the National Assembly, its powers, enshrined in this Constitution, shall be submitted to the government, and the interim Supreme Court shall be established by presidential decree.

Article One Hundred Sixty-One

Immediately after inauguration, the National Assembly shall exercise its powers in accordance with the provisions of this Constitution.

After inauguration of the first session of the National Assembly, within thirty days, the government as well as the Supreme Court shall be inaugurated in accordance with the provisions of the Constitution.

The President of the Islamic Transitional Government of Afghanistan shall perform his duties until the inauguration of the President-Elect.

The executive and judicial organs of the state, in accordance with Clause Four of Article One Hundred Fifty-Nine of this Constitution, shall continue with their duties pending the formation of the government as well as the Supreme Court.

Legislative decrees enforced from the beginning of the interim period shall be referred to the first session of the National Assembly.

These decrees shall be enforceable unless annulled by the National Assembly.

Article One Hundred Sixty-Two

This Constitution shall be enforced from the date of approval by the Loya Jirga, and endorsed and proclaimed by the President of the Islamic Transitional Government of Afghanistan.

Upon the enforcement of this Constitution, laws and legislative decrees contrary to its provisions shall be invalid.

Translated by Sayed Shafi Rahel for the Secretariat of the Constitutional Commission

Annexe 2

La Constitution de la République d'Irak, du 15 octobre 2005

Constitution of the Republic of Iraq 15/10/2005²

The Preamble

In the name of God, the Most merciful, the Most compassionate

{ We have honored the sons of Adam }

We, the people of Mesopotamia, the homeland of the apostles and prophets, resting place of the virtuous imams, cradle of civilization, crafters of writing, and home of numeration. Upon our land the first law made by man was passed, and the oldest pact of just governance was inscribed, and upon our soil the saints and companions of the Prophet prayed, philosophers and scientists theorized, and writers and poets excelled;

Acknowledging God's right over us, and in fulfillment of the call of our homeland and citizens, and in a response to the call of our religious and national leaderships and the determination of our great authorities and of our leaders and politicians, and in the midst of international support from our friends and those who love us, marched for the first time in our history towards the ballot boxes by the millions, men and women, young and old, on the thirtieth of January 2005, invoking the pains of sectarian oppression inflicted by the autocratic clique and inspired by the tragedies of Iraq's martyrs, Shiite and Sunni, Arabs and Kurds and Turkmen and from all other components of the people, and recollecting the darkness of the ravage of the holy cities and the South in the Sha'abaniyya uprising and burnt by the flames of grief of the mass graves, the marshes, Al-Dujail and others and articulating the sufferings of racial oppression in the massacres of Halabcha, Barzan, Anfal and the Fayli Kurds and inspired by the ordeals of the Turkmen in Bashir and the sufferings of the people of the western region, as is the case in the remaining areas of Iraq where the people suffered from the liquidation of their leaders, symbols, and Sheiks and from the displacement of their skilled individuals and from drying out of its cultural and intellectual wells, so we sought hand in hand and shoulder to shoulder to create our new Iraq, the Iraq of the future, free from sectarianism, racism, complex of regional attachment, discrimination, and exclusion.

Accusations of being infidels, and terrorism did not stop us from marching forward to build a nation of law. Sectarianism and racism have not stopped us from marching together to strengthen our national unity, following the path of peaceful transfer of power, adopting the course of just distribution of resources, and providing equal opportunity for all.

We, the people of Iraq, who have just risen from our stumble, and who are looking with confidence to the future through a republican, federal, democratic, pluralistic system, have resolved with the determination of our men, women, elderly, and youth to respect the rule of law, to establish justice and equality, to cast aside the politics of aggression, to pay attention to women and their rights, the elderly and their concerns, and children and their affairs, to spread the culture of diversity, and to defuse terrorism.

We, the people of Iraq, of all components and across the spectrum, have taken upon ourselves to decide freely and by choice to unite our future, to take lessons from yesterday for tomorrow, and to enact this permanent Constitution, through the values and ideals of the heavenly messages and the findings of

² Traduction non officielle disponible sur le site www.niqash.org/content.php?contentTypeID=81&id=1146.

science and man's civilization. The adherence to this Constitution preserves for Iraq its free union of people, of land, and of sovereignty.

Section One: Fundamental Principles

Article 1:

The Republic of Iraq is a single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic, and this Constitution is a guarantor of the unity of Iraq.

Article 2:

First: Islam is the official religion of the State and is a foundation source of legislation:

- A. No law may be enacted that contradicts the established provisions of Islam
- B. No law may be enacted that contradicts the principles of democracy.
- C. No law may be enacted that contradicts the rights and basic freedoms stipulated in this Constitution.

Second: This Constitution guarantees the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights to freedom of religious belief and practice of all individuals such as Christians, Yazidis, and Mandaean Sabians.

Article 3:

Iraq is a country of multiple nationalities, religions, and sects. It is a founding and active member in the Arab League and is committed to its charter, and it is part of the Islamic world.

Article 4:

First: The Arabic language and the Kurdish language are the two official languages of Iraq. The right of Iraqis to educate their children in their mother tongue, such as Turkmen, Syriac, and Armenian shall be guaranteed in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions.

Second: The scope of the term "official language" and the means of applying the provisions of this article shall be defined by a law and shall include:

- A. Publication of the Official Gazette, in the two languages;
- B. Speech, conversation, and expression in official domains, such as the Council of Representatives, the Council of Ministers, courts, and official conferences, in either of the two languages;
- C. Recognition and publication of official documents and correspondence in the two languages;
- D. Opening schools that teach the two languages, in accordance with the educational guidelines;
- E. Use of both languages in any matter enjoined by the principle of equality such as bank notes, passports, and stamps.

Third: The federal and official institutions and agencies in the Kurdistan region shall use both languages.

Fourth: The Turkomen language and the Syriac language are two other official languages in the administrative units in which they constitute density of population.

Fifth: Each region or governorate may adopt any other local language as an additional official language if the majority of its population so decides in a general referendum.

Article 5:

The law is sovereign. The people are the source of authority and legitimacy, which they shall exercise in a direct, general, secret ballot and through their constitutional institutions.

Article 6:

Transfer of authority shall be made peacefully through democratic means as stipulated in this Constitution.

Article 7:

First: Any entity or program that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (takfir) or ethnic cleansing, especially the Saddamist Ba'ath in Iraq and its symbols, under any name whatsoever, shall be prohibited. Such entities may not be political pluralism in Iraq. This shall be regulated by law.

Second: The State shall undertake to combat terrorism in all its forms, and shall work to protect its territories from being a base, pathway, or field for terrorist activities.

Article 8:

Iraq shall observe the principles of good neighborliness, adhere to the principle of noninterference in the internal affairs of other states, seek to settle disputes by peaceful means, establish relations on the basis of mutual interests and reciprocity, and respect its international obligations.

