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Draft Constitution***

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[Text]

POLITICAL CONSTITUTION OF PERU

Chapter I of the Political Constitution of Peru

Text passed by the General Assembly of the Democratic Constituent Congress on 22 February 1993.

Section I

Concerning the Individual and Society

Chapter I

Fundamental Rights of the Individual

Article 1. *Protection of the individual and respect for his dignity are the supreme goal of society and the State.*

All citizens have the duty to *protect and promote the individual.*

Article 2. Every individual has the right:

1. to life, *his identity, his physical, psychic and moral integrity, and his free development and well-being. Such rights exist from the time of conception in all ways that are beneficial.*

2. to equality before the law. *No one may be discriminated against because of his origin, race, sex, religion, opinion, language, economic status or any other reason.*

3. to freedom of conscience and religion, individually or as a member of a group. There is to be no persecution based on ideas or beliefs. *There is no such thing as crimes of opinion.* Public expression of one's beliefs is unrestricted provided such expression does not constitute an offense against morals or a disturbance of the peace.

4. to freedom of information, opinion, expression, and the dissemination of thought through the spoken word, in writing or images, by whatever means of social communication, and without previous authorization, censorship, or impediment whatsoever, according to the law.

Crimes committed by means of books, the press, or other means of social communication are outlined in the Penal Code and are to be tried in the common courts.

Any action that suspends or closes any organ of expression or prevents its free circulation also constitutes a

crime. The right to inform and express opinions includes that of founding means of communication.

5. *to request without being required to show cause and to receive from any public entity, within the time legally allotted and at cost, whatever information is required. Exception is hereby made of information affecting personal privacy and that expressly excluded by law for reasons of national security.*

Banking secrecy and confidentiality concerning taxes may only be lifted at the request of a judge, the attorney general, or a congressional investigative commission in accordance with the law and provided that the information relates to the case.

6. *to assurance that information services, whether or not they are computerized, public or private, will not release information affecting one's personal and family privacy.*

7. to one's honor and good reputation, personal and family privacy, and one's own voice and image.

Any person affected by inaccurate or injurious statements contained in any means of social communication has the right to demand correction free of charge *immediately and proportionate to the wrong*, other legal responsibilities notwithstanding.

8. to freedom of intellectual, artistic, technical and scientific creation, *as well as ownership of such creations and the profit from them.* The government provides access to culture and *promotes its development and dissemination.*

9. to the inviolability of one's home. No one may enter the home or conduct any investigation or search without authorization of the inhabitant or a court warrant, except in the case of flagrante delicto or very grave danger of the same. Exceptions for reasons of health or serious risk are regulated by law.

10. to the inviolability and secrecy of *documents and private communications.*

Communications, telecommunications, or the documents therefrom may only be opened, seized, intercepted, or tapped with a judge's warrant and all the guarantees provided by law. Confidentiality must be maintained for all matters not related to the cause of the search.

Private documents obtained in violation of this precept are legally inadmissible.

Books, receipts, and accounting and *administrative documents* are subject to inspection or auditing by the proper authorities in accordance with the law. *Actions taken along these lines may never include the removal or seizure of such documents without a court order.*

11. to choose his place of residence, to travel throughout the national territory, and to leave and enter, except when limited for reasons of health *or a legal warrant or in application of the law governing aliens.*

12. to assemble peacefully without weapons. Meetings in private places or those open to the public require no previous notice. Those held in public squares and thoroughfares require previous notification of authorities, who may only prohibit them for proven reasons of public safety or health.

13. to form associations and *establish foundations and various forms of legal organization* not for profit, with no previous authorization and in accordance with the law. They may not be dissolved by an administrative resolution.

14. to make contracts for legal purposes, *provided there is no violation of laws governing the public order.*

15. to work freely, subject to the law.

16. to own property and to inherit.

17. to participate, individually or in partnership, in the political, economic, social, and cultural life of the nation. *In accordance with the law, citizens have the right to elect, remove or recall their officials by a legislative initiative or by referendum.*

18. to keep their political, philosophical, religious, or any other type of convictions private, *and to keep professional confidentiality.*

19. *to their ethnic and cultural identity. The government recognizes and protects the ethnic and cultural plurality of the nation.*

Any Peruvian unable to express himself in Spanish has the right to use his own language before any authority through an interpreter. Foreigners enjoy the same right when summoned before any authority.

20. to submit petitions in writing, either individually or collectively, to the proper authorities, who are required to respond to party in question, also in writing, within the time legally allowed and for which they are responsible. *Members of the Armed Forces and the National Police may only exercise the right of petition individually.*

21. to his nationality. No one may be deprived of it. Nor may the individual be deprived of the right to obtain or renew his passport inside or outside the territory of the Republic.

22. to personal freedom and security. Consequently:

a) No one may be required to do anything not ordered by law or prevented from doing what the law does not prohibit.

b) No restriction whatsoever may be placed upon personal freedom, except where prescribed by law. Slavery, servitude, and trading in human beings in any form are prohibited.

c) No one may be imprisoned for debts. This principle does not limit court orders for failure to provide food.

d) No one may be tried or convicted for an act or omission which, when committed, was not previously defined by law, expressly and unequivocally, as a punishable offense, or be given a penalty not provided for by law.

e) Every person is considered innocent until declared responsible in a court of law.

f) No one may be arrested without a written warrant issued by a judge for cause or by police authorities in cases of *flagrante delicto*.

Whatever the case, the individual under arrest must be surrendered to the proper court within 24 hours or in the space of time necessary to travel a certain distance.

Exceptions are made in cases of terrorism, espionage, and illegal trafficking in drugs in which police authorities may make a preventive arrest of those implicated for a period not to exceed two weeks, provided they so notify the Ministry of Justice and the Judge, who may assume jurisdiction before that deadline.

g) Every individual will be informed immediately and in writing of the cause or reasons for his arrest. He has the right to communicate *in person* and to legal counsel of his own choosing as soon as he is summoned or arrested by any authority.

h) No one may be held incommunicado except when essential for the purpose of shedding light on a crime and in the manner and for the time prescribed by law. The authority is required to indicate, without delay and in writing, the place where the individual arrested is being held and is responsible for him.

i) *No one may be the victim of physical or psychological violence or be subjected to torture or inhumane or humiliating treatment. Anyone may immediately request a medical examination of the person wronged or prevented from appealing to authorities himself.* Statements obtained by violence have no value. Anyone resorting to such violence will be held accountable.

23. *to peace, tranquillity, enjoyment of his free time and leisure, as well as to the enjoyment of a suitable, balanced environment where he can live his life.*

24. *to self-defense.*

Democratic Constituent Congress

Constitutional and Regulatory Committee

(Texts approved by the Constitutional Committee subject to their placement, numbering, and editing.)

Article 3. *The constitution does not protect the abusive practice of the law.*

Article 4. Fundamental rights and guarantees also govern legal entities insofar as they are applicable to them.

Article 5. The enumeration of rights recognized in this Chapter does not exclude others guaranteed by the Constitution, those of an analogous nature or which are derived from the dignity of man, the principle of sovereignty of the people, *and the democratic and republican form of government.*

The rights outlined are to be applied even if not regulated.

Chapter on the Family

Article 1. The government protects and *promotes* marriage and the family as the natural social order and the fundamental institution of the nation.

The forms of marriage and causes of separation and dissolution are regulated by law.

The law sets forth the conditions for establishing the family patrimony which is unattachable, inalienable, and transmissible by inheritance.

Article 2. The State protects and promotes responsible paternity.

It is the duty and right of parents to feed, educate, and provide security for their children, just as children have the duty to respect and aid their parents.

All children have equal rights. Any mention of the civil status of the parents and the type of relationship of children in civil records or on any identification document is forbidden.

Article 3. *From the time of conception*, the mother has the right to protection from the government and to its assistance if she is abandoned.

