

Institute for an Open Society in the Middle East Inc.

(IOSME)

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## IRAN'S CONSTITUTION

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For the past decade, a select group of Iranians have created a proposed new Constitution for a New and Future Iran. This would be the basis for a new democratic government for Iran as a representative government for and by the all people

### Chapter 1

#### On Sovereign State of Iran, Its Divisions

Article 1 Iran is a sovereign State composed of 31 Provinces (Ostan).

Article 2 The Provinces are as follows Alborz, Ardabil, Azarbayjan-e Gharbi , Azarbayjan-e Sharghi, Bushehr, Chahar Mahal va Bakhtiari, Esfahan, Fars, Gilan, Golestan, Hamadan, Hormozgan, Ilam, Kerman, Kermanshah, Khorasan-e Jonubi, Khorasan-e Razavi , Khorasan-e Shomali , Khuzestan, Kohgiluyeh va Bowyer Ahmad, Kordestan, Lorestan, Markazi, Mazandaran, Qazvin, Qom, Semnan, Sistan va Baluchestan, Tehran, Yazd, and Zanjan.

Article 3 Each Province will select a governor who will represent that Province at the National Level and will implement the policies of the Province and the National Government.

Article 4 The boundaries of each province can only be changed or corrected by a law passed by a majority of the votes cast in the House of Representatives, on condition that a majority of the members of the representatives of the province is present.

Article 5 A law can exclude certain territories, of which it establishes the boundaries, from division into provinces, bring them directly under the National executive power and subject them to a specific statute. This law must be passed by a majority as described in Article 4, last paragraph.

Article 6 Provincial subdivisions can only be established by virtue of a law.

Article 7 The boundaries of the State, the provinces and the municipalities can only be changed or corrected by virtue of a law.

## Chapter II

### On Iranians and their rights

Article 8 The status as an Iranian citizen is acquired, kept and lost according to rules established by civil law. The Constitution and the other laws concerning political rights, establish, apart from this status, the necessary conditions for the exercising of these rights.

Article 9 Naturalization is granted by the laws passed by the two Houses, Majles-e-Shorai-e Melli.

Article 10 No class distinctions exist in the State. Iranians are equal before the law; they alone are eligible for civil and military service, but for the exceptions that can be created by a law for specific cases. Equality between women and men is guaranteed.

Article 11 Enjoyment of the rights and freedoms recognized for Iranians must be provided without discrimination. To this end, laws guarantee among others the rights and freedoms of ideological and philosophical minorities. The law, provincial law or rule guarantees that women and men may equally exercise their rights and freedoms and promotes their equal access to elective and public mandates.

Article 12 The freedom of the individual is guaranteed. No one can be prosecuted except in the cases provided for by the law, and in the form prescribed by the law. Except in the case of a flagrant offence, no one can be arrested except on the strength of a reasoned judge's order, which must be served at the time of arrest or at the latest within twenty-four hours.

Article 13 No one can be separated, against his will, from the judge that the law has assigned to him.

Article 14 No punishment can be introduced or administered except by virtue of the law

Article 15 One's home is inviolable; no house search may take place except in the cases provided for by the law and in the form prescribed by the law.

Article 16 No one can be deprived of his property except in the case of expropriation for a public purpose, in the cases and manner established by the law and in return for fair compensation paid beforehand.

Article 17 Assets may not be confiscated as a means of punishment.

Article 18 . Capital punishment and physical punishment is abolished; it cannot be re-introduced.

Article 19 Freedom of worship, its public practice and freedom to demonstrate one's opinions on all matters are guaranteed, but offences committed when this freedom is used may be punished.

Article 20 No one can be obliged to contribute in any way whatsoever to the acts and ceremonies of a religion or to observe its days of rest.

Article 21 The State does not have the right to intervene either in the appointment or in the installation of ministers of any religion whatsoever or to forbid these ministers from carrying out their normal responsibilities as regards the press and publishing apply. A civil wedding should always precede the blessing of the marriage, apart from the exceptions to be established by the law if needed.

