

Draft Constitution
of the
Islamic Republic of Iran



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Hamid Algar

Professor of Persian and Islamic Studies
University of California, Berkeley.

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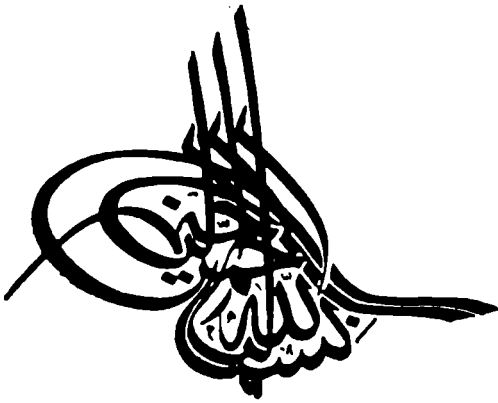


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Chapter One: General Principles

ARTICLE 1—The form of government of Iran is that of an Islamic Republic, chosen by a 98.2% majority of the Iranian people in the referendum of Farvardin 9 and 10, 1358 (solar Islamic calendar—March 29 and 30, 1979), held after the victorious Islamic revolution.

ARTICLE 2—The system of government of the Islamic Republic is derived from the principle of *tauhid*, and is based on the authentic, creative and revolutionary culture of Islam, with particular emphasis on the value and dignity of man, his responsibility toward himself, the fundamental role of *taqva* (piety) in his development, the negation of all forms of cultural, political and economic discrimination and dominance, and the necessity of utilizing the beneficial achievements of human science and culture with a view to complete adherence to all the divine teachings of Islam.

ARTICLE 3—Public opinion is the basis of the government, and in accordance with the command of the Qur'an, (contained in the verses) "consult them on affairs" (3:159) and "their affairs are by consultation among them," (42:38), the affairs of the country must be settled by the elected consultative bodies of the people, with the competences and in the form specified.

ARTICLE 4—In the establishment of a society based on *tauhid*, the Islamic Republic of Iran regards the spirituality and ethics of Islam as the fundament of political, social and economic relations.

ARTICLE 5—On the basis of the verse, "O mankind, We have created you from male and female and made you peoples and tribes in order that you may recognize each other; verily the noblest of you in the sight of God is the most Godfearing among you" (Qur'an, 49:13), all peoples (*aqvam*)

in the Islamic Republic of Iran, such as Persians, Turks, Kurds, Arabs, Baluchis, Turkomans and others, will enjoy completely equal rights. No one has preference over anyone else except by virtue of *taqva* (piety).

ARTICLE 6—In the Islamic Republic of Iran, freedom and independence are inseparable from each other. No individual, group, office or authority has the right to infringe in the slightest on the independence and territorial integrity of Iran under the pretext of exercising freedom; to withdraw freedom of opinion, freedom of expression, freedom of the pen, and other legitimate freedoms from anyone, in the name of preserving the independence and territorial integrity of the country; or to lay down laws to this effect, except in the case of war.

ARTICLE 7—The Islamic Republic of Iran has as its ideal the happiness of man throughout human society, and considers the attainment of independence, freedom and just government to be the right of all peoples in the world. While scrupulously refraining from all forms of aggressive intervention in the internal affairs of other nations, it therefore protects the just struggle of the oppressed and deprived in every corner of the globe.

ARTICLE 8—The Islamic Republic of Iran, fully observing the economic criteria of Islam, promotes the national industry and agriculture. At the same time it makes use of the advanced science and technology of the world with respect to industry and agriculture, while fully preserving the political and economic independence of the country, preventing any form of dependence of society on others, and shunning the acceptance of the social system prevailing over them.

ARTICLE 9—Effort, labor and the fruit thereof are the rights of everyone. No one can deprive another of the possibility of effort and labor in the name of official ownership and his own work. Everyone must be provided with the possibility of effort and labor in such fashion that nobody is misused or exploited by others.

ARTICLE 10—The Islamic Republic of Iran must provide educational facilities for all people in the country in uniform fashion so that everyone is able to benefit from education and opportunities for growth and development in accordance with his abilities, without restricted facilities blocking his path.

ARTICLE 11—The family is considered the fundamental unit of the revolutionary society of Iran. Laws must encourage the stability of marriage on the basis of shared belief and affection. In the drawing up of the (relevant) laws, the rights of the family will be given priority over the individual rights of the spouses. The relations between women and men must be on the basis of purity, *taqva* (piety) and elevated human values, not outward material pretension and the satisfaction of capricious desire.