Article 9:

First:

A- The Iraqi armed forces and security services will be composed of the components of the Iraqi people with due consideration given to their balance and representation without discrimination or exclusion. They shall be subject to the control of the civilian authority, shall defend Iraq, shall not be used as an instrument to oppress the Iraqi people, shall not interfere in the political affairs, and shall have no role in the transfer of authority.

B- The formation of military militias outside the framework of the armed forces is prohibited.

C- The Iraqi armed forces and their personnel, including military personnel working in the Ministry of Defense or any subordinate departments or organizations, may not stand for election to political office, campaign for candidates, or participate in other activities prohibited by Ministry of Defense regulations. This ban includes the activities of the personnel mentioned above acting in their personal or professional capacities, but shall not infringe upon the right of these personnel to cast their vote in the elections.

D- The Iraqi National Intelligence Service shall collect information, assess threats to national security, and advise the Iraqi government. This Service shall be under civilian control, shall be subject to legislative oversight, and shall operate in accordance with the law and pursuant to the recognized principles of human rights.

E- The Iraqi Government shall respect and implement Iraq's international obligations regarding the non-proliferation, non-development, nonproduction, and non-use of nuclear, chemical, and biological weapons, and shall prohibit associated equipment, materiel, technologies, and delivery systems for use in the development, manufacture, production, and use of such weapons.

Second: Military service shall be regulated by law.

Article 10:

The holy shrines and religious sites in Iraq are religious and civilizational entities. The State is committed to assuring and maintaining their sanctity, and to guaranteeing the free practice of rituals in them.

Article 11:

Baghdad is the capital of the Republic of Iraq.

Article 12:

First: The flag, national anthem, and emblem of Iraq shall be regulated by law in a way that symbolizes the components of the Iraqi people.

Second: A law shall regulate honors, official holidays, religious and national occasions and the Hijri and Gregorian calendar.

Article 13:

First: This Constitution is the preeminent and supreme law in Iraq and shall be binding in all parts of Iraq without exception.

Second: No law that contradicts this Constitution shall be enacted. Any text in any regional constitutions or any other legal text that contradicts this Constitution shall be considered void.

Section Two: Rights and Liberties

Chapter One: Rights

First: Civil and Political Rights

Article 14:

Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.

Article 15:

Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority.

Article 16:

Equal opportunities shall be guaranteed to all Iraqis, and the state shall ensure that the necessary measures to achieve this are taken.

Article 17:

First: Every individual shall have the right to personal privacy so long as it does not contradict the rights of others and public morals.

Second: The sanctity of the homes shall be protected. Homes may not be entered, searched, or violated, except by a judicial decision in accordance with the law.

Article 18:

First: Iraqi citizenship is a right for every Iraqi and is the basis of his nationality.

Second: Anyone who is born to an Iraqi father or to an Iraqi mother shall be considered an Iraqi. This shall be regulated by law.

Third:

A. An Iraqi citizen by birth may not have his citizenship withdrawn for any reason. Any person who had his citizenship withdrawn shall have the right to demand its reinstatement. This shall be regulated by a law.

B. Iraqi citizenship shall be withdrawn from naturalized citizens in cases regulated by law.

Fourth: An Iraqi may have multiple citizenships. Everyone who assumes a senior, security or sovereign position must abandon any other acquired citizenship. This shall be regulated by law.

Fifth: Iraqi citizenship shall not be granted for the purposes of the policy of population settlement that disrupts the demographic composition of Iraq.

Sixth: Citizenship provisions shall be regulated by law. The competent courts shall consider the suits arising from those provisions.

Article 19:

First: The judiciary is independent and no power is above the judiciary except the law.

Second: There is no crime or punishment except by law. The punishment shall only be for an act that the law considers a crime when perpetrated. A harsher punishment than the applicable punishment at the time of the offense may not be imposed.

Third: Litigation shall be a protected and guaranteed right for all.

Fourth: The right to a defense shall be sacred and guaranteed in all phases of investigation and the trial.

Fifth: The accused is innocent until proven guilty in a fair legal trial. The accused may not be tried for the same crime for a second time after acquittal unless new evidence is produced.

Sixth: Every person shall have the right to be treated with justice in judicial and administrative proceedings.

Seventh: The proceedings of a trial are public unless the court decides to make it secret.

Eighth: Punishment shall be personal.

Ninth: Laws shall not have retroactive effect unless stipulated otherwise. This exclusion shall not include laws on taxes and fees.

Tenth: Criminal laws shall not have retroactive effect, unless it is to the benefit of the accused.

Eleventh: The court shall appoint a lawyer at the expense of the state for an accused of a felony or misdemeanor who does not have a defense lawyer.

Twelfth:

A. Unlawful detention shall be prohibited.

B. Imprisonment or detention shall be prohibited in places not designed for these purposes, pursuant to prison laws covering health and social care, and subject to the authorities of the State.

Thirteenth: The preliminary investigative documents shall be submitted to the competent judge in a period not to exceed twenty-four hours from the time of the arrest of the accused, which may be extended only once and for the same period.

Article 20:

Iraqi citizens, men and women, shall have the right to participate in public affairs and to enjoy political rights including the right to vote, elect, and run for office.

Article 21:

First: No Iraqi shall be surrendered to foreign entities and authorities.

Second: A law shall regulate the right of political asylum in Iraq. No political refugee shall be surrendered to a foreign entity or returned forcibly to the country from which he fled.

Third: Political asylum shall not be granted to a person accused of committing international or terrorist crimes or to any person who inflicted damage on Iraq.

Second: Economic, Social and Cultural Liberties

Article 22:

First: Work is a right for all Iraqis in a way that guarantees a dignified life for them.

Second: The law shall regulate the relationship between employees and employers on economic bases and while observing the rules of social justice.

Third: The State shall guarantee the right to form and join unions and professional associations, and this shall be regulated by law.

Article 23:

First: Private property is protected. The owner shall have the right to benefit, exploit and dispose of private property within the limits of the law.

Second: Expropriation is not permissible except for the purposes of public benefit in return for just compensation, and this shall be regulated by law.

Third:

A. Every Iraqi shall have the right to own property anywhere in Iraq. No others may possess immovable assets, except as exempted by law.

B. Ownership of property for the purposes of demographic change is prohibited.

Article 24:

The State shall guarantee freedom of movement of Iraqi manpower, goods, and capital between regions and governorates, and this shall be regulated by law.

Article 25:

The State shall guarantee the reform of the Iraqi economy in accordance with modern economic principles to insure the full investment of its resources, diversification of its sources, and the encouragement and development of the private sector.

Article 26:

The State shall guarantee the encouragement of investment in the various sectors, and this shall be regulated by law.