Article 4. *The government guarantees the life of the fetus and protects it from any experiment or genetic manipulation contrary to its integrity and development.*

Article 5. Children, adolescents, and the elderly are protected by the State from economic, physical, or moral abandonment.

The rights of the child and adolescent have priority. The State guarantees adherence to the principle of the higher interest of the child and adolescent and establishes policies of prevention and promotion in general and of protection, assistance, and rehabilitation in cases of endangerment or abandonment.

Article 6. The stable union of a man and a woman, free of any matrimonial impediment, who establish a home for the duration and in accordance with the conditions set forth by law, results in a joint estate to be governed by the system of community property insofar as it is applicable.

Chapter on Social Security, Health, and Welfare

Article 1. The State guarantees the right of everyone to social security. The law regulates gradual access to it and to its financing.

Article 2. The purpose of social security is to provide for the risk of sickness, maternity, disability, unemployment, accidents, old age, death, widowhood, orphanhood, or any other contingency that might be covered in accordance with the law.

Article 3. Everyone has the right to protection of one's general health and a duty to participate in the promotion and protection of his health, as well as that of his family environment and the community.

Article 4. *The State designs the national health policy and oversees and supervises its application. It promotes measures aimed at expanding the coverage and quality of health care within a pluralistic system that provides equal access to such services to everyone.*

Article 5. *The government fights and penalizes illegal drug trafficking.*

Article 6. The State *endeavors to provide* first and foremost for the basic needs of the individual and his family in terms of food, housing, and recreation.

Article 7. (Pending discussion and approval) Any individual who is unable to take care of himself has the right to a legal system of protection, care, rehabilitation, and security.

Article 8. The benefits of workers in the public and private sectors who are temporarily or permanently out of work are periodically adjusted based on the cost of living and the possibilities of the national economy, in accordance with the law.

Chapter on Education and Culture

Article 1. Every individual has an inherent right to education and culture. The purpose of education is his overall development.

The State recognizes and guarantees free education.

Article 2. Education promotes knowledge, learning, and the practice of the humanities, science, technology, and the arts. *Physical education and sports prepare one for life and work and inculcate solidarity.* Ethical and civic training is compulsory throughout the educational process. Religious education is imparted with respect for freedom of conscience.

Means of social communication must contribute to education, moral training, and culture.

Education in the Constitution and human rights is compulsory in all civilian, police, and military schools at all levels.

Article 3. *Parents have a higher right and resulting duty to educate their children, choose schools, and participate in the educational process.*

The law establishes the requirements for holding a post as a director of or teacher in a school, as well as their rights

and obligations. The State and society will ensure their continuing evaluation, training, and advancement.

The student has the right to an education that respects his identity and to proper physical and psychological treatment.

Any individual or legal entity has the right to promote and operate educational institutions and to transfer their ownership, in accordance with the law.

Article 4. Both the educational system and regulations are decentralized. The State articulates education policy, drafts the general guidelines of study programs, and supervises compliance with them and the quality of education.

It is the duty of the government to ensure that no one is prevented from receiving an adequate education for reasons deriving from his economic situation or because of physical or mental limitations.

In the allocation of regular budgeted funds, education has priority.

Article 5. Early and primary education is compulsory. Education is free at all levels for those who cannot pay for it and will be paid for out of public funds based on the nation's budgetary capabilities. The law establishes the method of subsidizing private education in all forms, including the communal and cooperative education of those in need of it, and to support public education so as to guarantee the greatest possible plurality of educational opportunity.

The State promotes the establishment of schools providing early, primary, and special education wherever necessary.

The State provides basic bilingual and pluricultural education based on the individual characteristics of each area, preserves the various cultural and linguistic expressions of the nation, and promotes national integration.

Article 6. Eradicating illiteracy is the prime task of the State, which guarantees adults a process of continuing education.

Article 7. The purposes of a university education include intellectual and artistic creation, scientific and technological research, and professional and cultural training.

A university is a community of professors, students, and its graduates, and the representatives of its promoters participate in it by law.

Every university autonomously organizes its own system of academic, administrative, and financial government. The law sets the requirements for authorizing its operation. Universities are created by promoter entities.

Universities are governed by their own bylaws within the framework of the law. The state guarantees academic freedom and rejects intolerance.

Article 8. (Pending) Universities and nonprofit educational and cultural centers enjoy tax exempt status only

while engaging in activities in keeping with their educational and cultural purposes. The law establishes tax and other incentives to encourage donations, scholarships, and contributions. The State oversees public educational and cultural spending, as well as any private spending out of the public treasury or of any donations benefiting from tax incentives.

Article 9. Professional colleges are autonomous institutions enjoying legal status. The law defines cases in which association membership is obligatory.

Article 10. Archeological deposits and remains, constructions, monuments, collections, sites, art objects, and evidence of historic value that are expressly declared to be cultural assets, independently of their status as private or state-owned property, are the cultural heritage of the nation and protected by the State. The law guarantees ownership of this heritage. It promotes private participation in its preservation, restoration, and maintenance, as well as its restitution to the country when it may have been taken out of the country illegally.

Chapter on Work

Article 1. Work is a right and duty that forms the very basis of social well-being and the means of fulfillment for man.

Article 2. Work in its various forms receives prime attention from the State, which provides special protection to working mothers, minors, and the disabled.

The State promotes conditions for social and economic progress, particularly through policies aimed at promoting productive employment and education for work.

No working relationship can limit the exercise of constitutional rights or fail to recognize or violate the dignity of workers.

No one may be forced to work without his free consent and without receiving suitable pay.

Article 3. The State has the duty to:

1. promote productivity in work;
2. stimulate professional training and development; and
3. set forth occupational health and safety measures.

Article 4. The worker has the right to fair and adequate pay that will provide for him and his family material well-being as well as spiritual development.

Payment of wages and social benefits has priority over any other obligation of the employer.

Minimum wages are regulated by the government with the participation of organizations representing workers and employers.

Article 5. The regular work schedule is eight hours a day or 48 hours a week *maximum*. In the case of *accumulative or atypical schedules*, the average number of hours worked may not exceed that maximum.

Workers have the right to weekly and annual paid vacations. Their enjoyment and compensation is regulated by law or agreements.

Article 6. The working relationship must respect the following principles:

1. equal opportunity and nondiscrimination;
2. the inalienability of rights recognized by the constitution and by law; and
3. in case of insurmountable doubt about the meaning of a regulation, interpretation in the worker's favor.

Article 7. The law grants the worker suitable protection against arbitrary layoffs.

Article 8. The State recognizes collective rights to form unions, collective bargaining, and the right to strike and takes precautions to ensure that such rights are exercised democratically.

1. It guarantees trade union freedom in all forms.
2. It promotes collective bargaining and the peaceful solution of labor disputes.

Collective agreements are binding in the area for which they are made.

3. It regulates the right to strike so that it will be exercised in harmony with the social interest and defines its exceptions and limitations.

Article 9. The State recognizes the right of workers to participate in company profits and promotes other forms of participation.

Article 10. Workers in State-owned enterprises, joint ventures, and entities named by law are subject to the labor system governing private activity.

(Transitory regulation) As long as private and public activities are governed by different labor systems, in no case and for no purpose may services performed under the two be accumulative, and any act or resolution stating or declaring the opposite is null and void.

Chapter on Political Rights

Article 1. Citizens have the right to participate in public affairs through the referendum, legislative initiative, the recall of officials, and the right to demand that the latter be held accountable. They have the right to be elected and to elect their representatives freely in accordance with the conditions and procedures set forth by organic law.

Citizens have the right to vote as part of the enjoyment of their civil status. Voting is personal, equal, free, secret, and compulsory up to the age of 70. It is optional after that age.

Any act that prohibits or limits the citizen from exercising his rights is null and punishable by law.

Article 2. The following may be subjected to the referendum:

- A) partial or total reform of the constitution;
- B) approval or rejection of norms having the force of law; and
- C) municipal ordinances.

The elimination of or reduction in the fundamental rights of the individual, tax, and budget regulations or treaties made by the State and in effect may not be subject to the referendum.