ARTICLE 12—Since the education of children devolves on the father and mother, and particularly the latter during infancy, the education of girls is to be regarded as the primary duty of educational institutions. Laws regulating family affairs must make provision for the moral and material facilities required by the mother to perform with peace of mind her valuable task of motherhood and the other responsibilities that devolve upon her in a revolutionary Islamic society.

Chapter Two: Official Religion of the Country

ARTICLE 13 — The official religion of the country is Islam and the Ja'fari school of thought, which is the school of thought followed by the majority of the Muslims of Iran. Other Islamic schools of thought, including the Zaydi, Hanafi, Maliki, Shafi'i and Hanbali are valid and are to be respected, and in areas of the country where Muslims following these schools of thought constitute the majority, local regulations, within the bounds of the competence of (local) councils, are to be in accordance with the respective schools of thought. With respect to matters of

personal status and religious education, every Muslim acts in accordance with his own school of thought, in whatever area of the country he may be.

ARTICLE 14—Zoroastrians, Jews and Christians are recognized in Iran as official religious minorities. They are free in performing their religious rites, and act according to their customs in matters of personal status and religious education.

Chapter Three: The Right of National Sovereignty and the Powers deriving therefrom

ARTICLE 15 —The right of national sovereignty belongs to the entire people and must be exercised for the public good. No individual or group can arrogate to itself this God-given and universal right, or exercise it for the sake of its own particular purposes or those of a given group.

ARTICLE 16—The powers deriving from the exercise of the right of national sovereignty consist of the legislative, the judiciary and the executive, which must always be independent of each other. Communication between them is to be by means of the president of the republic, in accordance with this law (= constitution).

ARTICLE 17—The exercise of the legislative power is by means of the national consultative assembly which consists of the elected representatives of the people. Legislation approved by this body, after receiving the signature of the president of the republic, is communicated to the judiciary and the executive for implementation. In important matters relating to the destiny of the country and economic, political and social questions of great significance, it is possible for the legislative power to be exercised by means of a referendum and direct reference to the votes of the people.

ARTICLE 18—The exercise of judiciary power is by means of courts of justice that are to be formed in accordance with the criteria of Islam and to examine and settle cases, protect the rights of the public, and enact the justice of

Islam.

ARTICLE 19—The exercise of executive power is by means of the president of the republic and the council of ministers.

Chapter Four: Official Flag, Language and Script of the Country

ARTICLE 20 —The official flag of Iran is green, white and red, and bears the special emblem of the Islamic republic.

ARTICLE 21—The common language and script of Iran is Persian, and all official texts and correspondence must be in this language and script. However, the use of local languages in local schools and press is permitted.

Chapter Five: The Rights of the People

ARTICLE 22—All members of the people, both women and men, are equal before the law.

ARTICLE 23—The belief, dignity, life, dwelling and occupation of the individual are respected and immune from all attack, unless sanctioned by the law.

ARTICLE 24—Postal communications and telephone conversations are immune from all examination and recording. The disclosure of telegraphic and telex communications, wilful failure to transmit them and eavesdropping on telephone conversations, are forbidden, except where sanctioned by law.

ARTICLE 25—The press is free in the publication of all matters and the expression of opinions, except in matters that are contrary to public morality, insult religious belief, or slander and assault the honor and good repute of individuals, and in the diffusion of lies. Law will define press crimes and the manner of their punishment and judgment.

ARTICLE 26—The formation of religious, political and professional parties, associations and societies is free, on condition that they do not negate the principles of independence, freedom, sovereignty and national unity, or the basis of the Islamic Republic. The participation of individuals in such groups is free. No one may be prevented from participating in the religious, political or social group of his choice, or be compelled to participate in any such group.

ARTICLE 27—The holding of peaceful assemblies is free. Regulations concerning assemblies and marches in streets and public squares are to be determined by law.

ARTICLE 28—Everyone has the right to choose any profession he wishes, if it is not opposed to Islam and the public interest.

ARTICLE 29—The right to benefit from health, drug, unemployment and old age insurance is a universal right, and the government has the duty of providing every individual in the country with these forms of insurance by drawing on the national income in accordance with (relevant) laws. Peasants, workers and low income groups have priority in this respect.

ARTICLE 30—Nationality may be withdrawn from individuals only if another state has accepted them as its nationals. Foreign nationals may acquire Iranian nationality within the framework of the relevant laws.

ARTICLE 31—Everyone has the right of access to a competent court in order to present his case. No one can be turned away from the court that must judge his case, in accordance with law, or send him to a different court.

ARTICLE 32—Innocence is to be presumed and no one is to be regarded as a criminal unless his crime has been established by the competent court.

ARTICLE 33—The passing and execution of sentence must be in accordance with the law.

