

AFGHANISTAN

At-a-Glance

OFFICIAL NAME

Islamic Republic of Afghanistan

CAPITAL

Kabul

POPULATION

28,513,677 (July 2004 est.)

SIZE

250,001 sq. mi. (647,500 sq. km)

LANGUAGES

Official languages: Pashtu and Dari. Other languages: Uzbek, Turkmen, 30 minor languages

RELIGIONS

Sunni Muslim 80%, Shia Muslim 19%, other 1%

NATIONAL OR ETHNIC COMPOSITION

Pashtun 42%, Tajik 27%, Hazara 9%, Uzbek 9%, Aimak 4%, Turkmen 3%, Baloch 2%, other 4%

DATE OF INDEPENDENCE OR CREATION

August 19, 1919 (from U.K. control over Afghan foreign affairs)

TYPE OF GOVERNMENT

Transitional, Islamic republic

TYPE OF STATE

Unitary state

TYPE OF LEGISLATURE

Bicameral parliament envisaged by the constitution

DATE OF CONSTITUTION

January 4, 2004 (approved by constitutional Loya Jirga)

DATE OF LAST AMENDMENT

No amendment

The new constitution, as adopted on January 4, 2004, defines Afghanistan as a unitary Islamic republic, in which “no law can be contrary to the beliefs and provisions of the sacred religion of Islam and the values of [the] Constitution.”

Afghanistan is made up of 34 administrative provinces, which according to the constitution will each have a provincial council. The constitution provides that “the government, while preserving the principle of centralism, shall delegate certain authorities to local administration units for the purpose of expediting and promoting economic, social, and cultural affairs, and increasing the participation of people in the development of the nation.”

The justice system in Afghanistan is a combination of traditional and formal mechanisms, the formal justice system weakened by years of wars and civil unrest. During that time, traditional mechanisms served as the main judicial authority and in most parts of the country was the only one.

The 2004 constitution abolished the monarchy (which was still in effect under the 1964 constitution of King Zahir Shah) and established a strong presidential form of government, albeit with important powers reserved for the national assembly.

The religion of Afghanistan is defined by the constitution as “the sacred religion of Islam.” Followers of other religions are free to perform their religious rites within the limits of the law. However, according to the constitution, no law can be contrary to Islam and the values of the constitution.

Although the economic outlook has improved significantly since the fall of the Taliban in 2001, as a result of over \$2 billion in international assistance and a huge increase in opium production, Afghanistan remains extremely poor and highly dependent on foreign aid.

The president is commander in chief of the armed forces of Afghanistan. However, at the time of writing, armed factions continue to operate in many parts of the country; the process of disarmament, demobilization, and

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reintegration (DDR), supported by the United Nations (UN) and the international community, was progressing slowly.

CONSTITUTIONAL HISTORY

Afghanistan's history as a country spans little more than two centuries, although the countries and its peoples have contributed to the greatness of many great Central Asian empires.

In 328 B.C.E., Alexander the Great entered the territory of present-day Afghanistan, then part of the Persian Empire. Invasions by the Scythians and Gokturks followed in succeeding centuries. In 642 C.E., Arabs invaded the entire region and introduced Islam. Arab rule quickly gave way to that of the Islamized Persians, who controlled the area until conquered by the Ghaznavid Empire in 998. The Ghaznavid dynasty, which was Sunni, was defeated in 1146 by the Ghurids (Ghor); both empires spread Islamic rule into India. Various princes and Seljuk rulers attempted to rule parts of the country until Shah Muhammad II of the Khwarezmid Empire conquered all of Persia in 1205.

Between 1220 and 1223, the country was invaded by Genghiz Khan. One of his descendents, Timur, annexed the area in the early 1380s, and his reign ushered in the golden Timurid era, which saw a flourishing of the arts in northern Afghanistan and Central Asia. With the rise of the Mughal Empire, Kabul became the capital of an Afghan principality; when the empire conquered most of India, Afghanistan became merely a peripheral part of the empire.

In 1774, with European forces, especially British, eroding the influence of the Mughals on the Indian subcontinent, the kingdom of Afghanistan was founded by the Pashtun tribal leader Ahmad Shah Durrani. Soon, a long period of confrontation began with the British in the south, who feared Afghanistan might ally itself with the expanding Russian Empire to the north.