Article 3. Peruvians over the age of 18 are citizens. In order to exercise one's citizenship, one must register to vote.

In pluripersonal elections, representation is proportional, in accordance with the system established by law.

Article 4. The practice of one's citizenship is suspended by:

1. a legal resolution acting as a ban;
2. a ruling establishing the loss of freedom; and
3. a sentence entailing disqualification from political rights.

Article 5. Members of the Armed Forces and Police Forces on active duty may not vote or be elected. No other disqualifications exist or may be created.

Article 6. Citizens may exercise their rights through political parties, independent movements, or alliances in accordance with the law. Their registration in the proper district grants them legal status.

Article 7. The State recognizes political asylum. It accepts the status given by the government that grants sanctuary. If the deportation of a political asylum victim is ordered, he is not to be turned over to the country whose government is after him.

Article 8. Extradition may be granted only by the Executive Branch upon the recommendation of the Supreme Court and in compliance with the provisions of the law and treaties based the principle of reciprocity.

Those sought for political crimes or acts related to them are excluded from extradition. Acts of terrorism, mass murder, and genocide are not considered as such.

Extradition is rejected when it is deemed that it is sought for the purpose of persecuting or punishing an individual based on his race, religion, nationality, or opinion.

Chapter on Duties

Article 1. Every person has the duty to honor Peru and to safeguard and protect its national interests.

Article 2. Every person has the duty to respect, obey, and defend the Constitution and the Nation's legal order.

Article 3. Military and police service is the patriotic obligation of all Peruvians. It is performed in the way, on the terms, and with the exceptions provided by law.

Chapter on Civil Service

Article 1. Public officials and civil servants serve the Nation.

No public official or civil servant may hold more than one public post or office for pay, with the exception of teachers, who may hold one more.

Article 2. The law regulates matters relating to the income, rights, and duties of public servants, as well as appeals of resolutions affecting them.

Officials who hold political posts or posts of trust are not included in the administrative profession.

Article 3. The highest office in public service is that of President of the Republic, followed by members of Congress, Cabinet ministers, and Supreme Court Justices. They are followed by the regional presidents and metropolitan mayors.

A single system standardizes the remuneration, bonuses, and pensions of public servants.

Periodic publication in the DIARIO OFICIAL [OFFICIAL NEWSPAPER EL PERUANO] of all types of income received in connection with their posts is required.

Article 4. Public officials and servants who make the law or who administer or manage government funds or the monies of organizations funded by it must file sworn statements of their assets and income upon assuming and leaving office and periodically during their term in office. *This statement is to be published in the DIARIO OFICIAL.*

The attorney general, acting upon the reports of any person or automatically, will file charges with the Judicial Branch when there is a presumption of illegal enrichment.

The law regulates the responsibility of public officials and civil servants referred to in this article.

Article 5. No one may exercise the public duties outlined in the Constitution if he does not swear to fulfill them.

A citizen who does not profess religious beliefs may omit the reference to God when taking the oath.

Article 6. *Workers employed by government-owned enterprises or joint ventures are not included in the civil service. However, based on what posts they hold, the obligations outlined for public officials or civil servants who administer or handle government funds may be extended to them.*

Section on the State and the Nation

Chapter on the State

Article 1. Peru is a democratic and social, independent, and sovereign Republic. *The State is one and indivisible, its government is unitary, representative, and decentralized, and it is organized in accordance with the principle of the separation of powers.*

Article 2. The prime duties of the state are to defend national sovereignty, defend society from threats to its security, guarantee the full enforcement of human rights, and promote the general welfare based on justice and the complete and balanced development of the Nation.

Article 3. Power emanates from the people. Those who exercise it do so as their representatives and with the limitations and responsibilities set forth by the Constitution and the law.

No person, organization, Armed Force, National Police force or sector of the people may assume the exercise of such power. To do so constitutes rebellion.

Article 4. No one owes obedience to a usurper government or to anyone who assumes public office in violation of the Constitution and the law.

Citizens have the right of insurgency to defend the constitutional order.

The acts of those who usurp public functions are null and void.

Article 5. Spanish is the official language of the State. Quechua, Aymara, and other native languages are also accepted for official use in areas and forms defined by law.

Article 6. The nation's capital is the city of Lima.

Article 7. The flag with vertical red, white and red stripes, the shield, and the national anthem are our Nation's symbols.

Article 8. Within an independent, autonomous system, the State recognizes the Catholic Church as an important element in the historical, cultural, and moral formation of Peru. It lends it its cooperation.

The State may also establish forms of cooperation with other denominations.

Article 9. The Constitution prevails over any other legal text classified as a law, the latter over other subordinate standards, and so on.

Publicity is essential for the existence of any government standard. The law defines the manner of publication and the means of its official dissemination.

Chapter on Nationality

Article 1. Peruvians include those enjoying such status:

1. by birth, including:

a) those born within the territory of the Republic; and
b) those born abroad of a Peruvian father or mother and duly registered while still minors; and

2. those who acquire the nationality by choice or naturalization.

Article 2. The law regulates the ways in which the nationality may be acquired and taken back.

Peruvian nationality cannot be lost unless it is specifically given up before Peruvian authorities.

Article 3. Double nationality is governed by law and international treaties (to be edited).

Chapter on the Territory

Article 1. The national territory is *inalienable* and inviolable. It includes the soil, subsoil, maritime dominion, and air space over it.

Article 2. The nation's maritime dominion includes the sea along its coast, as well as the ocean floor and subsoil, to a distance of 200 maritime miles measured from the basic lines established by law. The nation exercises sovereignty and jurisdiction over its maritime dominion, notwithstanding freedom of communication and international trade and in accordance with the law and international treaties ratified by the government.

Article 3. The nation exercises sovereignty and jurisdiction over the air space above its territory and adjacent sea to a distance of 200 miles, notwithstanding the freedom of international communications and in accordance with the law and international treaties ratified by the government.

Chapter on Treaties

Article 1. Treaties concluded by the government and now in effect are part of national law. In case of conflict between a treaty and a law, the former has precedence, provided that that principle is accepted by both parties.

Article 2. Treaties must be ratified by Congress and, before ratification, by the President of the Republic, provided they deal with the following subjects:

1. human rights;
2. the nation's sovereignty, dominion, or territorial integrity;
3. national defense;

4. financial obligations of the government or those creating, modifying, or eliminating taxes; and

5. those requiring the modification or derogation of any legislative measures for their execution.

Article 3. The President of the Republic may conclude or ratify treaties or adhere to them without the requirement of previous approval by Congress in areas not contemplated by the preceding article. In all cases, he must report to Congress.

Article 4. When the treaty affects constitutional provisions, it must be approved by the same procedure governing reform of the constitution before being ratified by the President of the Republic.

Article 5. (Pending due to a transitory norm.) Human rights treaties enjoy constitutional status and may only be modified by the procedure governing reform of the constitution.

Article 6. Denouncing treaties is the power of the President of the Republic, who must report immediately to Congress in the case of treaties subject to Congress's approval. Such denunciation requires previous approval by the latter.

Section on the Economic System

Chapter on General Principles

Article 1. Private enterprise is free and may be exercised within a social, market economy where the main role of the government is to be active in the areas of promoting jobs, health, education, security, public services, and the basic infrastructure.

Article 2. The State promotes economic decentralization through investment in infrastructure projects which create the necessary conditions for coordinated development of the country.

Article 3. The State stimulates the creation of wealth for individual or social purposes. It guarantees the freedom to work and private enterprise. It provides opportunities for advancement for those sectors suffering from any kind of inequality.

Article 4. The State protects consumers' interest and encourages and keeps watch over free competition.

In particular, the State protects the health and security of the people, preventing the harm they might suffer from inadequate information. It guarantees the consumers' and users' right to information.

Article 5. Defending free competition and protecting consumers and intellectual ownership are the responsibility of a public agency enjoying autonomy in accordance with the law.