ARTICLE 34—No act or failure to act is considered a crime except with reference to a law laid down before its occurrence.

ARTICLE 35—No one can be arrested except in accordance with the judgement and procedure established by law. In the case of arrest, charges and supporting evidence must be communicated to the prisoner within a maximum of twenty-four hours.

ARTICLE 36—Bodily or psychological torture for the purpose of extracting confessions is forbidden. It is not permissible to compel individuals to give testimony or take oaths, and any confession, testimony or oath obtained in this fashion is worthless and invalid. Punishments for the infringement of this principle are determined by law.

ARTICLE 37—All affronts to the self-respect and human dignity of persons arrested, imprisoned or banished in accordance with the law, whatever form they may take, are forbidden and punishable.

ARTICLE 38—No Iranian can be banished from his preferred place of residence or compelled to live in any locality, except in cases established by the law.

ARTICLE 39—No right can be used in a sense contrary to the fundamentals and principles for the sake of which it was established.

ARTICLE 40—Private property attained by legitimate means is to be respected within the limits established by the law.

ARTICLE 41—No property can be confiscated from its owner under the pretext of public need, except with the approval of the law and the payment of just compensation.

ARTICLE 42—Everyone has the right to enjoy, within the limits of the law, material and moral protection for his scientific, literary, artistic and technical works.

ARTICLE 43—No one can make the exercise of his rights a pretext for harming others or the public interest.

ARTICLE 44—Cultivable lands cannot be left uncultivated without a valid excuse. The law establishes guidelines for the implementation of this principle.

ARTICLE 45—The diversion of cultivable land to non-

agrarian purposes is forbidden, except in cases of over-riding need as specified in law.

ARTICLE 46—Subterranean mineral and marine resources, forests, woods, rivers and other public waterways, uncultivated lands and pastureland, are public property, and the form of their administration and use is established by law.

ARTICLE 47—Private property in industry, agriculture or trade will be nationalised by the national consultative assembly in cases where it harms or distracts from the public interest.

Chapter Six: The Legislative Power

First section: The National Consultative Assembly

ARTICLE 48—The national consultative assembly consists of the representatives of the people elected directly and by secret suffrage.

ARTICLE 49—The term of membership in the national consultative assembly is four years. Elections for each term must take place before the end of the preceding term, so that the Islamic Republic is never without an assembly.

ARTICLE 50—There are to be two hundred and seventy members of the National Consultative Assembly. After every ten years, if the population of the country has increased, one representative will be added to every electoral district for every 150,000 persons. The Zoroastrians and Jews of the country will each elect one representative, and the Christians will elect two separate representatives. If the population of these minorities increases, they will be given additional representatives at the ratio of one per 150,000. Regulations concerning elections are established according to law.

ARTICLE 51—Members of the assembly must swear the following oath and put their signature to the following text before the assembly enters into official session:

I, the signatory of this document, swear by Almighty God, the Noble Qur'an and my honor as a human being,

that I will guard the accomplishments of the Islamic revolution of the Iranian people and the fundamentals of the Islamic Republic; protect the trust entrusted to me by the people as a just trustee; observe *taqva* (piety) in fulfilling my duties as a member of the assembly; be constantly devoted to the independence and advancement of the country and the protection of the rights of the people; defend the sanctity of the constitution; and in speech, writing and the expression of my opinions, think only of the independence of the country and the freedom of the people.”

(The religious minorities will mention their own sacred books when swearing this oath).

ARTICLE 52—The manner of election of the president and governing body of the assembly, the number of commissions, their term of office, and matters relating to the discussions and disciplinary regulations of the assembly will be determined by the internal protocols of the assembly.

ARTICLE 53—The deliberations of the national consultative assembly must be open and a full report of them must be published in the official gazette. Upon the demand of the president of the republic, the prime minister, one of the ministers, the president of the assembly, or ten representatives, a closed session may be held, with the participation of all the representatives or a particular number of them. In the latter case, any legislation approved by this particular group of representatives becomes valid only with the approval of the assembly (as a whole).

ARTICLE 54—Ministers have the right to participate in sessions of the assembly either in a group or individually, and if the assembly deems it necessary, they are obliged to attend. Conversely, whenever they request it, their statements are to be heard. Ministers may be accompanied by their advisors.

Second section: Powers and Competence

ARTICLE 55—The national consultative assembly can establish laws on all matters, within the limits of its competence as laid down in the constitution.