After several local wars, from 1878 to 1880, Afghanistan became more or less a protectorate of the British Empire. In 1893, the British drew Afghanistan's eastern boundaries along the so-called Durand Line, leaving half the Pashtun population stranded in British India, in what today is Pakistan.

Various British-backed reform initiatives provoked widespread resistance. The country remained precariously unstable for decades.

In 1964, King Zahir Shah promulgated a liberal constitution providing for a two-chamber legislature, to which the king appointed one-third of the deputies. The people elected another third, and the rest were selected indirectly by provincial assemblies. Although Zahir Shah's reform efforts had few lasting positive impacts, they allowed for the growth of unofficial extremist parties on both the Left and the Right, including the communist People's Democratic Party of Afghanistan (PDPA), which had close

ideological ties to the Soviet Union, and militant Muslim parties.

The kingdom was abolished in 1973 when the former prime minister, Mohammed Daoud Khan, a cousin of the king, seized power in a military coup on July 17. Zahir Shah fled the country. Daoud issued a new constitution calling for a presidential republic and a one-party system of government; he declared himself president and prime minister. His attempts to carry out economic and social reforms met with little success, and a new constitution promulgated in February 1977 failed to quell chronic political instability. As disillusionment set in, on April 27, 1978, the PDPA initiated a bloody coup, which resulted in the overthrow and murder of Daoud and most of his family.

The new government, aided by thousands of Soviet military and civil advisers, implemented a radical socialist and modernizing agenda. Within a few months the government issued a series of decrees reforming landownership, abolishing usury, banning forced marriages, giving women the vote, replacing traditional religious/cultural laws with secular laws, and banning tribal courts. The overnight revolution plunged the rural majority of the population into disarray.

A great backlash against these reforms resulted among members of the traditional patriotic establishments and Muslim and tribal leaders. Some resorted to violence and sabotage of the country's industry and infrastructure. The government of Afghanistan responded to the attacks with heavy-handed intervention by the army. The government arrested, exiled, and executed many mujahideen, "holy Muslim warriors."

By the end of 1979, the Afghan army was overwhelmed by the resistance. Party leaders called in the Soviet Union, which sent tens of thousands of troops and backed a second communist coup. On December 25, 1979, the Soviet army entered Kabul, starting a 10-year war against the mujahideen resistance. Pakistan, Saudi Arabia, and the United States assisted in financing the opposition groups in support of their common "anticommunist" stance. Among the wealthy Saudis who helped finance the mujahideen was Osama bin Laden.

The Soviet Union withdrew its troops in February 1989 but continued to aid the government, led by Mohammed Najibullah. Aid from the United States and Saudi Arabia to the mujahideen also continued. After the collapse of the Soviet Union, the Najibullah government was overthrown on April 18, 1992, when General Abdul Rashid Dostum changed allegiances and delivered Najibullah to the mujahideen.

An Islamic State of Afghanistan was declared. Almost at once, fighting broke out among the various militias, which had coexisted uneasily during the Soviet occupation. An interim president was installed and was replaced two months later by Burhanuddin Rabbani, a founder of the country's Islamic political movement. Fighting among rival factions intensified.

In reaction to the prevalence of anarchy and warlords in the country and the lack of Pashtun representation in

the Kabul government, a movement of religious scholars, many of them former mujahideen, arose, with heavy support from Pakistani military and political forces. The Taliban took control of 90 percent of the country by 1998, limiting the opposition to a small, largely Tajik corner in the northeast and the Panjshir valley. The opposition formed the Northern Alliance under Rabbani, which continued to receive diplomatic recognition in the United Nations as the government of Afghanistan.

In response to the September 11, 2001, terrorist attacks, the United States and its coalition allies launched a successful attack to oust the Taliban government, which had sheltered the al-Qaeda movement of Osama bin Laden, the apparent organizer of the attacks. The Bonn Agreement, sponsored by the United Nations, was signed on December 5, 2001, by representatives of several different anti-Taliban factions and political groups. It established a roadmap and timetable for establishing peace and security, rebuilding the country, reestablishing key institutions, and protecting human rights. The agreement formally put all mujahideen, Afghan armed forces, and armed groups in the country under the command and control of a 30-member interim authority under the Pasthun leader, Hamid Karzai.