Article 6. Tax policy must ensure that any individual or corporation pays the taxes he legally owes.

Article 7. The State recognizes economic pluralism. The national economy is based on the coexistence of several forms of ownership and enterprise.

Article 8. *Authorized solely by an express law passed by an absolute majority, the State may, on an exceptional basis, engage in business activities, directly or indirectly, for reasons of overriding public interest or manifest national benefit.*

Business activity receives the same legal treatment, whether public or private.

Article 9. *Public services may be performed by any kind of enterprise provided it abides by the provisions of the law.*

Article 10. *There is no legal monopoly. The State fights abuse of the majority position on the market and any and all practices that limit free competition.*

Article 11. *The freedom to make contracts guarantees that both parties may make valid agreements in accordance with standards prevailing at the time. No laws or provisions of any kind may be passed modifying contractual terms. Protection of the parties to a contract from the excessive cost of services is governed by the Civil Code.*

Article 12. *The State cannot resolve or modify legal contracts unilaterally.*

Article 13. *National and foreign investments are subject to the same conditions. The State guarantees the freedom of foreign trade. If another country or other countries adopt(s) protectionist or discriminatory measures detrimental to the national interest, then the State may adopt analogous measures to defend it.*

Article 14. *The State guarantees everyone the free availability of foreign currency, as well as the free convertibility of the national currency.*

Chapter on the Environment and Natural Resources

Article 1. *Natural resources, renewable and nonrenewable, are the nation's patrimony. The State is sovereign in developing such resources.*

An organic law defines the terms for their use and concession to private parties. Such concessions grant to the concession-holder real rights subject to the terms set by law.

Article 2. *The State establishes the terms for the development of natural resources and sustainable development of the environment.*

Article 3. *It is the duty of the State and society to develop awareness and forms of behavior favorable to preservation of the environment through information and education. It must also prevent and control environmental pollution and any process that might damage or destroy natural resources.*

Peru participates in action of the international community aimed at dealing with overall environmental problems.

Article 4. *In accordance with international treaties of which Peru is a subscriber and the national interest, the State controls the ban on the manufacture, importation, possession, and use of chemical, biological, and nuclear weapons and the entry into the country of radioactive and dangerous waste in accordance with the law.*

Article 5. *The State preserves the genetic biodiversity of species and ecosystems, as well as protected natural areas. The law regulates the entry into and exit from the country of genetic resources in harmony with the national interest.*

Chapter on Property

Article 1. *The right to own property is inviolable and guaranteed by the State. No one may be deprived of his property except for reasons of national security or public need as declared by law and following cash payment for the estimated indemnification. Proceedings have been instituted with the Judicial Branch to challenge the price which the State has set for the expropriatory procedure.*

Article 2. *Property is governed exclusively by the laws of the Republic.*

Article 3. *Concerning property, foreigners, individuals, and corporations have the same rights as Peruvians, except that in no instance may they invoke exceptional situations or diplomatic protection.*

Nevertheless, within 50 km of the borders, foreigners cannot acquire or own for any reason mines, land, forests, water, fuel or energy sources, either directly or indirectly, individually or in partnership, under penalty of losing that acquired right to the government. The sole exception is the case of public need expressly declared by law.

Article 4. *The law may, for exclusive reasons of national security, define restrictions and special bans on the acquisition, possession, use, and transfer of certain types of property.*

Article 5. *Public property, whose use belongs to everyone, may not be the object of real rights by private parties, but their use, exploitation or economic development may be surrendered to private parties in accordance with the law.*

Article 6. *The State guarantees the rights of author and inventor over their respective works and creations for the period of time and under the conditions stipulated by law. In the same way, it guarantees industrial and commercial names, trademarks, designs, and models.*

Chapter on Enterprise

Article 1. *The State guarantees free enterprise, commerce, and industry. Its practice must not be harmful to public morals, health, or safety.*

Article 2. The press, radio, television, and other means of expression and social communication and, in general, enterprises, goods, and services related to the freedom of expression and communication cannot be the object of exclusivity, a monopoly, or hoarding, either directly or indirectly, by the government or private parties.

Article 3. The State and individuals may submit controversies of an economic nature to courts set up by virtue of international agreements of which Peru is a subscriber. They may also submit them for national or international arbitration based on authorization granted in accordance with the law.

Chapter on the Tax and Budget System

Article 1. Every individual has the duty to help support public spending in accordance with his economic capabilities through a tax system based on the legal principles of privacy and progressivity and, when exceptionally fitting, simplicity and efficiency. In no instance may the tax system be confiscatory.

Taxation may not establish personal, geographic, sectorial or any other privileges.

There are no tax exonerations except those expressly contemplated by the Constitution and international agreements or those established by law.

Article 2. Taxes are created, modified, or abolished solely by laws passed by Congress, except in the case of tariffs and rates regulated by supreme decree. Local governments may create, modify, and eliminate arbitrary taxes and duties or exempt parties from them within their own jurisdiction and within the limits set by law. Emergency orders may not contain tax regulations.

Article 3. (Pending) The State only guarantees payment of the public debt when contracted by governments in accordance with constitutional norms.

The state's domestic and foreign debt operations are approved by law.

Levels of government other than the Central Government may engage in credit operations to be charged to their own resources and assets without any need for legal authorization.

Article 4. Projects and the acquisition of supplies paid for out of public funds or resources must be based on contracts and put out for public bidding, as in the case of the acquisition or disposal of assets.

There will be public bidding for the contracting of services and projects whose size and amount are specified in the budget.

The law outlines procedures, exceptions, and responsibilities.

Article 5. The economic and financial administration of the government is governed by the budget passed by Congress annually. The budget allocates public resources fairly and their programming and execution are based on criteria of efficiency, basic social needs, and decentralization.

Article 6. (Reserved for the item of decentralization.) Domestic and foreign debt operations of the government must be approved by law in accordance with the procedure set forth by the framework law on the matter.

Levels of government other than the Central Government may engage in credit operations to be debited to their own resources without the requirement of any legal authorization.

Article 7. By 15 September of each year at the latest, the President of the Republic must send to Congress the proposed draft budget. He also sends the draft law on the debt and financial balance, which must go through the respective congressional committees.

Article 8. The draft budget must be effectively balanced.

Loans from the Central Reserve Bank or from the National Bank are not entered on the books as fiscal revenue.

Foreign loans are not to be used for regular expenditures.

The budget may not be passed without some portion being earmarked for service on the public debt.

Article 9. The budget may not contain items other than those strictly relating to the budget.

Tax laws and provisions needed to obtain government revenue must be passed independently of the budget and before it.

Article 10. Neither the budget committee nor members of Congress may submit measures to increase or modify public spending except when related to the congressional budget.

Nor may they propose taxes for predetermined purposes.

(To be placed.) In all other cases, tax proposals must first be reported to the Ministry of Economy and Finance.

Article 11. The Ministry of Economy and Finance presents the list of revenue to Congress. Every ministry supports its respective list of outlays. The Chief Justice of the Supreme Court presents the list from the Judicial Branch.

Article 12. (Pending) If the budget is not approved by 31 December, the Executive Branch can, by means of emergency orders, extend the budget until the following 31 December.

Article 13. Additional credits, authorizations, transfers of items, and other modifications must go through Congress just as the budget must.

During a congressional recess, they are handled by the standing committee, which, in order to approve them, needs three-fifths of the legal number of its members.

Article 14. The General Account, accompanied by the Office of Comptroller General's auditor's report, is presented by the President of the Republic to Congress on 28 July of the year following execution of the budget.

It is examined by and reported upon by the reviewing committee *within 90 days of its presentation. Congress rules within 30 days. If Congress does not rule within that time period, the matter goes before the Executive Branch for promulgation of the respective law of approval.*

Article 15. *Organic laws contain provisions relating to the drafting, execution, modification, and approval of the budget and general accounts.*

Article 16. The Office of Comptroller General is a *legal entity granted autonomy by law and responsible for overseeing the execution of the national budget.*

Article 17. Protecting the State's interests is the responsibility of public prosecutors, whether permanent or *ad hoc*, in accordance with the law.