ARTICLE 56—The position of members of the assembly pertains to the individual (elected) and cannot be delegated. Every member is responsible to the entirety of the nation. The assembly cannot assign the power of legislation to a (single) individual or group. But in cases of overriding need it can delegate the establishment of certain laws to its internal commissions. In this case, the laws will be executed on an experimental basis, for a period specified by the assembly, and their final approval will depend on the assembly (as a whole).

ARTICLE 57—The interpretation of common law falls within the competence of the national consultative assembly. The intent of this article does not prevent the interpretation that judges may make in the course of cassation.

ARTICLE 58—Government buildings and properties forming part of the national patrimony cannot be transferred except with the approval of the national consultative assembly.

ARTICLE 59—Changes in the boundaries of the country are possible only with the approval of three quarters of all representatives in the national consultative assembly.

ARTICLE 60—The granting of concessions by the government for the formation of companies and public institutions, and the granting of monopoly concessions for commercial, industrial, agricultural or mineral enterprises, is forbidden without the approval of the national consultative assembly.

ARTICLE 61—Treaties, international undertakings and other agreements of similar nature must be approved by the national consultative assembly.

ARTICLE 62—The employment of foreign experts and advisers by the government, in accordance with essential need, must be approved by the national consultative assembly.

ARTICLE 63—The taking and giving of loans or grants-in-aid by the government, whether at home or abroad, must be approved by the national consultative assembly.

ARTICLE 64—Bills are presented to the national con-

sultative assembly after receiving the approval of the council of ministers. Draft bills may be tabled in the national consultative assembly if sponsored by at least fifteen members.

ARTICLE 65—Drafts, proposals and amendments to bills tabled by members that tend to the reduction of the public income through the increase of public expenditure may be tabled in the assembly only if means for compensating for the decrease in income or for securing the new expenditure are also specified.

ARTICLE 66—The national consultative assembly cannot enact laws that are in conflict with the indisputable principles of Islam and the constitution. The determination (of any possible conflict) is the responsibility of the Council of Guardians of the Constitution, in accordance with article one hundred and forty-four.

ARTICLE 67—The national consultative assembly has the right to investigate and examine all the affairs of the country.

ARTICLE 68—The establishment of martial law is forbidden, except in time of war and in accordance with law.

ARTICLE 69—Whenever a member of the assembly poses a question to a minister on a subject relating to his duties, the minister is obliged to answer, and his answer must not be delayed more than ten days, except with a valid excuse.

ARTICLE 70—Members of the assembly can interpellate the government. Interpellations can be tabled if they bear the signatures of ten members. Answers to interpellations must be given within ten days from the date of their being submitted, by the government or the minister concerned. After hearing the government's answer, the assembly will give the government a vote of confidence or of no confidence. In the latter case, the government is dismissed and the prime minister or minister who was the subject of the interpellation cannot participate in the next cabinet to be formed.

ARTICLE 71—Members of the assembly cannot be prosecuted or arrested for opinions expressed in the assembly or views uttered in the course of performing their duty. But

if a member commits a misdemeanor or witnessed crime, he will immediately be prosecuted. The assembly must be notified of his prosecution. If the member be accused of committing an unwitnessed crime, he can be prosecuted if immunity be withdrawn.

ARTICLE 72—The council of ministers, after being constituted and before all other business, must obtain a vote of confidence from the assembly. During the period of its administration, the government may also request a vote of confidence from the assembly on important questions or matters at dispute.

ARTICLE 73—Whoever has a complaint with respect to the administration of the country, the method of legislation or judicial policy, may bring it to the attention of the national consultative assembly. If his complaint relates to the assembly itself, it must give him an adequate answer, and if it relates to the state or to judicial policy, it must be forwarded for investigation to the ministry responsible.

ARTICLE 74—In order to attain public prosperity as quickly as possible and to advance reforms in the area of health, education, culture and the economy, having due regard for local needs and (the necessity) of seeking the collaboration of the people for these purposes, the administration of the affairs of each village, division, city, municipality and province will be under the supervision of councils to be known as village, division, city, municipality and provincial councils. The members of these councils will be elected by the people of the locality (in question). The powers, workings, and mode of supervision of these councils, as well as their interrelations, must observe the principles of national unity, territorial integrity and the primacy of the central government, and will be determined by law.

Chapter Seven: The Executive Power

First Section: The President of the Republic

ARTICLE 75—The president of the republic represents the highest authority in the country with respect to internal affairs, foreign relations and the implementation of the constitution. He is entrusted with the ordering of relations be-

tween the three powers and with heading the executive power.

ARTICLE 76—The president of the republic must be a Muslim, of Iranian origin and an Iranian subject.

ARTICLE 77—The president of the republic is elected for a four-year term by direct consultation of the popular vote. His successive election for another term is possible.