Article 27:

First: Public assets are sacrosanct, and their protection is the duty of each citizen.

Second: The provisions related to the preservation of State properties, their management, the conditions for their disposal, and the limits for these assets not to be relinquished shall all be regulated by law.

Article 28:

First: No taxes or fees shall be levied, amended, collected, or exempted, except by law.

Second: Low income earners shall be exempted from taxes in a way that guarantees the preservation of the minimum income required for living. This shall be regulated by law.

Article 29:

First:

A. The family is the foundation of society; the State shall preserve it and its religious, moral, and national values.

B. The State shall guarantee the protection of motherhood, childhood and old age, shall care for children and youth, and shall provide them with the appropriate conditions to develop their talents and abilities.

Second: Children have the right to upbringing, care and education from their parents. Parents have the right to respect and care from their children, especially in times of need, disability, and old age.

Third: Economic exploitation of children in all of its forms shall be prohibited, and the State shall take the necessary measures for their protection.

Fourth: All forms of violence and abuse in the family, school, and society shall be prohibited.

Article 30:

First: The State shall guarantee to the individual and the family – especially children and women – social and health security, the basic requirements for living a free and decent life, and shall secure for them suitable income and appropriate housing.

Second: The State shall guarantee social and health security to Iraqis in cases of old age, sickness, employment disability, homelessness, orphan hood, or unemployment, shall work to protect them from ignorance, fear and poverty, and shall provide them housing and special programs of care and rehabilitation, and this shall be regulated by law.

Article 31:

First: Every citizen has the right to health care. The State shall maintain public health and provide the means of prevention and treatment by building different types of hospitals and health institutions.

Second: Individuals and entities have the right to build hospitals, clinics, or private health care centers under the supervision of the State, and this shall be regulated by law.

Article 32:

The State shall care for the handicapped and those with special needs, and shall ensure their rehabilitation in order to reintegrate them into society, and this shall be regulated by law.

Article 33:

First: Every individual has the right to live in safe environmental conditions.

Second: The State shall undertake the protection and preservation of the environment and its biological diversity.

Article 34:

First: Education is a fundamental factor for the progress of society and is a right guaranteed by the state. Primary education is mandatory and the state guarantees that it shall combat illiteracy.

Second: Free education in all its stages is a right for all Iraqis.

Third: The State shall encourage scientific research for peaceful purposes that serve humanity and shall support excellence, creativity, invention, and different aspects of ingenuity.

Fourth: Private and public education shall be guaranteed, and this shall be regulated by law.

Article 35:

The state shall promote cultural activities and institutions in a manner that befits the civilizational and cultural history of Iraq, and it shall seek to support indigenous Iraqi cultural orientations.

Article 36:

Practicing sports is a right of every Iraqi and the state shall encourage and care for such activities and shall provide for their requirements.

Chapter Two: Liberties

Article 37:

First:

- A. The liberty and dignity of man shall be protected.
- B. No person may be kept in custody or investigated except according to a judicial decision.
- C. All forms of psychological and physical torture and inhumane treatment are prohibited. Any confession made under force, threat, or torture shall not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law.

Second: The State shall guarantee protection of the individual from intellectual, political and religious coercion.

Third: Forced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited.

Article 38:

The State shall guarantee in a way that does not violate public order and morality:

- A. Freedom of expression using all means.
- B. Freedom of press, printing, advertisement, media and publication.
- C. Freedom of assembly and peaceful demonstration, and this shall be regulated by law.

Article 39:

First: The freedom to form and join associations and political parties shall be guaranteed, and this shall be regulated by law.

Second: It is not permissible to force any person to join any party, society, or political entity, or force him to continue his membership in it.

Article 40:

The freedom of communication and correspondence, postal, telegraphic, electronic, and telephonic, shall be guaranteed and may not be monitored, wiretapped, or disclosed except for legal and security necessity and by a judicial decision.

Article 41:

Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law.

Article 42:

Each individual shall have the freedom of thought, conscience, and belief.

Article 43:

First: The followers of all religions and sects are free in the:

A- Practice of religious rites, including the Hussein rituals.

B- Management of religious endowments (waqf), their affairs, and their religious institutions, and this shall be regulated by law.

Second: The State shall guarantee freedom of worship and the protection of places of worship.

Article 44:

First: Each Iraqi has freedom of movement, travel, and residence inside and outside Iraq.

Second: No Iraqi may be exiled, displaced, or deprived from returning to the homeland.

Article 45:

First: The State shall seek to strengthen the role of civil society institutions, and to support, develop and preserve their independence in a way that is consistent with peaceful means to achieve their legitimate goals, and this shall be regulated by law.

Second: The State shall seek the advancement of the Iraqi clans and tribes, shall attend to their affairs in a manner that is consistent with religion and the law, and shall uphold their noble human values in a way that contributes to the development of society. The State shall prohibit the tribal traditions that are in contradiction with human rights.

Article 46:

Restricting or limiting the practice of any of the rights or liberties stipulated in this Constitution is prohibited, except by a law or on the basis of a law, and insofar as that limitation or restriction does not violate the essence of the right or freedom.

Section Three: Federal Powers

Article 47:

The federal powers shall consist of the legislative, executive, and judicial powers, and they shall exercise their competencies and tasks on the basis of the principle of separation of powers.

Chapter one: The Legislative Power

Article 48:

The federal legislative power shall consist of the Council of Representatives and the Federation Council.

First: The Council of Representatives

Article 49:

First: The Council of Representatives shall consist of a number of members, at a ratio of one seat per 100,000 Iraqi persons representing the entire Iraqi people. They shall be elected through a direct secret general ballot. The representation of all components of the people shall be upheld in it.

Second: A candidate to the Council of Representatives must be a fully qualified Iraqi.

Third: A law shall regulate the requirements for the candidate, the voter, and all that is related to the elections.

Fourth: The elections law shall aim to achieve a percentage of representation for women of not less than one-quarter of the members of the Council of Representatives.

Fifth: The Council of Representatives shall promulgate a law dealing with the replacement of its members on resignation, dismissal, or death.

Sixth: It is not permissible to combine membership in the Council of Representatives with any work or other official position.

Article 50:

Each member of the Council of Representatives shall take the following constitutional oath before the Council prior to assuming his duties:

“I swear by God Almighty to carry out my legal duties and responsibilities with devotion and integrity and preserve the independence and sovereignty of Iraq, and safeguard the interests of its people, and ensure the safety of its land, sky, water, wealth, and federal democratic system, and I shall endeavor to protect public and private liberties, the independence of the judiciary, and pledge to implement legislation faithfully and neutrally. God is my witness.”

Article 51:

The Council of Representatives shall establish its bylaws to regulate its work.

Article 52:

First: The Council of Representatives shall decide, by a two-thirds majority, the authenticity of membership of its member within thirty days from the date of filing an objection.