Chapter on Money and Banking

Article 1. The law determines the nation's monetary system. The issuance of bills and coins is the exclusive power of the State, which it exercises through the Central Reserve Bank of Peru.

Article 2. The Central Reserve Bank of Peru is a public law corporation enjoying autonomy *within the framework of its organic law.*

Article 3. *The purpose of the Central Reserve Bank is to preserve monetary stability.* Its functions are to regulate the currency and credit of the financial system, administer international reserves for which it is responsible, and other functions specified in its organic law.

The Bank informs the country periodically and precisely as to the state of the nation's finances under the responsibility of its Board of Directors.

The Bank may not grant financing to the public treasury except for the purchase on the secondary market of securities issued by the public treasury within the limits set forth by its organic law.

Article 4. The Bank may engage in credit operations and agreements in order to cover temporary imbalances in the position of international reserves. It requires legal authorization when the amount of such operations or agreements exceeds the limit set forth by the budget of the public sector and must report to Congress.

Article 5. The Bank is governed by a Board of Directors having seven members, of which the Executive Branch appoints four, including the Bank president. Congress confirms the latter and appoints the remaining three by an absolute majority of the legal number of its members.

All members of the Central Reserve Bank Board of Directors are appointed for the same constitutional term being served by the nation's President. They represent no

particular entity or interest. Congress may remove them for serious breach of conduct. In the case of such removal, Congress chooses its representatives on the Board for the congressional term.

Article 6. The State promotes and guarantees saving. The law sets the obligations of and places the limitations on enterprises that take in the public's savings, as well as the method and scope of the guarantee.

Article 7. The Office of the Superintendent of Banking and Insurance oversees banking, insurance, and other companies that take in deposits from the public.

The law establishes the organization and functional autonomy of the Office of Superintendent of Banking and Insurance.

The Executive Branch appoints the Superintendent of Banking and Insurance for the period *corresponding to its constitutional term of office.*

Chapter on the Agrarian System and on the Peasant and Native Communities

Article 1. *The State guarantees the right of ownership of land, whether private, communal, or in any other form of partnership. The law defines limits based on the characteristics of each zone.*

Land abandoned according to the legal definition reverts to the State to be put up for sale.

Article 2. Peasant and Native Communities are legally recognized and enjoy legal status. They are autonomous in terms of their organization, communal work, and use of the land, as well as economically and administratively within the framework established by law.

The State respects the cultural identity and traditions of the Peasant and Native Communities.

Article 3. Land belonging to the Peasant and Native Communities is *imprescriptible. It is also inalienable and cannot be taxed except by a majority decision of their members or in the case of expropriation in the form prescribed by this constitution.*

Section on the Structure of Government

Chapter on the Legislative Branch

Article 1. *Legislative power resides in Congress, which is unicameral.*

Article 2. *A total of 80 percent of the members of Congress are elected by multiple districts. The remaining 20 percent are elected by a single national district. In no instance may the number of members exceed 100. All members of Congress are equal and have the same rights and powers.*

Article 3. *Congress is elected for a period of five years.*

Candidates for the Office of President may not be on the lists of candidates for Congress. Vice presidential candidates may simultaneously be candidates for Congress.

Article 4. Congress is convened in its regular legislative session twice a year by its president. The first legislative session begins on 27 July and ends on 15 December. The second begins on 1 April and ends on 31 May.

Congress meets in special session either when summoned by the President of the Republic or at the request of at least two-thirds of the legal number of representatives.

The official summons states the beginning and closing dates.

Special legislative sessions deal only with the matters for which they are called. They may not last over two weeks.

Article 5. The quorum for installation of Congress in regular or special session is half plus one of the legal number of its members.

Installation of the first regular session is attended by the President of the Republic, although this is not indispensable in order for Congress to begin its duties.

Article 6. The president of Congress warns representatives whose failure to attend prevents its installation or operation. The request is issued three times within a two-week period. The third notice is issued in preparation for declaring the post vacant. When this occurs, the president of Congress proceeds to summon alternates. If the latter also fail to attend within two weeks, an additional election is called and those failing to attend may not run for any public office or post for the next ten years.

Article 7. In order to be a member of Congress, one must be a native-born Peruvian, have the right to vote, and be at least 25 years old.

Article 8. The following may not be elected to the nation's Congress if they have not left their posts six months before the election:

1. Cabinet ministers and deputy ministers, the comptroller general, prefects, subprefects, and governors;
2. members of the Judicial Branch, the Ministry of Justice, the Court of Constitutional Guarantees, and the National Council of the Magistracy;
3. the president of the Central Reserve Bank, the superintendent of banking and insurance, the superintendent of tax administration, and the national superintendent of customs;
4. the presidents of the decentralized organs of government; and
5. members of the Armed Forces and Police on active duty.

Article 9. The office of member of Congress is a full-time post and members may therefore not hold any other office or practice any other profession during the hours when Congress is in session.

The term of member of Congress is incompatible with any other public office except that of Cabinet minister and membership, with previous authorization from Congress, on special international commissions. It is also incompatible with the status of manager, proxy, representative, chief executive; attorney, majority shareholder, and member of the board of directors of enterprises which have contracts with the government for projects, supplying or provisioning, or which manage income or perform public services.

It is also incompatible with similar posts in enterprises which, during the congressional term, obtain concessions from the government, or with those in the credit or financial system which are supervised by the Office of Superintendent of Banking and Insurance.

Article 10. Members of Congress may not:

- A) act as members of boards of directors, attorneys, proxies or representatives of national banks, associated banks, public enterprises or joint ventures;
- B) handle the private affairs of third parties before public agencies;
- C) conclude in their own behalf or through another person contracts with the public administration, except in those cases provided for by law; or
- D) occupy any paid post except for Cabinet minister or university professor and, in this case, part-time.

Article 11. Members of Congress may not represent, act as advisers to, or defend before any institution or the Judicial Branch, except in their own behalf or in cases involving their spouse or relatives to the fourth degree of consanguinity and the second degree of relationship by marriage.

Members of Congress may not appear privately before any administrative or legal authority on behalf of or representing themselves or third parties.

Article 12. Vacancies occurring in Congress are filled with alternate candidates in the order in which they appear on the respective lists. If there are no alternates, the president of the Congress calls a special election.

Article 13. Members of Congress represent the nation. They are not subject to any imperative mandate.

They are not responsible to any authority or court by virtue of the votes they cast or the opinions they express in exercising their duties.

They may not be tried or taken prisoner without previous authorization from Congress or the standing committee, from the time they are elected until a month after they leave office, except for flagrante delicto, in which case they are turned over to Congress or the standing committee within 24 hours so that their taking into custody and trial may or may not be authorized.

Article 14. Congress drafts and approves its own Bylaws, elects its representatives to the Standing Committee and other committees, defines the organization and powers of parliamentary groups, arranges its finances, passes its budget, names and removes its officials and employees, and grants them the proper benefits in accordance with the law.

Congress passes its own bylaws, which have the force of law.

Article 15. *The legislative mandate is unrenounceable. Disciplinary sanctions which Congress imposes on its members and which imply suspension from their duties cannot exceed 120 days of the legislative term.*

Article 16. Any representative in Congress may ask Cabinet ministers, the National Election Board, the Comptroller General, the Central Reserve Bank, the Office of Superintendent of Banking and Insurance, and decentralized or local governments for whatever data and reports he deems necessary. The request is made in writing and through Congress itself.

Article 17. *Congress may initiate investigations into any matter of public interest. Appearance at the request of committees responsible for such investigations is compulsory under the same obligations observed for judicial proceedings.*

In order to achieve their purposes, they may have access to any information except that affecting personal privacy, including the lifting of banking secrecy and tax confidentiality.

Article 18. Plenary sessions of Congress are public, except in those cases noted in the Bylaws.