An Emergency Loya Jirga (grand council) in June 2002 confirmed the interim authority as the Afghan Transitional Authority (ATA), and Hamid Karzai assumed the position of transitional president. In January 2004, the constitutional Loya Jirga adopted a constitution consolidating political power in the presidency. On October 9, 2004, Karzai was elected as president. The national assembly was inaugurated on December 19, 2005.

FORM AND IMPACT OF THE CONSTITUTION

Afghanistan has a written constitution, adopted by the constitutional Loya Jirga on January 4, 2004, which defines Afghanistan as a unitary Islamic republic in which “no law can be contrary to the beliefs and provisions of the sacred religion of Islam and the values of this constitution.” It is unclear how the apparent contradictions might be resolved between traditional Afghan Islamic beliefs, on the one hand, and the values of the constitution, with its human rights protections, on the other.

BASIC ORGANIZATIONAL STRUCTURE

Afghanistan is made up of 34 provinces, each endowed by the constitution with a provincial council formed by “free, direct, secret ballot, and general elections by the residents of the province for a period of four years in accordance with law.” The number and boundaries of the provinces themselves are established by law, in this case

a presidential decree. The constitution provides that the provincial councils will “take part in securing the developmental targets of the state and improving its affairs in a way stated in the law, and give advice on important issues falling within the domain of the respective province.” However, the role provided for the provincial councils in the 2005 Law of Provincial Councils is largely consultative.

The constitution also provides for district councils to be elected in the same manner as the provincial councils but is silent as to their role other than to elect members of the Meshrano Jirga (House of Elders).

In practice, local government is strong in Afghanistan, with many matters decided by traditional local councils, called jirgas or shuras. The concept of a nation state and its functions is still in the early stages of development. Particularly in remote and rural areas, the state is not thought of as the primary dispensary power, in judicial as in other matters. The delegation of power to the state still must be negotiated with the local power structures such as tribes, *shuras*, or *jirgas*.

LEADING CONSTITUTIONAL PRINCIPLES

The constitution establishes a strong presidential form of government, albeit with important powers reserved for the national assembly.

The president, who is head of state, is assisted by two vice-presidents, whom the president must nominate when running for office. The president has wide-ranging powers, including supervising the implementation of the constitution, determining the fundamental policies of the state, acting as commander in chief, declaring war or a state of emergency, and appointing judges and high-ranking officials in the judiciary, the police, and the armed forces.

Members of the administration are appointed by the president and are subject to approval by the bicameral national assembly, which consists of the House of People (Wolesi Jirga) and the House of Elders (Meshrano Jirga). The national assembly adopts laws and legislative decrees (and can override the president’s veto), but no law or decree can be enforced unless it is approved by both houses.

CONSTITUTIONAL BODIES

The predominant bodies provided for in the constitution are the president, assisted by two vice presidents; the cabinet; the national assembly; the Loya Jirga; and the judiciary.

The judiciary remains in an embryonic stage, with the supreme court yet to be reformed to align it with constitutional requirements.

The President

Apart from his or her role as head of state, the president has wide-ranging powers, including supervising the implementation of the constitution; determining the fundamental policies of the state; acting as commander in chief; appointing judges and other high-ranking officials in the judiciary, the police, and the armed forces; and declaring war or a state of emergency. The president also appoints the cabinet members, subject to approval by the national assembly. The president additionally has the power to call a national referendum on important political, social, or economic issues.

In case of resignation, impeachment, or death of the president or of a serious illness that hinders the president's performance, a vice president undertakes the duties and authorities of the president. Impeachment requires the support of a Loya Jirga, which then refers the case to a special court. An election for a new president must be held within a period of three months.

The president is elected for a five-year term and can be re-elected only once. In presidential elections, if none of the candidates receives more than 50 percent of the votes in the first round, a runoff is held between the two top candidates. The runoff must be held within two weeks of the announcement of results of the first round.

The president must be at least 40 years of age, a citizen of Afghanistan born of Afghan parents, and a Muslim. A president must not be a citizen of another country or have been convicted of crimes against humanity or criminal acts.

The Cabinet

Cabinet ministers are appointed by the president, subject to approval by the national assembly; they may or may not be members of the national assembly. A member of the national assembly who is appointed cabinet minister must be replaced by another person in accordance with the provisions of law.