Second: The decision of the Council of Representatives may be appealed before the Federal Supreme Court within thirty days from the date of its issuance.

Article 53:

First: Sessions of the Council of Representatives shall be public unless, for reasons of necessity, the Council decides otherwise.

Second: Minutes of the sessions shall be published by means considered appropriate by the Council.

Article 54:

The President of the Republic shall call upon the Council of Representatives to convene by a presidential decree within fifteen days from the date of the ratification of the general election results. Its eldest member shall chair the first session to elect the speaker of the Council and his two deputies. This period may not be extended by more than the aforementioned period.

Article 55:

The Council of Representatives shall elect in its first session its speaker, then his first deputy and second deputy, by an absolute majority of the total number of the Council members by direct secret ballot.

Article 56:

First: The electoral term of the Council of Representatives shall be four calendar years, starting with its first session and ending with the conclusion of the fourth year.

Second: The new Council of Representatives shall be elected forty-five days before the conclusion of the preceding electoral term.

Article 57:

The Council of Representatives shall have one annual term, with two legislative sessions, lasting eight months. The bylaws shall define the method to convene the sessions. The session in which the general budget is being presented shall not end until approval of the budget.

Article 58:

First: The President of the Republic, the Prime Minister, the Speaker of the Council of Representatives, or fifty members of the Council of Representatives may call the Council to an extraordinary session. The session shall be restricted to the topics that necessitated the call for the session.

Second: The legislative session of the Council of Representatives may be extended for no more than 30 days to complete the tasks that require the extension, based on a request from the President of the Republic, the Prime Minister, the Speaker of the Council, or fifty members of the Council of Representatives.

Article 59:

First: The Council of Representatives quorum shall be achieved by an absolute majority of its members.

Second: Decisions in the sessions of the Council of Representatives shall be made by a simple majority after quorum is achieved, unless otherwise stipulated.

Article 60:

First: Draft laws shall be presented by the President of the Republic and the Council of Ministers.

Second: Proposed laws shall be presented by ten members of the Council of Representatives or by one of its specialized committees.

Article 61:

The Council of Representatives shall be competent in the following:

First: Enacting federal laws.

Second: Monitoring the performance of the executive authority.

Third: Electing the President of the Republic.

Fourth: Regulating the ratification process of international treaties and agreements by a law, to be enacted by a two-thirds majority of the members of the Council of Representatives.

Fifth: Approving the appointment of the following:

- A. The President and members of the Federal Court of Cassation, the Chief Public Prosecutor, and the President of Judicial Oversight Commission by an absolute majority, based on a proposal from the Higher Juridical Council.
- B. Ambassadors and those with special grades, based on a proposal from the Council of Ministers.
- C. The Iraqi Army Chief of Staff, his assistants, those of the rank of division commander and above, and the director of the intelligence service, based on a proposal from the Council of Ministers.

Sixth:

- A. Questioning the President of the Republic, based on a petition with cause, by an absolute majority of the members of the Council of Representatives.
- B. Relieving the President of the Republic by an absolute majority of the Council of Representatives after being convicted by the Federal Supreme Court in one of the following cases:
 - 1- Perjury of the constitutional oath.
 - 2- Violating the Constitution.
 - 3- High treason.

Seventh:

- A. A member of the Council of Representatives may direct questions to the Prime Minister and the Ministers on any subject within their specialty and each of them shall answer the members' questions. Only the member who has asked the question shall have the right to comment on the answer.
- B. At least twenty-five members of the Council of Representatives may raise a general issue for discussion in order to inquire about a policy and the performance of the Council of Ministers or one of the Ministries and it shall be submitted to the Speaker of the Council of Representatives, and the Prime Minister or the Ministers shall specify a date to come before the Council of Representatives to discuss it.
- C. A member of the Council of Representatives, with the agreement of twenty-five members, may direct an inquiry to the Prime Minister or the Ministers to call them to account on the issues within their authority. The debate shall not be held on the inquiry except after at least seven days from the date of submission of the inquiry.

Eighth:

- A. The Council of Representatives may withdraw confidence from one of the Ministers by an absolute majority and he shall be considered resigned from the date of the decision of withdrawal of confidence. A vote of no confidence in a Minister may not be held except upon his request or on the basis of a request signed by fifty members after the Minister has appeared for questioning before the Council. The Council shall not issue its decision regarding the request except after at least seven days from the date of its submission.
- B.
 - 1- The President of the Republic may submit a request to the Council of Representatives to withdraw confidence from the Prime Minister.
 - 2- The Council of Representatives may withdraw confidence from the Prime Minister based on the request of one-fifth of its members. This request shall not be submitted except after an inquiry directed at the Prime Minister and after at least seven days from the date of submitting the request.
 - 3- The Council of Representatives may decide to withdraw confidence from the Prime Minister by an absolute majority of the number of its members.
- C. The Government is deemed resigned in case of withdrawal of confidence from the Prime Minister.
- D. In case of a vote of withdrawal of confidence in the Council of Ministers as a whole, the Prime Minister and the Ministers continue in their positions to run everyday business for a period not to exceed thirty days until a new Council of Ministers is formed in accordance with the provisions of Article 76 of this Constitution.

E. The Council of Representatives may question independent commission heads in accordance with the same procedures related to the Ministers. The Council shall have the right to relieve them by absolute majority.

Ninth:

A. To consent to the declaration of war and the state of emergency by a two-thirds majority based on a joint request from the President of the Republic and the Prime Minister.

B. The state of emergency shall be declared for a period of thirty days, which can be extended after approval each time.

C. The Prime Minister shall be delegated the necessary powers which enable him to manage the affairs of the country during the period of the declaration of war and the state of emergency. These powers shall be regulated by a law in a way that does not contradict the Constitution.

D. The Prime Minister shall present to the Council of Representatives the measures taken and the results during the period of the declaration of war and the state of emergency within 15 days from the date of its end.

Article 62:

First: The Council of Ministers shall submit the draft general budget bill and the closing account to the Council of Representatives for approval.

Second: The Council of Representatives may conduct transfers between the sections and chapters of the general budget and reduce the total of its sums, and it may suggest to the Council of Ministers that they increase the total expenses, when necessary.

Article 63:

First: A law shall regulate the rights and privileges of the speaker of the Council of Representatives, his two deputies, and the members of the Council of Representatives.

Second:

A. A member of the Council of Representatives shall enjoy immunity for statements made while the Council is in session, and the member may not be prosecuted before the courts for such.

B. A Council of Representatives member may not be placed under arrest during the legislative term of the Council of Representatives, unless the member is accused of a felony and the Council of Representatives members consent by an absolute majority to lift his immunity or if he is caught *in flagrante delicto* in the commission of a felony.