Article 22 Everyone has the right to the respect of his private and family life, except in the cases and conditions determined by the law. The laws, provincial laws and rules guarantee the protection of this right.

Article 23 Each child is entitled to have his or her moral, physical, mental and sexual integrity respected. Each child from age ( 0 ) to ( 18 ) has the right to express his or her views in all matters affecting him or her, the views of the child being given due weight in accordance with his or her age and maturity. Each child has the right to benefit from measures and facilities which promote his or her development. In all decisions concerning children, the interest of the child is a primary consideration. The law, provincial law or rule ensures these rights of the child.

Article 24 Everyone has the right to lead a life in keeping with human dignity. To this end, the laws guarantee economic, social and cultural rights, considering corresponding obligations, and determine the conditions for exercising them. These rights include among others: (1) the right to employment and to the free choice of an occupation within the context of a general employment policy, aimed among others at ensuring a level of employment that is as stable and high as possible, the right to fair terms of employment and to fair remuneration, as well as the right to information, consultation and collective negotiation; (2) the right to social security, to health care and to social, medical and legal aid; (3) the right to decent accommodation; (4) the right to the protection of a healthy environment; (5) the right to cultural and social fulfillment.

Article 25 Education is free; from 1st grade to 12th grade and from ( 6 ) years to ( 18 ) years old any preventive measure is forbidden; the punishment of offences is regulated only by the law.

Article 26 The press is free; censorship can never be introduced; no security can be demanded from authors, publishers or printers. When the author is known and resident in Iran, neither the publisher, the printer nor the distributor can be prosecuted.

Article 27 Iranians have the right to gather peaceably and without arms, in accordance with the laws that can regulate the exercise of this right, without submitting it to prior authorization. This provision does not apply to open air meetings, which are entirely subject to police regulations.

Article 28 Iranians have the right to enter into association or partnership; this right cannot be subject to any preventative measure.

Article 29 Everyone has the right to address petitions signed by one or more persons to the public authorities. Constituted bodies are alone entitled to address petitions under a collective name.

Article 30 The confidentiality of letters is inviolable. The law determines which officials may violate the confidentiality of letters entrusted to the postal service.

Article 31 Farsi is the official language of the State. The use of cultural languages are protected and spoken in Iran is free; only the law can rule on this matter, and only for acts of the public authorities and for judicial affairs.

Article 32 No authorization is necessary prior to taking legal action against civil servants for offences resulting from their administration, except about what has been ruled on concerning ministers and members of the Community and Provincial Governments.

Article 33 Everyone has the right to consult any administrative document and to obtain a copy, except in the cases and conditions stipulated by the laws.

### Chapter III

#### On Powers

Article 34 All powers emanate from the Law legislated by the House. These powers are exercised in the manner laid down by the Constitution.

Article 35 The exercising of specific powers can be assigned by a treaty or by a law to institutions of public international law.

Article 36 The national authority only has competences in the matters that are formally assigned to it by the Constitution and the laws passed by virtue of the Constitution itself. The Communities and the Provinces, each in its own field of concern, have competences for the other matters, under the conditions and in the terms stipulated by the law. This law must be adopted by a majority.

Article 37 The national legislative power is exercised by the House of Representatives.

Article 38 The National executive power, as regulated by the Constitution, belongs to the President/Prime Minister.

Article 39 Each Community has those powers which are recognized by the Constitution or by the laws passed by virtue of the Constitution.

Article 40 The law assigns to the provincial bodies that it creates and that are composed of elected representatives the power to manage the matters that it determines, within the scope and according to the manner laid down by a law. This law must be passed by a majority.

Article 41 Judiciary power is exercised by the courts.

Article 42 Interests which are exclusively of a municipal or provincial nature are ruled on by municipal or provincial councils, according to the principles laid down by the Constitution.

## Chapter IV

### On the House of Representatives

Article 43 The members of the House represent the Nation, and not only those who elected them.

Article 44 The House meets by right at least three days a week. The House must meet for at least one hundred days each year.