The constitution defines the cabinet's duties as follows: to execute the provisions of the constitution, other laws, and final orders of the courts and to protect the independence, defend the territorial integrity, and safeguard the interests and dignity of Afghanistan in the international community. The cabinet is also responsible for maintaining public law and order, eliminating administrative corruption, preparing the budget, regulating financial affairs, protecting the public wealth, and devising and implementing programs for social, cultural, economic, and technological progress. At the end of the fiscal year it must report to the national assembly about the tasks accomplished and the main plans for the new fiscal year. It must present the budget to the Wolesi Jirga each year. Only the cabinet can initiate budgetary and financial bills.

The National Assembly

The bicameral national assembly consists of the Wolesi Jirga (House of People) and the Meshrano Jirga (House of

Elders). The national assembly adopts laws and legislative decrees, which are then endorsed by the president. No law or decree can be enforced unless it is approved by both houses.

The national assembly has the following powers: ratification, modification, or abrogation of laws and/or legislative decrees; approval of plans for economic, social, cultural, and technological development; approval of the state budget; permission for obtaining and granting loans; creation and modification of administrative units; and ratification or abrogation of international treaties and agreements.

The Wolesi Jirga is directly elected every five years. There is a constitutional requirement that at least two female delegates must be elected from each province.

Members of the Meshrano Jirga are indirectly elected or appointed. Each provincial council sends one of its members to the house for a period of four years. The district councils within each province send one of their members for a period of three years. The president appoints the remaining one-third of the members from among experts and experienced personalities; he or she must include two representatives of the disabled and two representatives from the Kochis (nomad). Half of the appointees must be women.

Members of the national assembly, as the president, must not have been convicted by a court of committing a crime against humanity or any crime or have been sentenced to deprivation of his or her civil rights. Members of the Wolesi Jirga must be 25 years old at the date of candidacy, and members of the Meshrano Jirga must be 35 years old at the date of candidacy or appointment.

The Lawmaking Process

According to the constitution, laws must be approved by both houses of the national assembly and approved and endorsed by the president. If the president rejects the bill, he or she can send the document with justifiable reasons back to the Wolesi Jirga within 15 days of its submission. If the president does not send it back within 15 days, or if the Wolesi Jirga approves the bill again with a majority of two-thirds of those voting, the bill is considered endorsed.

Either the cabinet or members of the national assembly can introduce proposed laws. It also appears that the Supreme Court can initiate bills for the regulation of judicial affairs. In budgetary and financial matters, however, the cabinet has exclusive power to introduce bills. Cabinet bills are submitted first to the Wolesi Jirga.

Bills relating to budgetary and financial affairs or to the taking or giving of loans are considered passed if the Wolesi Jirga does not approve or reject them within one month. The bill is submitted to the Meshrano Jirga after its approval by the Wolesi Jirga. The Meshrano Jirga decides on the draft within a period of 15 days.

If the decision of one house is rejected by another house, a combined committee composed of equal members of each house is formed to resolve the disagreement. The decision of the committee is binding after its approval

by the president. If the combined committee cannot resolve the disagreement, the bill is considered void.

Loya Jirga

According to the constitution, the Loya Jirga (Pashtu for grand council) is “the highest manifestation of the people of Afghanistan.” The Loya Jirga is a traditional forum, unique to Afghanistan, in which tribal elders from the country’s various ethnic groups meet together to settle intertribal disputes, discuss social reforms, and, most recently, approve a new constitution.

A Loya Jirga, as defined in the constitution, consists of members of the national assembly and chairpersons of the provincial and district councils. Ministers, the chief justice, and members of the Supreme Court can participate in the sessions of the Loya Jirga without the right to vote.

A Loya Jirga is convened to make decisions on issues related to independence, national sovereignty, territorial integrity, and the supreme interests of the country. It is also convened to amend the provisions of the constitution or to prosecute the president. Decisions of the Loya Jirga are ordinarily determined by a majority of the members present.

The Judiciary

The judicial branch consists of the Supreme Court (Stera Mahkama), High Courts, and Appeals Courts.

The Supreme Court is composed of nine members appointed by the president with the approval of the Wolesi Jirga for a period of up to 10 years. The head of the Supreme Court is also appointed by the president. Members of the Supreme Court are required to have a higher education in law or in Islamic jurisprudence and to have sufficient expertise and experience in the judicial system of Afghanistan.

The constitution precludes the transfer of any case from the jurisdiction of the judicial branch to any other organ of the state. At the time of writing, the judiciary had yet to be reshaped to conform to the new constitutional requirements. The judiciary currently operates with minimal training.