C. A Council of Representatives member may not be arrested after the legislative term of the Council of Representatives, unless the member is accused of a felony and with the consent of the speaker of the Council of Representatives to lift his immunity or if he is caught *in flagrante delicto* in the commission of a felony.

Article 64:

First: The Council of Representatives may be dissolved by an absolute majority of the number of its members, or upon the request of one-third of its members by the Prime Minister with the consent of the President of the Republic. The Council shall not be dissolved during the period in which the Prime Minister is being questioned.

Second: Upon the dissolution of the Council of Representatives, the President of the Republic shall call for general elections in the country within a period not to exceed sixty days from the date of its dissolution. The Council of Ministers in this case is deemed resigned and continues to run everyday business.

Second: The Federation Council

Article 65:

A legislative council shall be established named the “Federation Council,” to include representatives from the regions and the governorates that are not organized in a region. A law, enacted by a two-thirds majority of the members of the Council of Representatives, shall regulate the formation of the Federation Council, its membership conditions, its competencies, and all that is connected with it.

Chapter Two: The Executive Power

Article 66:

The federal executive power shall consist of the President of the Republic and the Council of Ministers and shall exercise its powers in accordance with the Constitution and the law.

First: The President of the Republic

Article 67:

The President of the Republic is the Head of the State and a symbol of the unity of the country and represents the sovereignty of the country. He shall guarantee the commitment to the Constitution and the preservation of Iraq’s independence, sovereignty, unity, and the safety of its territories, in accordance with the provisions of the Constitution.

Article 68:

A nominee to the Presidency of the Republic must be:

First: An Iraqi by birth, born to Iraqi parents.

Second: Fully qualified and must be over forty years of age.

Third: Of good reputation and political experience, known for his integrity, uprightness, fairness, and loyalty to the homeland.

Fourth: Free of any conviction of a crime involving moral turpitude.

Article 69:

First: The provisions for nomination to the office of the President of the Republic shall be regulated by law.

Second: The provisions for nomination to the office of one or more Vice Presidents of the Republic shall be regulated by law.

Article 70:

First: The Council of Representatives shall elect a President of the Republic from among the candidates by a two-thirds majority of the number of its members.

Second: If none of the candidates receive the required majority vote then the two candidates who received the highest number of votes shall compete and the one who receives the majority of votes in the second election shall be declared President.

Article 71:

The President shall take the constitutional oath before the Council of Representatives according to the language stipulated in Article 50 of the Constitution.

Article 72:

First: The President of the Republic's term in office shall be limited to four years. He may be re-elected for a second time only.

Second:

A - The President of the Republic's term in office shall end with the end of the term of the Council of Representatives.

B - The President of the Republic shall continue to exercise his duties until after the end of the election and the meeting of the new Council of Representatives, provided that a new President of the Republic is elected within thirty days from the date of its first convening.

C - In case the position of the President of the Republic becomes vacant for any reason, a new President shall be elected to complete the remaining period of the President's term.

Article 73:

The President of the Republic shall assume the following powers:

First: To issue a special pardon on the recommendation of the Prime Minister, except for anything concerning a private claim and for those who have been convicted of committing international crimes, terrorism, or financial and administrative corruption.

Second: To ratify international treaties and agreements after the approval by the Council of Representatives. Such international treaties and agreements are considered ratified after fifteen days from the date of receipt by the President.

Third: To ratify and issue the laws enacted by the Council of Representatives. Such laws are considered ratified after fifteen days from the date of receipt by the President.

Fourth: To call the elected Council of Representatives to convene during a period not to exceed fifteen days from the date of approval of the election results and in the other cases stipulated in the Constitution.

Fifth: To award medals and decorations on the recommendation of the Prime Minister in accordance with the law.

Sixth: To accredit ambassadors.

Seventh: To issue Presidential decrees.

Eighth: To ratify death sentences issued by the competent courts.

Ninth: To perform the duty of the High Command of the armed forces for ceremonial and honorary purposes.

Tenth: To exercise any other presidential powers stipulated in this Constitution.

Article 74:

A law shall fix the salary and the allowances of the President of the Republic.

Article 75:

First: The President of the Republic shall have the right to submit his resignation in writing to the Speaker of the Council of Representatives, and it shall be considered effective after seven days from the date of its submission to the Council of Representatives.

Second: The Vice President shall replace the President in case of his absence.

Third: The Vice President shall replace the President of the Republic in the event that the post of the President becomes vacant for any reason whatsoever. The Council of Representatives must elect a new President within a period not to exceed thirty days from the date of the vacancy.

Fourth: In case the post of the President of the Republic becomes vacant, the Speaker of the Council of Representatives shall replace the President of the Republic in case he does not have a Vice President, on the condition that a new President is elected during a period not to exceed thirty days from the date of the vacancy and in accordance with the provisions of this Constitution.

Second: Council of Ministers

Article 76:

First: The President of the Republic shall charge the nominee of the largest Council of Representatives bloc with the formation of the Council of Ministers within fifteen days from the date of the election of the President of the Republic.

Second: The Prime Minister-designate shall undertake the naming of the members of his Council of Ministers within a period not to exceed thirty days from the date of his designation.

Third: If the Prime Minister-designate fails to form the Council of Ministers during the period specified in clause "Second," the President of the Republic shall charge a new nominee for the post of Prime Minister within fifteen days.

Fourth: The Prime Minister-designate shall present the names of his members of the Council of Ministers and the ministerial program to the Council of Representatives. He is deemed to have gained its confidence upon the approval, by an absolute majority of the Council of Representatives, of the individual Ministers and the ministerial program.

Fifth: The President of the Republic shall charge another nominee to form the Council of Ministers within fifteen days in case the Council of Ministers did not win the vote of confidence.

Article 77:

First: The conditions for assuming the post of the Prime Minister shall be the same as those for the President of the Republic, provided that he has a college degree or its equivalent and is over thirty-five years of age.

Second: The conditions for assuming the post of Minister shall be the same as those for members of the Council of Representatives, provided that he holds a college degree or its equivalent.

Article 78:

The Prime Minister is the direct executive authority responsible for the general policy of the State and the commander-in-chief of the armed forces. He directs the Council of Ministers, presides over its meetings, and has the right to dismiss the Ministers, with the consent of the Council of Representatives.

Article 79:

The Prime Minister and members of the Council of Ministers shall take the constitutional oath before the Council of Representatives according to the language stipulated in Article 50 of the Constitution.

Article 80:

The Council of Ministers shall exercise the following powers:

First: To plan and execute the general policy and general plans of the State and oversee the work of the ministries and departments not associated with a ministry.

Second: To propose bills.

Third: To issue rules, instructions, and decisions for the purpose of implementing the law.

Fourth: To prepare the draft of the general budget, the closing account, and the development plans.