ARTICLE 78—Candidates for the post of president of the republic must officially announce their candidacy. Law establishes the manner in which the president of the republic is to be elected.

ARTICLE 79—The president of the republic is elected by an absolute majority of votes of all participants (in the election). But if none of the candidates is able to win such a majority in the first round of voting, voting will take place a second time on Friday of the following week. In the second round, only the two candidates that received the most votes in the first round will participate. However, if some of the candidates that won (votes) in the first round withdraw from participation in the elections, the final choice will be between the two candidates that won more votes than the others.

The Council of Guardians of the Constitution will supervise the elections and announce the result. In the first round of elections for the president of the republic, supervision will be exercised by the Supreme Body Committee of Observers.

ARTICLE 80—The election of a new president of the republic must take place a minimum of one month before the end of the term of the preceding president. In the interval between the election of the new president and the end of the term of the preceding president, the outgoing president performs the duties of president of the republic.

ARTICLE 81—If any of the candidates should die ten days before the day for the casting of votes, the elections will be postponed for two weeks. Similarly, if one of the candidates holding the most votes dies in the interval between

the first and second rounds of voting, the period for the holding of elections will be renewed.

ARTICLE 82—The president of the republic must read and put his signature to the following oath at a session of the national consultative assembly attended by the head of the supreme court of the country and the members of the Council of Guardians of the Constitution:

“As president of the republic, I swear, in the presence of the people of Iran, upon God Almighty and Exalted and the Noble Qur’an, that I will be a guard of the constitution and the protector of the official religion of the country; that I will devote all my being, capacities and competence, to the service of the people, the elevation of the country, the propagation of morals, and the support of truth and justice; that I will protect the freedom and dignity of individuals and the rights that the constitution has accorded the people; that in guarding the frontiers and political, economic and cultural independence of the country I will not shirk any (necessary) measure; that, seeking help from God and following the Prophet and the Immaculate Imams—peace be upon them—I will guard the power visited in me as a sacred trust by the people, as a faithful and Godfearing trustee, and surrender it to whomever the people may elect after me; and that I will shun all arbitrariness.”

ARTICLE 83—All laws are to be signed by the president of the republic. If he refrains from signing a law within the period stipulated, this cannot suspend or delay the application of the law in question beyond the expiration of that period, except in cases provided for in the constitution. The period stipulated for the signature of laws is ten days beginning with the date of the communication of the law to the prime minister.

ARTICLE 84—The president of the republic has the right, within the period assigned for the signature (of legislation), to return to the national consultative assembly for modification and further examination any law approved by the assembly that he deems contrary to the constitution, the indisputable principles (of Islam) and the ordinances of the *shari’a*. In so doing, he must mention his reasons. In this case, a law that is approved by the national consultative

assembly after renewed deliberation must be signed within the stipulated period. If the president of the republic still deems it contrary to the constitution, the indisputable principles (of Islam) and the ordinances of the *shari'a*, he must inform the Council of Guardians.

ARTICLE 85—In financial matters also, whenever the president of the republic deems the application of a law not to be in the (national) interest, he can demand a reexamination of the matter by the assembly, again mentioning his reasons. After its approval a second time, he must sign it. His request for reexamination must take place before the period stipulated for signature has elapsed.

ARTICLE 86—In cases where, upon the proposal of the president of the republic, the approval of a treaty or a bill is put to a referendum, the period stipulated for the signature of the law begins from the date on which the result of the referendum is announced by the Council of Guardians (of the Constitution).

ARTICLE 87—The president of the republic selects the prime minister.

ARTICLE 88—The president of the republic is responsible to the people within the limits of his powers.

ARTICLE 89—If any difference of opinion should arise between the executive power and the national consultative assembly, the president of the republic can seek the people's approval, by way of a referendum, for the dissolution of the national consultative assembly. If it is dissolved, new elections must be announced immediately and arrangements be made for the new assembly to begin its work a maximum of six weeks after the dissolution. The president of the republic can exercise this right only once during each term in office.

ARTICLE 90—The president of the republic may proclaim a general amnesty after receiving the approval of the national consultative assembly. The president of the republic also has the right to commute sentences within the framework of the laws.

ARTICLE 91—The award of decorations and titles of honor is a prerogative of the president.

ARTICLE 92—The president of the republic signs the credentials of ambassadors sent to foreign countries and receives the credentials presented by the ambassadors of foreign countries.

ARTICLE 93—The president is the supreme commander of the armed forces. The chief of the general staff of the army of the Islamic Republic is appointed on the recommendation of the council of ministers and with the approval of the president of the republic.