Article 19. The President of the Republic is required to make available to Congress whatever members of the Armed Forces and National Police are requested by the president of Congress or the Standing Committee.

The Armed Forces and National Police may not enter the floor of Congress except with authorization from the President or the Chairman of the Standing Committee.

Article 20. *It is the responsibility of the Standing Committee to accuse, before Congress, the President of the Republic, members of Congress, Cabinet ministers, members of the Supreme Court of Justice, the supreme prosecutors, members of the Court of Constitutional Guarantees, and the Comptroller General of the Republic, of any violation of the constitution or any crime committed in the exercise of their duties for up to five years after they have left office.*

Article 21. *The Standing Committee is made up of members of Congress proportionate to the number of representatives of each parliamentary group. They are elected by Congress and are not to exceed 25 percent of the number of members of Congress.*

The powers of the Standing Committee are as follows:

a) *It appoints the Comptroller General upon the recommendation of the President of the Republic.*

b) *It confirms the appointment of the president of the Central Reserve Bank and the superintendent of banking and insurance.*

(Pending) *It confirms the appointments of ambassadors and generals and admirals in the Armed Forces and the National Police.*

c) *It approves additional credits, transfers, and financing of the nation's budget when Congress is in recess.*

d) *It exercises the delegation of legislative powers entrusted to it by Congress; and*

e) *any others assigned to it by the Constitution and those outlined in the congressional Bylaws.*

Article 22. *Congress has the following powers:*

1. to pass laws and legislative resolutions, as well as to interpret, modify or waive those already existing;

2. to ensure respect for the Constitution and the law and do whatever is necessary to hold violators responsible;

3. to ratify treaties or international agreements in accordance with the constitution;

4. to pass the Budget and the General Account;

5. to authorize loans, in accordance with the constitution;

6. to exercise the right of amnesty;

7. to approve the territorial demarcation proposed by the Executive Branch; and

8. to exercise any other powers set forth by the Constitution and those inherent in the legislative function.

Article 23. *It is the responsibility of Congress, without the participation of members of the Standing Committee, to decide whether or not to suspend an official facing charges or rule him ineligible to hold public office for up to 10 years.*

According to legislative procedure, the accused official has the right to defend himself and to have legal counsel when appearing before the Standing Committee and Congress.

In the case of an accusatory resolution, the attorney general so notifies the Supreme Court within five days. The highest criminal court then opens the preliminary investigation.

Acquittal by the Supreme Court restores the political rights of the accused.

The terms of the prosecutor's report and the writ opening the preliminary investigation cannot exceed or reduce the terms of the congressional charges.

Chapter on the Legislative Function

Article 1. Special laws may be passed because they are required by the nature of things, but not because of differences in individuals.

No law may be retroactive except in criminal cases when it is more favorable to the defendant.

Article 2. *The Constitution and the laws protect and bind all inhabitants of the republic equally.*

Article 3. A law may only be rescinded by another law.

Article 4. Congress may delegate to the Executive Branch the power to legislate by means of legislative orders on the subject and for the term specified by the authoritative law.

In terms of their promulgation, publication, enforcement, and effects, legislative orders are subject to the same standards as any other law.

Article 5. Bills sent up by the Executive Branch and deemed urgent have priority in Congress.

Chapter on the Drafting and Promulgation of Laws

Article 1. *Members of Congress and the President of the republic have the right to initiate the drafting of laws and legislative resolutions. The Supreme Court of Justice, the Ministry of Justice, National Election Board, provincial municipalities, regional governments, and citizens exercising the right of legislative initiative in accordance with the law governing the matter also enjoy this right in their own spheres.*

Article 2. *A law passed in the manner set forth by the Constitution is sent on to the President of the Republic for promulgation within two weeks. Otherwise, it is done by the President of Congress.*

If the President of the Republic has observations to make concerning all or part of the law passed by Congress, he presents them to the latter within the aforementioned period of two weeks.

The President may promulgate that part of any law not subject to his observations and return the portion to which his observations refer.

Following reconsideration by Congress, the President of the Congress promulgates it provided that over half of the legal number of the members of Congress have voted against every one of the observations of the President of the Republic.

Article 3. Draft organic laws and *proposed constitutional interpretations* follow the same procedure as any law. However, in order to be passed, they require the vote of over half of the legal number of the members of Congress.

Article 4. A law takes effect on the day following its publication in the DIARIO OFICIAL unless the law itself *postpones its enforcement entirely or in part*. Laws

having to do with taxes paid annually go into effect on the first day of the next calendar year.

Article 5. In drafting laws, Congress uses this formula:

The Congress of the Republic of Peru has passed the following law:

It is to be sent on to the President of the Republic for promulgation.

In promulgating laws, the President of the Republic uses the following formula:

The President of the Republic:

Whereas:

Congress has passed the following law:

Therefore orders its publication and enforcement.

Chapter on the Executive Branch

The President of the Republic

Article 1. The President of the Republic is the Chief of State and personifies the Nation.

Article 2. In order to be elected President of the Republic, a person must be a native-born Peruvian, have the right to vote, and be over 35 years old at the time of his candidacy.

Article 3. The President of the Republic is elected by direct suffrage and by over half of the votes. *Altered or blank votes are not counted.*

If none of the candidates obtains an absolute majority, then a second election is held within 30 days and includes candidates who have obtained the two highest relative majorities.

Two vice presidents are to be elected at the same time as the president, based on the same requirements and for the same term.

Article 4. The following are not eligible to be President or Vice President of the Republic:

(Pending for final debate on the issue of mediate or immediate reelection.)

Article 5. The presidential term of office is five years.

Article 6. The Office of President is vacated, in addition to the cause of death, by:

1. the president's *permanent physical or moral incapacity as declared by Congress*;
2. acceptance of the President's resignation by Congress;
3. his departure from the national territory without permission from Congress or failing to return to his post upon the expiration of his term; and

4. removal as the result of having been *sanctioned* for any of the violations mentioned in Article 210 of the Constitution in effect.

Article 7. The President of the Republic is suspended from his office for:

1. temporary incapacitation declared by Congress; and
2. having been tried in accordance with Article 210 of the Constitution in effect.

Article 8. In the case of a temporary or permanent absence of the President of the Republic, his duties are assumed by the First Vice President or, in his absence, by the Second Vice President or, in the absence of both, by the President of the Congress, who immediately calls an election *if the impediment is permanent*.

When the President leaves the national territory, the office is taken over by the First Vice President or, in his absence, by the Second Vice President.

Article 9. The President of the Republic is sworn into office before Congress on 28 July of the year of the election.

Article 10. During his term of office, the President of the Republic may only be accused of treason: for preventing presidential, parliamentary, regional, or local elections; for dissolving Congress except in accordance with Article 227 of the Constitution in effect; and for preventing its meeting or operation or those of the National Election Board.

Article 11. *It is the duty* of the President of the Republic to:

1. obey and ensure obedience to the Constitution and all treaties, laws, and other legal provisions;
2. represent the State at home and abroad;
3. direct the general policy of the Government;
4. guarantee the domestic order and external security of the republic;
5. call elections for the office of President of the Republic and representatives to Congress, as well as for the offices of Mayor and Councilmen and other officials as stipulated by law;
6. convene Congress into special session and, in this case, sign the convocation;
7. send messages to Congress at any time but, obligatorily, a written, personal message when the first regular session of the year convenes. *Annual messages must contain a detailed presentation of the state of the nation and the improvements and reforms which the President deems necessary and suitable for consideration by Congress. Except for the first, the President's messages are approved by the Cabinet.*

8. exercise the power of regulating laws without violating or distorting them and, within these limits, issue orders and resolutions;

9. comply and ensure compliance with the rulings and resolutions of courts and jurisdictions;

10. comply and ensure compliance with the resolutions of the National Election Board;

11. direct foreign policy and international relations and conclude and ratify treaties;

12. appoint ambassadors and ministers plenipotentiary, with the approval of the Cabinet and *reporting to Congress*;

13. receive foreign diplomats and authorize consuls to perform their duties;

14. preside over the National Defense System and organize, distribute, and arrange the use of the Armed Forces and the National Police;

15. adopt whatever measures are necessary for the defense of the Republic, territorial integrity, and sovereignty;

16. declare war and sign the peace, with the authorization of Congress;

17. administer the public treasury;

18. negotiate loans;

19. set forth special measures *through emergency orders having the force of law* on economic and financial matters, when so required by the national interest and reporting to Congress. *Such orders remain in force until Congress rules otherwise. Congress may modify or waive such emergency orders.*

20. regulate tariff rates;

21. grant pardons and commute sentences except in cases prohibited by law;

22. confer decorations on behalf of the nation and with the consent of the Cabinet;

23. authorize Peruvians to serve in foreign armies; and

24. exercise other functions of government and administration which the Constitution and the law entrust to him.