Fifth: To recommend to the Council of Representatives that it approve the appointment of undersecretaries, ambassadors, state senior officials, the Chief of Staff of the Armed Forces and his deputies, division commanders or higher, the Director of the National Intelligence Service, and heads of security institutions.

Sixth: To negotiate and sign international agreements and treaties, or designate any person to do so.

Article 81:

First: The President of the Republic shall take up the office of the Prime Minister in the event the post becomes vacant for any reason whatsoever.

Second: If the event mentioned in “First” of this Article occurs, the President shall charge another nominee to form the Council of Ministers within a period not to exceed fifteen days in accordance with the provisions of Article 76 of this Constitution.

Article 82:

A law shall regulate the salaries and allowances of the Prime Minister and Ministers, and anyone of their grade.

Article 83:

The responsibility of the Prime Minister and the Ministers before the Council of Representatives is of a joint and personal nature.

Article 84:

First: A law shall regulate the work and define the duties and authorities of the security institutions and the National Intelligence Service, which shall operate in accordance with the principles of human rights and shall be subject to the oversight of the Council of Representatives.

Second: The National Intelligence Service shall be attached to the Council of Ministers.

Article 85:

The Council of Ministers shall establish internal bylaws to organize the work therein.

Article 86:

A law shall regulate the formation of ministries, their functions, and their specializations, and the authorities of the minister.

Chapter Three: The Judicial Power

Article 87:

The judicial power is independent. The courts, in their various types and levels, shall assume this power and issue decisions in accordance with the law.

Article 88:

Judges are independent, and there is no authority over them except that of the law. No power shall have the right to interfere in the judiciary and the affairs of justice.

Article 89:

The federal judicial power is comprised of the Higher Juridical Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution Department, the Judiciary Oversight Commission, and other federal courts that are regulated in accordance with the law.

First: Higher Juridical Council

Article 90:

The Higher Juridical Council shall oversee the affairs of the judicial committees. The law shall specify the method of its establishment, its authorities, and the rules of its operation.

Article 91:

The Higher Juridical Council shall exercise the following authorities:

First: To manage the affairs of the judiciary and supervise the federal judiciary.

Second: To nominate the Chief Justice and members of the Federal Court of Cassation, the Chief Public Prosecutor, and the Chief Justice of the Judiciary Oversight Commission, and to present those nominations to the Council of Representatives to approve their appointment.

Third: To propose the draft of the annual budget of the federal judicial authority, and to present it to the Council of Representatives for approval.

Second: Federal Supreme Court

Article 92:

First: The Federal Supreme Court is an independent judicial body, financially and administratively.

Second: The Federal Supreme Court shall be made up of a number of judges, experts in Islamic jurisprudence, and legal scholars, whose number, the method of their selection, and the work of the Court shall be determined by a law enacted by a two-thirds majority of the members of the Council of Representatives.

Article 93:

The Federal Supreme Court shall have jurisdiction over the following:

First: Overseeing the constitutionality of laws and regulations in effect.

Second: Interpreting the provisions of the Constitution.

Third: Settling matters that arise from the application of the federal laws, decisions, regulations, instructions, and procedures issued by the federal authority. The law shall guarantee the right of direct appeal to the Court to the Council of Ministers, those concerned individuals, and others.

Fourth: Settling disputes that arise between the federal government and the governments of the regions and governorates, municipalities, and local administrations.

Fifth: Settling disputes that arise between the governments of the regions and governments of the governorates.

Sixth: Settling accusations directed against the President, the Prime Minister and the Ministers, and this shall be regulated by law.

Seventh: Ratifying the final results of the general elections for membership in the Council of Representatives.

Eight:

A. Settling competency disputes between the federal judiciary and the judicial institutions of the regions and governorates that are not organized in a region.

B. Settling competency disputes between judicial institutions of the regions or governorates that are not organized in a region.

Article 94:

Decisions of the Federal Supreme Court are final and binding for all authorities.

Third: General Provisions

Article 95:

The establishment of special or extraordinary courts is prohibited.

Article 96:

The law shall regulate the establishment of courts, their types, levels, and jurisdiction, and the method of appointing and the terms of service of judges and public prosecutors, their discipline, and their retirement.

Article 97:

Judges may not be removed except in cases specified by law. Such law will determine the particular provisions related to them and shall regulate their disciplinary measures.

Article 98:

A judge or public prosecutor is prohibited from the following:

First: Combining a judicial position with legislative and executive positions and any other employment.

Second: Joining any party or political organization or performing any political activity.

Article 99:

A law shall regulate the military judiciary and shall specify the jurisdiction of military courts, which are limited to crimes of a military nature committed by members of the armed forces and security forces, and within the limits established by law.

Article 100:

It is prohibited to stipulate in the law the immunity from appeal for any administrative action or decision.

Article 101:

A State Council may be established, specialized in functions of the administrative judiciary, issuing opinions, drafting, and representing the State and various public commissions before the courts except those exempted by law.

Chapter Four: Independent Commissions

Article 102:

The High Commission for Human Rights, the Independent Electoral Commission, and the Commission on Public Integrity are considered independent commissions subject to monitoring by the Council of Representatives, and their functions shall be regulated by law.

Article 103:

First: The Central Bank of Iraq, the Board of Supreme Audit, the Communication and Media Commission, and the Endowment Commissions are financially and administratively independent institutions, and the work of each of these institutions shall be regulated by law.

Second: The Central Bank of Iraq is responsible before the Council of Representatives. The Board of Supreme Audit and the Communication and Media Commission shall be attached to the Council of Representatives.

Third: The Endowment Commissions shall be attached to the Council of Ministers.

Article 104:

A commission named The Martyrs' Foundation shall be established and attached to the Council of Ministers, and its functions and competencies shall be regulated by law.

Article 105:

A public commission shall be established to guarantee the rights of the regions and governorates that are not organized in a region to ensure their fair participation in managing the various state federal institutions, missions, fellowships, delegations, and regional and international conferences. The commission shall be comprised of representatives of the federal government and representatives of the regions and governorates that are not organized in a region, and shall be regulated by a law.

Article 106:

A public commission shall be established by a law to audit and appropriate federal revenues. The commission shall be comprised of experts from the federal government, the regions, the governorates, and its representatives, and shall assume the following responsibilities:

First: To verify the fair distribution of grants, aid, and international loans pursuant to the entitlement of the regions and governorates that are not organized in a region.

Second: To verify the ideal use and division of the federal financial resources.

Third: To guarantee transparency and justice in appropriating funds to the governments of the regions and governorates that are not organized in a region in accordance with the established percentages.

Article 107:

A council named the Federal Public Service Council shall be established and shall regulate the affairs of the federal public service, including appointments and promotions, and its formation and competencies shall be regulated by law.

Article 108:

Other independent commissions may be established by law, according to need and necessity.