ARTICLE 94—The president or his legal representative signs pacts concluded by the Iranian state with other states, as well as treaties relating to international organizations, after the approval of the national consultative assembly has been obtained.

ARTICLE 95—The president declares war and armistices and concludes peace treaties after the approval of the national consultative assembly has been obtained, except in urgent cases and emergencies when the president of the republic may decide in consultation with the council of ministers.

ARTICLE 96—If necessary, the president of the republic may convey his views to the members of the national consultative assembly by means of a message to be read in the assembly by the prime minister. The message will not be discussed.

ARTICLE 97—In case of the absence or illness of the president of the republic, his duties will be performed by a council called the temporary presidential council, consisting of the prime minister, the president of the national consultative assembly, and the president of the high court of the country, on condition that the condition excusing the president not last more than two months.

ARTICLE 98—In case of the death, resignation or prolonged illness of the president, or other circumstances preventing him from performing his functions, all of the functions and powers of the president of the republic will be assigned to the temporary presidential council, with the exception of the power of requesting the reexamination of legislation approved by the assembly and the holding of referendums. Within a minimum of a month and a max-

imum of fifty days after assuming its responsibilities, the council will take steps to secure the election of a new president.

ARTICLE 99—During the period when the functions of president of the republic are assigned to the temporary presidential council, it is not possible to interpellate the government or to table a revision of the constitution.

ARTICLE 100—Whenever the president deems it necessary, sessions of the council of ministers will take place in his presence and under his chairmanship.

ARTICLE 101—Decrees and protocols of the government, after being approved by the council of ministers, will be communicated to the president of the republic, and if he deems them contrary to the law, he can send them back to the council of ministers for reexamination.

ARTICLE 102—If the president of the republic is accused of treachery or conspiracy against the security of the country, the national consultative assembly must investigate the charge and determine punishment in accordance with common law. After the vote of the assembly for prosecution and until the delivery of the final verdict of the supreme court, the president of the republic will be suspended from office, and his functions will be performed by the temporary presidential council.

Second Section: The Council of Ministers

ARTICLE 103—Ministers will be appointed upon the proposal of the prime minister and with the approval of the president of the republic, and will be presented to the assembly for a vote of confidence. The administration of the affairs of the country will be undertaken by the council of minister and the executive responsibility for all civil and military organs belongs to this council.

ARTICLE 104—The prime minister is the head of the council of ministers, he supervises the tasks of the ministers, taking all necessary measures to coordinate the decisions taken by the government, and with the cooperation of the ministers he determines the policies of the government

and assures the implementation of laws. The prime minister is responsible to the assembly for the actions of his ministers.

ARTICLE 105—The prime minister retains his position as long as he enjoys the confidence of the assembly. The resignation of the government is to be presented to the president of the republic, and the (outgoing) government is to continue in its functions until a new government is appointed.

ARTICLE 106—No one can attain the position of prime minister or minister unless he is Muslim, of Iranian origin and a subject of Iran.

ARTICLE 107—The council of ministers is responsible to the national consultative assembly, and continues to exercise its functions as long as it enjoys the confidence of the assembly.

ARTICLE 108—With the approval of the president of the republic, the prime minister can dismiss a minister and appoint another in his place, but if half the members of the council of ministers change after an expression of confidence in the government by the assembly, the government must seek a renewed vote of confidence.

ARTICLE 109—Each of the ministers is responsible to the assembly for his own duties, but in matters that have been approved by the council of ministers (as a whole), he is also responsible for the actions of the others.

ARTICLE 110—In addition to instances in which the council of ministers or a (single) minister is given the responsibility for drawing up regulations for the implementation of laws, the council of ministers has the right to establish decrees, regulations and protocols in order to fulfil its administrative duties, secure the implementation of laws, and organize administrative bodies. The content of such regulations, however, must not oppose the letter or spirit of the law. Each minister also has the right to establish regulations and issue circulars within the limits of his functions and with the approval of the council of ministers.

ARTICLE 111—The settling of litigation relating to public and state property and the referral thereof to arbitration is in each case dependent on the approval of the council of ministers.

ARTICLE 112—If the prime minister and ministers are accused of treason or plotting against the national security of the country, the accusation will be investigated in the assembly. If the majority of the assembly so votes, the accused will be tried by the full bench of the supreme court of the country. Punishment for such crimes will be in accordance with common law.

ARTICLE 113—Accusations of common crime against the president of the republic, the prime minister and the ministers will be investigated in common courts of justice after the approval of the national consultative assembly has been obtained.

Third Section: Financial Affairs

ARTICLE 114—No form of taxation can be imposed except in accordance with law. Causes for exemption and the reduction of taxes are also established by law.