Article 45 The King can adjourn the House. However, the adjournment cannot be for longer than one month, nor can it be repeated in the same session without the consent of the House.

Article 46 The Prime Minister has the right to dissolve the House of Representatives only if the latter, with the absolute majority of its members:( 1) either rejects a motion of confidence in the National Government and does not propose to the King, within three days of the day of the rejection of the motion, the appointment of a successor to the prime minister;( 2) or adopts a motion of no confidence with regard to the National Government and a successor to the prime minister; The motions of confidence and no confidence can only be voted on forty-eight hours after the tabling of the motion. Moreover, the Prime Minister in the event of the resignation of the National Government, dissolve the House of Representatives after having received its agreement expressed by most of its members. The act of dissolution convenes the electorate within forty days and the Houses within two months.

Article 47 The sittings of the House is public. Nevertheless, the House can meet in camera at the request of its president or of ten members. It decides afterwards, by absolute majority, whether the sitting must be continued in public on the same subject.

Article 48 The House verifies the credentials of its members and judges any dispute that can be raised on this matter.

Article 49 Any member of the House appointed by the Prime Minister and who accepts this appointment ceases to sit in Parliament and takes up his mandate again when the King has terminated his office as minister. The law determines the rules for his replacement in the House concerned.

Article 50 Any member of the House appointed by the National Government to any salaried position other than that of minister and who accepts the appointment immediately ceases to sit in Parliament and only takes his seat again after having been re-elected.

Article 51 Each session, the House appoints its president, its vice-presidents, and forms its bureau.

Article 52 All resolutions are passed by an absolute majority of the votes cast, except for what is established by the rules of procedure of the Houses about elections and nominations. If the vote is tied, the proposal submitted for discussion is rejected. The House cannot pass a resolution unless a majority of its members is present.

Article 53 Votes are cast by sitting and standing or by call-over; on the laws is always voted by call-over. The election and nomination of candidates are carried out by secret ballot.

Article 54 The House has the right to hold an enquiry.

Article 55 It is forbidden to present petitions to the Houses in person. The House has the right to send to minister's petitions that are addressed to it. The ministers are obliged to explain the content of these petitions whenever the House so requires.

Article 56 No member of the House can be prosecuted or be the subject of any investigation about opinions expressed and votes cast by him in the exercise of his duties.

Article 57 Except in the case of a flagrant offence, no member of the House may, during a session and in criminal matters, be directly referred or summoned before a court or be arrested, except with the authorization of the House of which he is a member.

Article 58 The House determines, in its rules of procedure, the way in which it exercises its duties.

## Section I

### Members of the House of Representatives

Article 59 The members of the House of Representatives are elected directly by citizens who are at least eighteen years of age and who do not fall within the categories of exclusion stipulated by the law. Each elector has the right to only one vote.

Article 60 The composition of the electoral colleges is regulated by the law. Elections take place in accordance with the system of proportional representation that the law determines. Voting is obligatory and secret. It takes place in the municipality, except in the cases determined by the law.

Article 61 (1) The House of Representatives is composed of members whose numbers are determined as follows. (2) The number of seats in each electoral district corresponds to the result of dividing the number of inhabitants by 250,000. (3) The number of inhabitants in each electoral district is established every ten years by a census or by any other means defined by the law. (4) The law determines the electoral districts; it also determines the conditions required to be an elector as well as the way in which elections are conducted.

Article 62 To be eligible, one must: (1) be Iranian; (2) enjoy civil and political rights; (3) have reached the age of twenty-one; (4) be resident in Iran. No other condition of eligibility can be required.

Article 63 The members of the House of Representatives are elected for four years. The House is re-elected every four years.

Article 64 Each member of the House of Representatives has an annual indemnity of ten times the poverty level. Within the national borders, the members of the House of Representatives have the right to free travel on all means of transport operated or conceded by the public authorities. The President of

the House of Representatives can be granted an annual indemnity to be charged to the allowance that covers the expenses of this assembly. The House determines the amount that can be deducted from the indemnity to form a contribution to retirement and pension funds that it considers necessary to set up.