Section Four: Powers of the Federal Government

Article 109:

The federal authorities shall preserve the unity, integrity, independence, and sovereignty of Iraq and its federal democratic system.

Article 110:

The federal government shall have exclusive authorities in the following matters:

First: Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; negotiating, signing, and ratifying debt policies and formulating foreign sovereign economic and trade policy.

Second: Formulating and executing national security policy, including establishing and managing armed forces to secure the protection and guarantee the security of Iraq's borders and to defend Iraq.

Third: Formulating fiscal and customs policy; issuing currency; regulating commercial policy across regional and governorate boundaries in Iraq; drawing up the national budget of the State; formulating monetary policy; and establishing and administering a central bank.

Fourth: Regulating standards, weights, and measures.

Fifth: Regulating issues of citizenship, naturalization, residency, and the right to apply for political asylum.

Sixth: Regulating the policies of broadcast frequencies and mail.

Seventh: Drawing up the general and investment budget bill.

Eighth: Planning policies relating to water sources from outside Iraq and guaranteeing the rate of water flow to Iraq and its just distribution inside Iraq in accordance with international laws and conventions.

Ninth: General population statistics and census.

Article 111:

Oil and gas are owned by all the people of Iraq in all the regions and governorates.

Article 112:

First: The federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country, specifying an allotment for a specified period for the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards in a way that ensures balanced development in different areas of the country, and this shall be regulated by a law.

Second: The federal government, with the producing regional and governorate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment.

Article 113:

Antiquities, archeological sites, cultural buildings, manuscripts, and coins shall be considered national treasures under the jurisdiction of the federal authorities, and shall be managed in cooperation with the regions and governorates, and this shall be regulated by law.

Article 114:

The following competencies shall be shared between the federal authorities and regional authorities:

First: To manage customs, in coordination with the governments of the regions and governorates that are not organized in a region, and this shall be regulated by a law.

Second: To regulate the main sources of electric energy and its distribution.

Third: To formulate environmental policy to ensure the protection of the environment from pollution and to preserve its cleanliness, in cooperation with the regions and governorates that are not organized in a region.

Fourth: To formulate development and general planning policies.

Fifth: To formulate public health policy, in cooperation with the regions and governorates that are not organized in a region.

Sixth: To formulate the public educational and instructional policy, in consultation with the regions and governorates that are not organized in a region.

Seventh: To formulate and regulate the internal water resources policy in a way that guarantees their just distribution, and this shall be regulated by a law.

Article 115:

All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of dispute.

Section Five: Powers of the Regions

Chapter One: Regions

Article 116:

The federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations.

Article 117:

First: This Constitution, upon coming into force, shall recognize the region of Kurdistan, along with its existing authorities, as a federal region.

Second: This Constitution shall affirm new regions established in accordance with its provisions.

Article 118:

The Council of Representatives shall enact, in a period not to exceed six months from the date of its first session, a law that defines the executive procedures to form regions, by a simple majority of the members present.

Article 119:

One or more governorates shall have the right to organize into a region based on a request to be voted on in a referendum submitted in one of the following two methods:

First: A request by one-third of the council members of each governorate intending to form a region.

Second: A request by one-tenth of the voters in each of the governorates intending to form a region.

Article 120:

Each region shall adopt a constitution of its own that defines the structure of powers of the region, its authorities, and the mechanisms for exercising such authorities, provided that it does not contradict this Constitution.

Article 121:

First: The regional powers shall have the right to exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government.

Second: In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region.

Third: Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities and duties, but having regard to their resources, needs, and the percentage of their population.

Fourth: Offices for the regions and governorates shall be established in embassies and diplomatic missions, in order to follow cultural, social, and developmental affairs.

Fifth: The regional government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces, and guards of the region.

Chapter Two: Governorates that are not incorporated in a region

Article 122:

First: The governorates shall be made up of a number of districts, sub-districts, and villages.

Second: Governorates that are not incorporated in a region shall be granted broad administrative and financial authorities to enable them to manage their affairs in accordance with the principle of decentralized administration, and this shall be regulated by law.

Third: The governor, who is elected by the Governorate Council, is deemed the highest executive official in the governorate to practice his powers authorized by the Council.

Fourth: A law shall regulate the election of the Governorate Council, the governor, and their powers.

Fifth: The Governorate Council shall not be subject to the control or supervision of any ministry or any institution not linked to a ministry. The Governorate Council shall have independent finances.

Article 123:

Powers exercised by the federal government can be delegated to the governorates or vice versa, with the consent of both governments, and this shall be regulated by law.

Chapter Three: The Capital

Article 124:

First: Baghdad in its municipal borders is the capital of the Republic of Iraq and shall constitute, in its administrative borders, the governorate of Baghdad.

Second: This shall be regulated by a law.

Third: The capital may not merge with a region.

Chapter Four: The Local Administrations

Article 125:

This Constitution shall guarantee the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents, and this shall be regulated by law.

Section Six: Final and Transitional Provisions

Chapter One: Final Provisions

Article 126:

First: The President of the Republic and the Council of the Ministers collectively, or one-fifth of the Council of Representatives members, may propose to amend the Constitution.

Second: The fundamental principles mentioned in Section One and the rights and liberties mentioned in Section Two of the Constitution may not be amended except after two successive electoral terms, with the approval of two-thirds of the members of the Council of Representatives, the approval of the people in a general referendum, and the ratification by the President of the Republic within seven days.

Third: Other articles not stipulated in clause “Second” of this Article may not be amended, except with the approval of two-thirds of the members of the Council of Representatives, the approval of the people in a general referendum, and the ratification by the President of the Republic within seven days.

Fourth: Articles of the Constitution may not be amended if such amendment takes away from the powers of the regions that are not within the exclusive powers of the federal authorities, except by the approval of the legislative authority of the concerned region and the approval of the majority of its citizens in a general referendum.

Fifth:

A- An amendment is considered ratified by the President of the Republic after the expiration of the period stipulated in clauses “Second” and “Third” of this Article, in case he does not ratify it.

B- An amendment shall enter into force on the date of its publication in the Official Gazette.

Article 127:

The President of the Republic, the Prime Minister, members of the Council of Ministers, the Speaker of the Council of Representatives, his two Deputies, members of the Council of Representatives, members of the Judicial Authority, and people of special grades may not use their influence to buy or rent any state properties, to rent or sell any of their assets to the state, to sue the state for these assets, or to conclude a contract with the state under the pretense of being building contractors, suppliers, or concessionaires.

Article 128:

The laws and judicial judgments shall be issued in the name of the people.

Article 129:

Laws shall be published in the Official Gazette and shall take effect on the date of their publication, unless stipulated otherwise.

Article 130:

Existing laws shall remain in force, unless annulled or amended in accordance with the provisions of this Constitution.