ARTICLE 115—The taxation system must be just and based on the needs of the people, and so established that those more blessed with natural gifts will assume a greater share of the burden of public expenditure.

ARTICLE 116—The general budget of the country will be drawn up by the government in the manner specified by law and submitted to the national consultative assembly for approval. Any change in the figures contained in the budget will be in accordance with the procedures established in law.

ARTICLE 117—All sums received by the government will be concentrated in accounts at the central treasury, and all payments will be from funds approved in accordance with law.

ARTICLE 118—A central accounting agency together with its administrative organs is to be set up and appointed in

Tehran and provincial centers in accordance with the law.

ARTICLE 119—The national consultative assembly will choose an adequate number of individuals as advisors to the central accounting agency in the fashion prescribed by the law.

ARTICLE 120—The accounting agency will investigate and/or audit, in the fashion prescribed by law, all the accounts of ministries, state institutions and companies and other organizations that benefit in any way from the general budget of the country. It will ensure that no expenditure exceeds the funds approved and that all sums are spent for the proper purpose. It will collect relevant accounts, records and documents, and submit a bill for the liquidation of each year's budget to the national consultative assembly, together with its own comments.

Fourth Section: The Army

ARTICLE 121—The army of the Islamic Republic of Iran has the duty of guarding the independence and territorial integrity of the country.

ARTICLE 122—No foreign officer or soldier will be accepted into the service of the Iranian military. The stationing of foreign military forces in the country, or their passage through it, is possible only on condition that the interests of the country be observed, and the approval of three quarters of the national consultative assembly be obtained.

ARTICLE 124—The establishment of any kind of foreign military base in Iran, even for peaceful purposes, is forbidden.

ARTICLE 125—Promotion and the withdrawal of military rank is in accordance with law.

Chapter Eight: The Judiciary Power

ARTICLE 126—Courts of justice are the official authority for dealing with public grievances. The formation of courts and the establishment of their competences is dependent

on the provisions of law and no one can establish a court under any pretext whatsoever.

ARTICLE 127—The judiciary power is independent and the president of the republic is the guarantor of its independence. The supreme judicial council is to establish the consequences and requirements of this independence, in accordance with article 138 of the constitution, and it collaborates with the president in preserving it.

ARTICLE 128—The formation of special courts is forbidden except in cases specified in the constitution, but it is possible that certain branches of the common courts should deal with a particular kind of case.

ARTICLE 129—The supreme court is to be formed for the purpose of supervising the correct implementation of the laws in the courts and ensuring uniformity of judicial procedure.

ARTICLE 130—Court judges cannot be removed from the posts they occupy either temporarily or permanently without trial and the establishment of guilt, nor can their places of service or posts be changed without their consent. The change of the place (of service) and post of interrogators is possible, with the approval of the supreme judicial council.

ARTICLE 131—The court must deliver judgement in each case with a view to the laws and the other sources of justice. It cannot deliver a general judgement or create rules.

ARTICLE 132—The judgements of courts must be accompanied by proofs and include (mention of) the articles of law and procedure in accordance with which they are issued. Failure to observe this principle will lead to nullification of the judgement by the supreme court.

ARTICLE 133—Trials are to take place openly unless the court determines that an open trial would be contrary to public order or morality.

ARTICLE 134—Political and press offenses will be investigated in courts of justice in the presence of a jury.

ARTICLE 135—The judge is obliged to find a judgement for every case in the (existing) laws. He cannot refrain from issuing a judgement on the pretext of silence, deficiency, brevity or contradiction in the law.

ARTICLE 136—In cases where the judge is unable to find a judgement for legal cases in the existing laws, he must issue a judgement inspired by the principles of the *shari'a*, common usage (*'urf*), established custom, and whatever be required by justice and the public interest.

ARTICLE 137—Judges of courts are obliged to refrain from executing decrees, protocols, and regulations of the government that are in conflict with the laws or lie beyond the competence of the executive power. Any interested party has the right to demand the abolition of this kind of regulation from the state council.

ARTICLE 138—Military courts are to be established in accordance with law for the investigation of specifically military crimes. Common crimes of all members of the military, together with all crimes of officers, non-commissioned officers and privates, as well as members of the police and gendarmerie are to be investigated in common courts.

ARTICLE 139—The Supreme Judicial Council is entrusted with the administration of matters related to the judiciary power, such as the employment, appointment and dismissal of judges, the changing of their place of service, the delineation of tasks and their promotion, and similar matters. This council is composed of:

- i: Three advisors or heads of division of the supreme court, to be chosen by that body:
- ii: six judges with a record of at least ten years' judicial service, in the fashion laid down by the law:
- iii: the head of the supreme court, who shall also head the council: and
- iv: the prosecutor-general.