## Chapter V

### On National legislative power

Article 65 The House of Representative is the unicameral national legislature of Iran. It passes all laws, elects the Prime Minister, approves the cabinet, and supervises the work of the government. In addition, the House of Representatives elects the State Comptroller. It also has the power to waive the immunity of its members, and the State Comptroller from office, dissolve the government in a constructive vote of no confidence, and to dissolve itself and call new elections , the granting of naturalization; laws relating to the civil and criminal liability of the ministers; State budgets and accounts; the setting of army quotas.. The Prime Minister may also dissolve the House Of Representative. However, until an election is completed, the House maintains authority in its current composition.

Article 66 National legislative power has the right to propose legislation. Draft bills submitted to the Houses following the King's initiative are tabled with the House of Representatives .

Article 67 A draft bill may be adopted by the House only after having been voted on article by article. The House has the right to amend and to split the articles and amendments proposed.

Article 68 The House of Representatives is competent with respect to: 1° declaring that there are reasons to revise such constitutional provision as they determine, and with respect to such constitutional revision; 2° matters that must be settled by both legislative Houses by virtue of the Constitution; 4° the laws to be adopted by a majority, as well as the laws enacted in order to execute such laws; 5° the laws approving treaties; 7° to guarantee that international or supranational commitments are observed; 8° the laws relating to the Council of State; 9° the organization of the courts; 10° the laws approving cooperation agreements between the Provinces. A law adopted by a majority, may designate other laws for which the House of Representatives is competent.

Article 69 If, during the course of an examination, the House of Representatives adopts a new amendment, which pronounces on the amended draft bill which will be completed by the House of Representatives and send the bill to the King.

Article 70 If, when a draft bill is tabled, the National Government requests urgency, the Parliamentary consultation committee sets the time limits by which the deliberation should make its decision.

Article 71 Each private member's bill and each Government bill mentions whether it concerns a matter.

Article 72 Only the law can give an authoritative interpretation of laws.

## Chapter VI

### On the Prime Minister and the National Government

#### Section I

##### On the National Government

Article 73 A national election is held for the formation of a new National Government within the first year of the new government.

Article 74 National election is held every four years in which all eligible voters cast their votes for election of Parliament House Members.

Article 75 Upon completion of the House election, the members vote to elect the Prime Minister.

Article 76 Upon election of Prime Minister, he/she appoints his/her ministers who will be presented to the House for vote of confidence.

Article 77 The House votes to approve every cabinet member. Each cabinet member who fails to receive an absolute majority vote will be replaced by another candidate by the Prime Minister for a vote of confidence from the full House.

Article 78 The National Government offers its resignation if the House of Representatives, by an absolute majority of its members, adopts a motion of no confidence proposing a successor to the prime minister for appointment by the King or proposes a successor to the prime minister for appointment by the King within three days of the rejection of a motion of confidence. The King appoints the proposed successor as prime minister, who takes office when the new National Government is sworn in.

Article 79 Only Iranians may be ministers.

Article 80

Article 81 The Council of Ministers is composed of no more than fifteen members. Except for the prime minister.

Article 82 Ministers have access to the Houses and must be heard whenever they so request. The House of Representatives may require the presence of ministers. They may require their presence for discussion of a Government bill or private member's bill or a Government bill or for the exercise of its right of inquiry.

Article 83 Ministers are approved by and accountable to the House of Representatives. No minister can be prosecuted or be the subject of any investigation about opinions expressed by him in the exercise of his duties.

Article 84.

Article 85 Ministers are tried exclusively by the appeal court for offences they have allegedly committed in the exercise of their duties. The same rule applies in the case of offences allegedly committed by

ministers outside the exercise of their duties and for which they are tried during the exercise of their duties.

## Section II

### On responsibilities

#### Article 86

#### Article 87

Article 88 The Prime Minister bestows ranks within the army. He appoints civil servants to positions in the general and foreign affairs administrations of the State, but for those exceptions created by the laws. He makes appointments to other positions only by virtue of specific legal provisions.