Article 131:

Every referendum mentioned in this Constitution is deemed successful with the approval of the majority of the voters unless otherwise stipulated.

Chapter Two: Transitional Provisions

Article 132:

First: The State shall guarantee care for the families of the martyrs, political prisoners, and victims of the oppressive practices of the defunct dictatorial regime.

Second: The State shall guarantee compensation to the families of the martyrs and the injured as a result of terrorist acts.

Third: A law shall regulate matters mentioned in clauses “First” and “Second” of this Article.

Article 133:

The Council of Representatives shall adopt in its first session the bylaws of the Transitional National Assembly until it adopts its own bylaws.

Article 134:

The Iraqi High Tribunal shall continue its duties as an independent judicial body, in examining the crimes of the defunct dictatorial regime and its symbols. The Council of Representatives shall have the right to dissolve it by law after the completion of its work.

Article 135:

First: The High Commission for De-Ba’athification shall continue its functions as an independent commission, in coordination with the judicial authority and the executive institutions within the framework of the laws regulating its functions. The Commission shall be attached to the Council of Representatives.

Second: The Council of Representatives shall have the right to dissolve this Commission by an absolute majority after the completion of its function.

Third: A nominee to the positions of the President of the Republic, the Prime Minister, the members of the Council of Ministers, the Speaker, the members of the Council of Representatives, the President, members of the Federation Council, their counterparts in the regions, or members of the judicial commissions and other positions covered by de-Ba'athification statutes pursuant to the law may not be subject to the provisions of de-Ba'athification.

Fourth: The conditions stated in clause "Third" of this Article shall remain in force unless the Commission stated in item "First" of this Article is dissolved.

Fifth: Mere membership in the dissolved Ba'ath party shall not be considered a sufficient basis for referral to court, and a member shall enjoy equality before the law and protection unless covered by the provisions of De-Ba'athification and the directives issued according to it.

Sixth: The Council of Representatives shall form a parliamentary committee from among its members to monitor and review the executive procedures of the Higher Commission for De-Ba'athification and state institutions to guarantee justice, objectivity, and transparency and to examine their consistency with the laws. The committee's decisions shall be subject to the approval of the Council of Representatives.

Article 136:

First: The Property Claims Commission shall continue its functions as an independent commission in coordination with the judicial authority and the executive institutions in accordance with the law. The Property Claims Commission shall be attached to the Council of Representatives.

Second: The Council of Representatives shall have the right to dissolve the Commission by a two-thirds majority vote of its members.

Article 137:

Application of the provisions of the articles related to the Federation Council, wherever it may be cited in this Constitution, shall be postponed until the Council of Representatives issues a decision by a two-thirds majority vote in its second electoral term that is held after this Constitution comes into force.

Article 138:

First: The expression "the Presidency Council" shall replace the expression "the President of the Republic" wherever the latter is mentioned in this Constitution. The provisions related to the President of the Republic shall be reactivated one successive term after this Constitution comes into force.

Second:

- A. The Council of Representatives shall elect the President of the State and two Vice Presidents who shall form a Council called the "Presidency Council," which shall be elected by one list and with a two-thirds majority.
- B. The provisions to remove the President of the Republic present in this Constitution shall apply to the President and members of the Presidency Council.
- C. The Council of Representatives may remove a member of the Presidency Council with a three-fourths majority of the number of its members for reasons of incompetence and dishonesty.
- D. In the event of a vacant seat in the Presidency Council, the Council of Representatives shall elect a replacement by a two-thirds majority vote of its members.

Third: Members of the Presidency Council shall be subject to the same conditions as a member of the Council of Representatives and must:

- A. Be over forty years of age.
- B. Enjoy good reputation, integrity and uprightness.

- C. Have quit the dissolved (Ba'ath) Party ten years prior to its fall, in case he was a member of it.
- D. Have not participated in suppressing the 1991 and Al-Anfal uprisings. He must not have committed a crime against the Iraqi people.

Fourth: The Presidency Council shall issue its decisions unanimously and any member may delegate to one of the two other members to take his place.

Fifth:

A- Legislation and decisions enacted by the Council of Representatives shall be forwarded to the Presidency Council for their unanimous approval and for its issuance within ten days from the date of delivery to the Presidency Council, except the stipulations of Articles 118 and 119 that pertain to the formation of regions.

B- In the event the Presidency Council does not approve, legislation and decisions shall be sent back to the Council of Representatives to reexamine the disputed issues and to vote on them by the majority of its members and then shall be sent for the second time to the Presidency Council for approval.

C- In the event the Presidency Council does not approve the legislation and decisions for the second time within ten days of receipt, the legislation and decisions are sent back to the Council of Representatives, which has the right to adopt it by three-fifths majority of its members, which may not be challenged, and the legislation or decision shall be considered ratified.

Sixth: The Presidency Council shall exercise the powers of the President of the Republic stipulated in this Constitution.

Article 139:

The Prime Minister shall have two deputies in the first electoral term.

Article 140:

First: The executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law.

Second: The responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law shall extend and continue to the executive authority elected in accordance with this Constitution, provided that it accomplishes completely (normalization and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31st of December 2007.

Article 141:

Legislation enacted in the region of Kurdistan since 1992 shall remain in force, and decisions issued by the government of the region of Kurdistan, including court decisions and contracts, shall be considered valid unless they are amended or annulled pursuant to the laws of the region of Kurdistan by the competent entity in the region, provided that they do not contradict with the Constitution.

Article 142:

First: The Council of Representatives shall form at the beginning of its work a committee from its members representing the principal components of the Iraqi society with the mission of presenting to the Council of Representatives, within a period not to exceed four months, a report that contains recommendations of the necessary amendments that could be made to the Constitution, and the committee shall be dissolved after a decision is made regarding its proposals.

Second: The proposed amendments shall be presented to the Council of Representatives all at once for a vote upon them, and shall be deemed approved with the agreement of the absolute majority of the members of the Council.

Third: The articles amended by the Council of Representatives pursuant to item “Second” of this Article shall be presented to the people for voting on them in a referendum within a period not exceeding two months from the date of their approval by the Council of Representatives.

Fourth: The referendum on the amended Articles shall be successful if approved by the majority of the voters, and if not rejected by two-thirds of the voters in three or more governorates.

Fifth: Article 126 of the Constitution (concerning amending the Constitution) shall be suspended, and shall return into force after the amendments stipulated in this Article have been decided upon.

Article 143:

The Transitional Administrative Law and its Annex shall be annulled on the seating of the new government, except for the stipulations of Article 53(A) and Article 58 of the Transitional Administrative Law.

Article 144:

This Constitution shall come into force after the approval of the people thereon in a general referendum, its publication in the Official Gazette, and the seating of the government that is formed pursuant to this Constitution.