Chapter on the Cabinet

Article 1. The direction and administration of public services are entrusted to the Cabinet and the ministers in matters falling within the competency of the ministries they head.

Article 2. Acts of the president of the republic that do not have the *proper* Cabinet approval are null and void.

Article 3. The law determines the number of ministries, their names, and the division of duties.

Article 4. The Ministers as a group form the Cabinet. The law determines its organization and functions.

The Cabinet has its Prime Minister. It is up to the President of the Republic to preside over the Cabinet when he convenes it or attends its sessions.

Article 5. The President of the Republic names and removes the Prime Minister. He names and removes other ministers upon the proposal and with the approval of the Prime Minister.

Article 6. *It is the responsibility of the Prime Minister, who may be a minister without portfolio, to:*

1. *be, after the President of the Republic, the authorized spokesman for government policy;*
2. *coordinate the duties of the other ministers; and*
3. *approve legislative orders, emergency orders, and other orders and resolutions stipulated by the Constitution and the law.*

Article 7. In order to be a Cabinet minister, one must be a native-born Peruvian, a citizen, and 25 years of age. *Members of the Armed Forces and the National Police may be ministers.*

Article 8. The Cabinet has the power to:

1. *approve bills which the President submits to Congress;*
2. *approve legislative orders and emergency orders issued by the President of the Republic, as well as bills and other orders and resolutions set forth by law;*
3. *deliberate on matters of public interest; and*
4. *perform any other duty entrusted to it by the constitution and the law.*

Article 9. *Any Cabinet agreement must be approved by a majority of its members and so state.*

Article 10. *Ministers may not hold any other public office other than legislative.*

Ministers may not manage their own interests or manage the interests of third parties or engage in activities for profit or be involved in the administration or management of private enterprises or associations.

Article 11. There are no interim Ministers. The President of the Republic may ask a minister to take the place of another, but while retaining his own post and for no more than 30 days, such duties not being transferrable to other Ministers.

Article 12. Ministers are responsible individually for their own acts and for the presidential acts they approve. All Ministers are collectively responsible for criminal acts or violations of the Constitution or other laws by the

President of the Republic or which they have approved, even if they abstained, unless they immediately resign.

Article 13. The Cabinet as a whole or the Ministers separately may attend sessions of Congress and participate in debate *with all prerogatives except that of voting.* They may also attend when invited for the purpose of informing. *The Prime Minister or one of his ministers will be present at plenary sessions for the questioning period.*

Chapter on Relations With the Legislative Branch

Article 1. *Within 30 days of assuming office, the Prime Minister must go to Congress accompanied by the other Cabinet ministers to present and debate the government's general policy and the main legislative measures required, proposing them as a question of confidence. If Congress is not in session, then the President calls a special session.*

Article 2. *Whenever Congress calls upon the Cabinet or any of the ministers to question them, their attendance is compulsory.*

Questions must be in writing and submitted by at least 15 percent of the legal number of members of Congress. In order for such questions to be admitted, a vote of at least a third of the number of qualified representatives is needed, which vote will be taken at the following session at the latest. Congress sets the day and time for ministers to appear for questioning, which cannot be done or voted upon before the third day of their admission or after the tenth.

Article 3. *Congress validates the political responsibility of the Cabinet or the ministers separately through a vote of censure or a no-vote on the question of confidence. The latter occurs solely through the ministerial initiative.*

Any motion of censure targeting the Cabinet or any of the ministers must be presented by at least 25 percent of the legal number of the members of Congress. The debate and voting take place between the fourth and 10th day after its presentation. Approval requires a vote of over half of the legal number of members of Congress.

The Cabinet or the censured minister must resign.

The President of the Republic accepts the resignation within 72 hours.

The failure of a ministerial initiative does not force the minister to resign unless passage was made the subject of a vote of confidence.

Article 4. *The Prime Minister can present a matter of confidence to Congress on behalf of the Cabinet. If it is rejected or censured, or if he resigns or is removed by the President of the Republic, then there is a total Cabinet crisis.*

Article 5. *In the case of a serious controversy between the Executive Branch and the Legislative Branch endangering the political stability of the country, in order to settle it, the President of the Republic may, with the consent of the Cabinet*

and only once during his term, dissolve Congress in accordance with the requirements and within the limitations established by this Constitution.

Article 6. *The dissolution order contains a call for elections for a new Congress. Such elections are to be held within four months of the date of dissolution, without any alteration in the preexisting election system.*

However, after the first year of his constitutional mandate, he cannot dissolve Congress during the final year of that term. Once Congress is dissolved, the Standing Committee continues to function and cannot be dissolved.

Article 7. *If Congress is dissolved, there is no midterm election. If the midterm election has already been held, there can be no dissolution. Nor is there any other way to revoke the parliamentary mandate.*

Congress cannot be dissolved under a state of siege.

Article 8. *When the new Congress meets, it can censure the Cabinet or deny it a vote of confidence after the Prime Minister has presented to Congress the acts of the Executive Branch during the parliamentary recess.*

Article 9. *During that interregnum, the Executive Branch legislates through emergency orders which it submits to the Standing Committee for its examination and also to Congress once it is installed.*

Article 10. *If elections are not held within the time stated, the dissolved Congress has the right to reconvene, regains its powers, and suspends the Cabinet. None of the members of the latter may be appointed to any ministry again during the presidential term.*

Article 11. *The Congress elected on a special basis replaces the previous body, including the Standing Committee, and completes the constitutional term of the dissolved body.*

Chapter on the Judicial Branch

Principles of the Jurisdictional Function and Rights in the Process

Article 1. *The power to administer justice emanates from the people and is exercised by the Judicial Branch through its hierarchy based on the Constitution and the law. Any person has the right to jurisdictional tutelage by the Judicial Branch.*

Article 2. *The principles of the jurisdictional function and rights in the process include the following:*

1. the unity and exclusivity of the jurisdictional function.

There does not exist, nor can there be established, any independent jurisdiction except arbitration and the military jurisdiction.

Trials by a committee or delegation are prohibited.

2. independence in the exercise of such principles and rights. No authority can take over cases pending before

the jurisdictional organ or interfere in the exercise of its functions. Nor can it fail to enforce resolutions that have been supported, halt proceedings under way, modify sentences, or delay their execution. This provision does not affect the state of grace.