Article 89 The Prime Minister makes decrees and regulations required for the execution of laws, without ever having the power either to suspend the laws themselves or to grant dispensation from their execution.

#### Article 90

Article 91 The \_\_\_\_\_ - has the right to remit or to reduce sentences passed by judges, except regarding what has been ruled on concerning ministers and members of the Provincial Governments.

Article 92 The \_\_\_\_\_ may not pardon a minister, or a member of a Community or Provincial Government convicted by the Supreme Court, except at the request of the House of Representatives or of the Parliament concerned.

Article 93 The Prime Minister may mint money, in execution of the law.

Article 94 The \_\_\_\_\_ may confer titles of nobility, without ever having the power to attach privileges to them.

Article 95 The Prime Minister grants military orders, with consideration of the rules laid down by the law.

## Section II

### On the Constitutional Court

Article 96 There is for all Iran a Constitutional Court, the composition, competences and functioning of which are established by the law. This Court rules by means of judgments on the violation of any articles of the constitution. A matter may be referred to the Court by any authority designated by the law, by any person that can prove an interest or, pre-judicially, by any court.

## Chapter VII

### ON Judicial Power

Article 97 Disputes about civil rights belong exclusively to the competence of the courts.

Article 98 Disputes about political rights belong to the competence of the courts, except for the exceptions established by the law.

Article 99 A court and a body capable of rendering judgment can only be established by virtue of a law. No extraordinary courts or commissions may be created, no matter under which designation.

Article 100 There is a Supreme Court for all Iran. This Court has no competence over the substance of the case.

Article 101 Court hearings are public, unless such public access endangers morals or the peace; if such is the case, the Court so declares in a judgment. In cases of political or press offences, proceedings can only be conducted in camera on the basis of a unanimous vote.

Article 102 Each judgment is supported by reasons. It is pronounced publicly.

Article 103 A jury is sworn in for all criminal matters, as well as for political and press offences, except for press offences motivated by racism or xenophobia.

Article 104 Judges are independent in the exercise of their jurisdictional competences. The public prosecutor is independent in conducting individual investigations and prosecutions, without prejudice to the right of the competent minister to order prosecutions and to prescribe binding directives on criminal policy, including policy on investigations and prosecutions.

Article 105 Judges are appointed for life. They retire at an age determined by the law and receive the pension provided for by the law. No judge can be deprived of his post or suspended except by a court decision. The transfer of a judge can only take place by his appointment to a new position and with his consent.

Article 106 The King appoints and dismisses officials of the public prosecutor's offices attached to the courts.

Article 107 Salaries of members of the judiciary are determined by the law.

Article 108 A judge cannot accept a salaried position from a Government, unless this position is exercised free of charge, and even then, such a position must not entail an incompatibility as determined by the law.

Article 109 There are five appeal courts in Iran: the geographic jurisdiction of whom will be decided by the Houses.

Article 110 There are military courts when a state of war exists. The organization of the military courts, their powers, their members' rights and obligations as well as their members' terms of office are determined by the law. There are commercial courts in the places determined by the law. The law lays down rules for their organization, their powers, the way their members are appointed as well as their members' terms of office. The law also lays down rules for the organization of the labor courts, their powers, the way their members are appointed as well as their members' terms of office. There are courts for the enforcement of penalties in the places determined by the law. The law lays down rules for their organization, their powers, the way their members are appointed as well as their members' terms of office

Article 111 The Supreme Court makes decisions in conflicts of powers in the manner provided for by the law.

Article 112 Courts only apply general, provincial or local decisions and regulations if they are in accordance with the law.

## Chapter VIII

### On Finances

Article 113 § 1. Taxes to the benefit of the State can only be introduced by a law. § 2. Taxes to the benefit of a Province can only be introduced by a provincial law or a rule.

Article 114 Taxes to the benefit of the State or Province are subject to an annual vote. The rules which introduce them are valid only for one year if they are not renewed.

Article 115 No privileges regarding taxes can be introduced. No exemption or reduction of taxes can be introduced except by a law.