The distribution of tasks among the members of the council and its organization are determined by law.

ARTICLE 140—The decree appointing the head of the supreme court, the division heads, the advisors and the pro-

ecutor-general, will be issued over the signature of the president of the republic, and all other decrees will be signed by the minister of justice.

Chapter Nine: Court of Administrative Justice

ARTICLE 141—In order to investigate the complaints, grievances and objections of the people with respect to government officials or units and government protocols, and in order to obtain justice for petitioners, a court will be established under the name of Court of Administrative Justice. The competence, powers and mode of operation of this court will be established by law, with the independence of the judiciary powerfully respected.

Chapter Ten: Council of Guardians of the Constitution

ARTICLE 142—In order to protect the constitution with respect to the conformity to it of common law, a Council of Guardians of the Constitution is established with the following compositions:

I Five *mujtahids* with competence in questions relating to the *sahri'a* and awareness of the demands of the age. The national consultative assembly will choose these five individuals from a list of names proposed by the well-known *maraji-i taqlik*.

II Six experts in legal matters including three professors from faculties of law throughout the country and three judges form the supreme court, both categories being chosen by the national consultative assembly.

ARTICLE 143—These persons are to be elected for a period of ten years, but during the first term, two members of each group will be changed after five years by lottery. Members may not be re-elected. The president of the council is elected by its members.

ARTICLE 144—The council has the authority to examine laws at the request of one of the well-known *maraji-i taqlid*, the president of the republic, the head of the supreme court or the prosecutor-general, on condition that not more than a month has elapsed since the date of the signing of the law.

ARTICLE 145—If the council deems a common law to be in contradiction with the constitution, through being clearly opposed to the undisputed principles of the *shari'a* or other principles (of law), it will return it to the assembly for further consideration, stating its reasons for so doing. The assembly will undertake its review with due regard for the reasons mentioned.

ARTICLE 146—Decisions of the Council of Guardians are valid on the basis of a vote of at least two thirds of its members.

ARTICLE 147—The Council of Guardians is also entrusted with the supervision of the election of the president of the republic and the holding of referendums. The request for a referendum must be made by the president to the republic or two-thirds of the membership of the national consultative assembly and must be submitted to the Council of Guardians for enactment.

Chapter Eleven

ARTICLE 148—If a majority of the members of the national consultative assembly, or the president of the republic, acting at the suggestion of the council of ministers, tables the necessity of revising one or several articles of the constitution, the draft or bill proposing such revision must be drawn up by the assembly or the council of ministers and examined by the national consultative assembly. After being approved by three quarters of the members of the assembly it must be ratified by the people by means of a referendum. The article that provides for the system of government to be Islamic is not covered by this provision.

ARTICLE 149—No one can hold more than one of the following posts. The acceptance of a second post entails resignation from the first.

President of the republic; prime minister; vice premier; minister; acting minister; assistant minister; governor-general; governor; member of the national consultative assembly; member of the Council of Guardians of the Constitution.

The prime minister is excepted from this rule in respect of assuming responsibility for other ministries.

ARTICLE 150—Holding the posts mentioned in the previous article is incompatible with exercising the functions of judge or prosecutor (except in the case of the membership of judges in the Council of Guardians and the supreme judicial council), any kind of governmental administrative function, any kind of employment in institutions all or a part of the capital of which belongs to the government or public institutions the presidency or managing directorship or membership of the managing board of different kinds of private companies, the profession of lawyer and legal consultant. Educational positions in universities and institutions of learning are exempted from this rule.

Chapter Twelve

ARTICLE 151—The free diffusion of information in the mass media (radio and television), that belong to the government must be assured. The media are to be administered under the joint supervision of the three powers in a fashion to be determined by the law.

GLOSSARY

Mujtahid: a scholar of Islamic law able to deduce particular applications through the use of independent reasoning.

Maraji'-i taqlid: mujtahids whose authoritative guidance is followed in matters of Islamic practice and law.

Shari'a: the divinely sanctioned law of Islam, based on the Qur'an and the normative practice of the Prophet Muhammad, and supplemented from other sources.

Taqva: the fundamental Islamic virtue of shunning that which has been forbidden or disapproved by God, in order to preserve human nature in its purity.

Tauhid: the Islamic doctrine of the oneness of God, and the comprehensive world view that flows from it.

Draft Constitution
of the
Islamic Republic of Iran



Translation
Hamid Algar

Professor of Persian and Islamic Studies
University of California, Berkeley.