THE ELECTION PROCESS

The president is elected by a majority of more than 50 percent of the votes cast. If none of the candidates wins a majority in the first round, a runoff is held between the two top candidates within two weeks of the announcement of results of the first round. In the runoff, the candidate who gets the majority of votes is elected president.

Parliamentary Elections

Elections to the Parliament took place on September 18, 2005. The Decree on the Election Law of 2005 foresees

multimember constituencies in each province and a Single Non-Transferable Vote (SNTV) system, which would favor independent candidates over political parties.

POLITICAL PARTIES

Citizens of Afghanistan have the right to form political parties, provided that the program and charter of the party are not contrary to the provisions and values of Islam or of the constitution; the organizational structure and financial sources of the party are made public; the party does not have military or paramilitary aims and structures; and the party is not affiliated to foreign political parties or sources.

Political parties are required by the Political Parties Law to register with the Ministry of Justice, which has an established office for registration. The process of registration is governed by a separate regulation. Article 6 of the Political Parties Law lays out a number of factors that exclude parties from registration, including pursuit of objectives opposed to the principles of Islam and incitement to ethnic, racial, religious, or sectarian violence. They are also prohibited from having military wings or affiliations with armed forces.

Parties are also required, by the same law, to register their assets with the Ministry of Finance and provide documentation from the Ministry of Finance certifying their assets.

CITIZENSHIP

Beyond providing that citizens may not be deprived of their Afghan citizenship, the constitution does not regulate the matter further.

According to the law on citizenship, Afghan citizenship is acquired if a person has one parent who is an Afghan citizen, regardless of where he or she is born. Persons born of foreign parents in Afghanistan also acquire Afghan citizenship if one of their parents was born and continuously lived in Afghanistan or if they themselves continuously lived in Afghanistan, until reaching the age of 18.

In slightly unusual provisions of the law, foundlings born in Afghanistan and persons who have entered Afghanistan from foreign countries, who have concealed their original citizenship, who have bought property reserved for Afghans, who own herds, or who have engaged in trade or agriculture shall also be considered citizens.

FUNDAMENTAL RIGHTS

The constitution contains several provisions enunciating basic political, civil, economic, and social rights. It guarantees rule of law, incorporating the presumption of innocence and the right to legal counsel, and defines crime

as a personal action, stating that the resulting penalties cannot affect another person. The constitution prohibits torture and “punishment contrary to human integrity.” While the right to life is enshrined in the constitution, it also allows for the imposition of the death penalty.

The constitution also contains a range of political rights protections, including the right to elect and to be elected, the right to freedom of expression (Article 34), the right to form social organizations and political parties subject to certain restrictions, and the right to demonstrate.

In addition to prohibitions on discrimination and provisions for the equal rights and duties of women and men before the law, the constitution includes provisions requiring specified levels of women’s representation in both houses of the Parliament.

The right to education is also enunciated; education up to a secondary level is guaranteed.

The right to work is provided for in the constitution, and forced labor is forbidden. The right to form social organizations for the purpose of securing material or spiritual aims, in accordance with the provisions of law, is guaranteed to every individual.

The constitution pledges the state to abide by the United Nations (UN) Charter, international treaties, international conventions to which Afghanistan is a signatory, and the Universal Declaration of Human Rights. Afghanistan has ratified the International Covenant on Civil and Political Rights, the Convention on the Elimination of Racial Discrimination, and the Convention on the Elimination of all forms of Discrimination against Women. It has also signed the International Covenant on Economic Social and Cultural Rights (ICESCR); the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the Convention on the Rights of the Child (CRC); and the Rome Statute of the International Criminal Court (ICC).

Impact and Functions of Fundamental Rights

Despite these legal provisions on political, civil, economic, and social rights, their implementation has yet to be ensured. The constitution does not adequately address the role of Islamic law and its relationship to human rights protections.

Since the adoption of the constitution, the Supreme Court has remained very proactive in stressing the Islamic nature of the state, which it appears to give precedence over the other values of the constitution, such as the protection of human rights. This has led the court at various times to ban the broadcast of female singers on national television as being contrary to the teachings of Islam, without weighing the impact on freedom of expression, guaranteed in the constitution. The court also intervened in the 2004 presidential elections, calling for the disqualification of a candidate who, it claimed, espoused values contrary to Islam.