Article 116 Each year, the House of Representatives passes the law that settles the final accounts and approves the budget. However, the House of Representatives fixes its operating allowances annually. All State receipts and expenditure must be included in the budget and in the accounts.

Article 117 No pension or gratuity payable by the public treasury can be attributed other than by virtue of a law.

Article 118 Members of the Court of Audit are appointed by the House of Representatives for a term established by the law. This Court is responsible for examining and validating the general administration accounts and the accounts of all accounting officers answerable to the public treasury.

Article 119 The salaries and pensions of representatives of organizations recognized by the law as providing moral assistance according to a non-denominational philosophical concept are paid for by the State; the amounts required are charged annually to the budget.

## Chapter IX

### On the National Military and the Police Service

Article 120 Army recruitment methods are determined by the law. The law also regulates the promotion, the rights and the duties of military personnel.

Article 121 Military quotas are subject to an annual vote. The law that determines them is valid only for one year if it is not renewed.

Article 122 The organization and competence of the integrated police service, structured at two levels, are regulated by the law. The essential features of the status of the members of the personnel of the integrated police service, structured at two levels, are regulated by the law. Transitional provision However, the \_\_\_\_\_ can decide upon and implement the essential features of the status of the members of the personnel of the integrated police service, structured at two levels, provided that this decree, with regard to these features, is confirmed by the law.

Article 123 Foreign troops may only be admitted to the service of the State or occupy or cross the territory by virtue of a law.

Article 124 Military personnel can only be deprived of rank, honors and pensions in the manner described by the law.

## Chapter X

### General Provisions

Article 125 The Constitution cannot be wholly or partially suspended.

Article 126 From the day on which the Constitution becomes enforceable, all laws, decrees, decisions, regulations and other acts that are contrary to it are abrogated. Article 189 The text of the Constitution is drafted in Dutch, in French and in German.

Article 127 No law or decision, or regulation of general, provincial or municipal administration is binding until it has been published in the manner described by the law. Article 191 All foreigners on Belgian soil benefit from the protection provided to persons and property, except for those exceptions provided for by the law.

Article 128 An oath can only be made obligatory by virtue of a law. The law determines the wording.

Article 129 The Iranian Nation adopts green, white, red colors, and as arms of the Nation the Lion, Sun, Sword of Iran in gold color at the center of the middle white third of the flag with the motto: Good Thoughts, Good Deed, Good Words.

Article 130 The city of Tehran is the capital of Iran and the seat of the National Government.

## Chapter XI

### On the Revision of the Constitution

Article 131 The National legislative power has the right to declare that there are reasons to revise such constitutional provision as it determines. Following such a declaration, the House is automatically dissolved. The new House is then convened. The new House make decisions, in common accord with the King, on the points submitted for revision. In this case, the House can only debate provided that at least two thirds of the members who make up the House are present; and no change is adopted unless it is supported by at least two thirds of the votes cast

Article 132 No constitutional revision can be started or pursued during times of war or when the Houses are prevented from meeting freely on sovereign territory.

Article 133 During a regency, no changes can be made to the Constitution regarding the constitutional powers of the \_\_\_\_\_ and Articles 73 to 76, 79 to 83, 98 and 144 of the Constitution.

Article 134 In agreement with the \_\_\_\_\_, the Constituent House can change the numbering of articles and of subdivisions of the articles of the Constitution, as well as the subdivisions of the latter into titles, chapters and sections, modify the terminology of provisions not submitted for revision in order to harmonize them with the terminology of new provisions. In this case, the Houses can debate only provided that at least two thirds of the members who make up each House are present; and no change will be adopted unless it is supported by at least two thirds of the votes cast.

\* This document is meant to serve as a draft constitution until the Constitutional Convention made of representatives of Iranian nation are elected to draft the final constitution of the Iran. Any legislative act adopted by this constitution must be approved by Constitutional Convention and ratified by the Majlis, which will be formed subsequent to the dissolution of the Constitutional Convention in order to become law.

Contact Information - We welcome comments and changes to this draft Constitution. Please contact us at:

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