The Independent Human Rights Commission of Afghanistan, established in the Bonn Agreement, also has a constitutional status. However, it does not have a constitutional mandate to address issues of past war crimes and serious human rights abuses.

At the time of writing, there has still been no process of transitional justice. Members of armed factions alleged to be responsible for human rights abuses have not been made accountable and continue to act with impunity in some areas.

Although the constitution contains provisions that people who have been convicted by a court for committing a crime, specifically a crime against humanity, are prohibited from holding public office, no one has been tried by a competent court for crimes committed during the years of conflict in the country. Indeed, persons reputed to have led armed factions alleged to be responsible for human rights abuses were able to register as candidates in the 2004 presidential elections and 2005 Wolesi Jirga and Provincial Council elections.

ECONOMY AND ECONOMIC RIGHTS

The constitution “encourages and protects private capital investments and enterprises based on the market economy and guarantees their protection in accordance with the provisions of law.” The state constitution also provides that the state shall “formulate and implement effective programs for development of industries, growth of production, increase of public living standards, and support to craftsmanship,” and “design and implement within its financial resources effective programs for development of agriculture and animal husbandry, improving the economic, social and living conditions of farmers and herders, and the settlement and living conditions of nomads.”

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

Minerals and other underground resources are properties of the state, and foreign individuals do not have the right to own immovable property in Afghanistan.

RELIGIOUS COMMUNITIES

The state religion as defined by the constitution is “the sacred religion of Islam.” Followers of other religions are free to perform their rites within the limits of the law. However, according to the constitution, no law can be contrary to Islam.

It is estimated that 84 percent of the population is Sunni Muslim. Approximately 15 percent is Shīa Muslim, the majority of whom are ethnic Hazaras. Other religious groups, including Sikhs, Hindus, and Jews, make up less than 1 percent of the population.

Traditionally, Sunni Islam of the Hanafi school of jurisprudence has been the dominant religion. Relations between the different branches of Islam in the country have been difficult. Historically, the minority Shiites faced discrimination from the majority Sunni population. However, the new constitution does not grant preferential status to the Hanafi school, nor does it make specific reference to Sharia law. The constitution also grants that Shia law will be applied to cases dealing with personal matters involving Shiites; there is no separate law applying to non-Muslims.

MILITARY DEFENSE AND STATE OF EMERGENCY

The president is commander in chief of the armed forces and has responsibility for declaring war, issuing a cease-fire, or sending contingents of the armed forces to foreign countries, which requires the approval of the national assembly. The president is also responsible for appointing and dismissing or accepting the retirement or resignation of officers of the armed forces.

The powers of the president, as defined by the constitution, also include "taking the required decisions in defense of territorial integrity and in protecting independence."

The president is also responsible for declaring a state of emergency in some or all parts of the country with the approval of the national assembly "if due to war, threat of war, serious rebellion, natural disasters, or similar situation, the protection of the independence or survival of the nation becomes impossible by following the [non-emergency] provisions of this constitution." If the state of emergency continues for more than two months, the approval of the national assembly is required for its extension. During the state of emergency, the president, in consultations with the heads of the national assembly and the chief justice, may transfer some authorities of the national assembly to the cabinet.

With the consent of the heads of the Parliament and the Supreme Court, the president may also suspend or restrict the right to unarmed demonstrations during a state of emergency. Internment may be introduced, and the state may inspect correspondence and communications and enter and inspect private residences without a warrant.

If the presidential term of office and/or the legislative period ends during a state of emergency, new elections are postponed, and the existing terms are extended for up to four months. If the state of emergency continues for more than four months, a Loya Jirga is summoned by the president for further decisions. After the termination of the state of emergency, the delayed elections are held. Immediately after termination of the state of emergency, the emergency measures adopted shall be considered invalid.

AMENDMENTS TO THE CONSTITUTION

The provisions regarding adherence to Islam and the regime of the Islamic republic cannot be amended. Any amendments of the fundamental rights of the people "are permitted only in order to make them more effective."

Proposals to amend other provisions of the constitution can be made by the president or by the majority of the national assembly. A commission composed of members of the government, national assembly, and supreme court is then established by a presidential decree, and the commission prepares a draft of the amendments. A Loya Jirga shall be convened by the decree of the president.

If the Loya Jirga approves an amendment by a majority of two-thirds of its members, it goes into force after endorsement by the president. The constitution may not be amended during the state of emergency.

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