3. *observance of due process. No person may be diverted from a predetermined jurisdiction by the law, subjected to procedures other than those previously established, or tried by special courts or commissions set up for the purpose, whatever the denomination.*

4. *publicity of trials, unless otherwise stipulated by law. Trials involving the responsibility of public officials, crimes involving the press, and those involving fundamental rights guaranteed by the Constitution, are always public.*

5. *written motivations of judicial resolutions in all instances except merely procedural orders, with express mention of the applicable law and the de facto grounds on which they are based according to the law.*

6. *the fact that every trial has two levels.*

7. *indemnification in the manner determined by law for legal errors in criminal trials and arbitrary arrests, notwithstanding related responsibility.*

8. *not allowing justice to be administered by a vacuum or legal deficiencies. In these cases, the general principles of law and common law must be applied.*

9. *the matter of the inapplicability of criminal law by analogy.*

10. *that of not being punished without a trial.*

11. *application of the law most favorable to the person on trial in the case of doubt or conflict between criminal laws.*

12. *that of not being convicted in absentia.*

13. *the ban on reviving old trials except in cases of reviews allowed by law. Amnesty, pardon, final stays, and other situations which the law outlines produce the same effect as judgments.*

14. *that of not being deprived of the right to defend oneself at any stage in the trial.*

15. *the fact that every person is to be notified immediately and in writing of the causes or reasons for his arrest. In addition, he has the right to communicate with and be advised by legal counsel of his choice as soon as he is summoned or arrested by authorities.*

16. *The government provides public defenders for low-income persons in the manner set forth by law.*

17. *The administration of justice is free for low-income persons and for everyone in cases outlined by law.*

18. *the people's participation in the appointment and revocation of judges, in accordance with the law.*

19. *the obligation of the Executive Branch to provide required cooperation in trials.*

20. *a ban on exercising the judicial function by those not appointed in the manner outlined by the Constitution or the law. Under the responsibility of their members, the courts do not properly formulate the charge.*

21. *the right of any person to formulate an analysis and criticisms of judicial resolutions and rulings with legal limitations.*

22. *the right of inmates and those sentenced to occupy healthy, appropriate premises.*

Article 3. (Pending, subject to debate on the *death penalty*.)

Article 4. (Pending, subject to debate on the *death penalty*.)

Article 5. (Pending, subject to debate on *appeal*.)

Article 6. (Pending, subject to debate on *special systems*.)

Article 7. On justice in *communities* (pending).

Structure and Administration

Article 1. *The Judicial Branch is made up of jurisdictional organs that administer justice in the nation's name, including: the Supreme Court of Justice and other courts and tribunals prescribed by law.*

Article 2. *The Chief Justice of the Supreme Court heads the Judicial Branch.*

The full chamber of the Supreme Court is the highest deliberative organ of the Judicial Branch. The law outlines its organization and competency.

Article 3. *The Judicial Branch formulates its draft budget and submits it directly to Congress.*

Article 4. *The Chief Justice of the Supreme Court or his representative has the right to go to Congress to defend and debate, without a vote, the budget of the Judicial Branch.*

Constitutional and Administrative Control

Article 1. *In the case of incompatibility between a constitutional standard and an ordinary legal norm, the judge will prefer the former. He will also prefer the legal norm to any other norm from a lower hierarchy.*

Article 2. *The Judicial Branch is the Constitution's supervisory organ.*

Trials of habeas corpus and protection are handled at two levels. Appeals of resolutions of rejection are heard before the Supreme Court of Justice.

Article 3. *The Judicial Branch has the power to hear cases brought by the people for violations of the Constitution or the law, and against regulations, resolutions, and general orders issued by the Executive Branch, regional and local governments, and other public entities.*

The Judicial Branch exercises constitutional or legal control over any resolution of the public administration that provides cause. In order to initiate the respective process, the administrative path must be exhausted. The law determines rules of competence.

Legislative Initiative and Activity

Article 1. *The Judicial Branch exercises the right of legislative initiative in the formulation of laws and legislative resolutions on matters related to it.*

The right of initiative includes that of proposing the abrogation, derogation, or modification of laws incompatible with the nation's political constitution.

Urgent bills submitted by the Judicial Branch have priority in Congress.

Appointment and Promotion of Judges

Article 1. *The National Council of the Magistracy and the district councils are responsible for the selection, appointment, and promotion of judges, except those elected by the people.*

The National Council of the Magistracy is fully independent in its functions and governed by its organic law.

Article 2. *Judges are promoted rank by rank based on a time schedule and in accordance with requirements set forth by law.*

Requirements for Being a Judge

Article 1. *In order to be a judge, one must:*

- 1. be a native-born Peruvian;*
- 2. be a practicing citizen;*
- 3. be an attorney except in the case of justices of the peace, as stipulated by law;*
- 4. have completed the course of study required by the Academy of the Magistracy. Justices of the Supreme Court and judges elected by the people are excepted from this requirement. In addition:*
- 5. others stated by law.*

Article 2. *The Academy of the Magistracy is responsible for the selection for training of judges and prosecutors at all levels. Promotion requires completing special studies required by this academy.*

Article 3. *The Academy of the Magistracy is part of the Judicial Branch. Its structure, administration, and curriculum are established by law.*

Article 4. *Justices of the peace are elected by the people. The law regulates their election and other aspects related to their jurisdictional performance, training, and the duration of their duties, as well as the requirements they must meet.*

The law will establish at the proper time the election of judges of the first instance by the people and will determine the pertinent mechanisms to be employed.

Incompatibility, Bans, and Guarantees of Judges

Article 1. *The jurisdictional function is incompatible with any other public or private activity, except for higher education and cases set forth by law. Judges receive only the remuneration assigned them by the budget and that from education and other exceptions outlined by law.*

Article 2. *Judges are prohibited from participating in politics, forming unions, and striking.*

Article 3. *The government guarantees judicial magistrates:*

1. *their independence. They are subject only to the Constitution and the law.*
2. *immutability in their posts;*
3. *their continuation in service as long as they observe the proper behavior and suitability for their office, except as stated by legal notifications. Judges cannot be transferred without their consent.*
4. *remuneration assuring them of a standard of living worthy of their mission and status.*

Judicial Confirmations

Article 1. *Judges are subject to confirmation by the National Council of the Magistracy. Failure to confirm occurs as the result of previous evaluation of judges for improper conduct or professional incompetency. Judges have the right to be heard. Resolutions must be explained.*

Article 2. *Judges who are not confirmed may not continue to perform their duties. Confirmation is for five years from the date on which the constitution goes into effect. The scope and procedures of confirmation will be outlined by law.*

Section on National Council of the Magistracy

Article 1. *Following public competition based on merit and personal evaluation, the National Council of the Magistracy appoints the Justices of the Supreme Court, prosecutors at the Supreme Court, and judges and prosecutors of the Superior Courts. Such appointments require the affirmative vote of two-thirds of the legal number of their members.*

Article 2. *Judges and prosecutors at other levels are appointed following public competition based on merit and personal evaluation by the District Council of the Magistracy. Their appointment is reported to the*

National Council of the Magistracy for its proper knowledge within 10 days. In order for such appointment to be canceled, the National Council of the Magistracy must reject it within 30 days by a vote of two-thirds of the legal number of its members.

Article 3. *District councils and the National Council of the Magistracy will give priority in their evaluation to the grades obtained by the candidate at the Academy of the Magistracy.*

Article 4. *The functions of the National Council of the Magistracy include the following:*

- a) *confirming all judges and prosecutors every five years. Those not confirmed may not reenter the Judicial Branch or the Ministry of Justice. The confirmation process is independent of disciplinary measures.*
- b) *supervising and coordinating jointly with the Supreme Court of Justice the operation of the Academy of the Magistrature.*
- c) *creating and administering a system of evaluation for confirmations.*
- d) *extending to judges and prosecutors appointed the official title acknowledging them as such.*

Article 5. *The National Council of the Magistracy is made up of the following members:*

- a) *two representatives of the Supreme Court elected by the full chamber by direct voting of retired or nonpracticing judges;*
- b) *a representative of the Office of Attorney General elected by the Council of Supreme Prosecutors by direct, secret voting of nonpracticing or retired magistrates.*
- c) *two representatives of the Bar of Lima elected by direct, secret voting of its members;*
- d) *a representative of the other Bar Associations of the country elected by the deans of those Bar Associations;*
- e) *a representative of the Schools of Law of the National Universities elected by direct, secret voting by the deans of those universities from among the highest-ranking professors of those schools.*
- f) *a representative of the Schools of Law of the private universities elected by direct, secret voting by the deans of those universities from among their top-ranking professors.*
- g) *a representative of the municipality of Lima, elected at a Council session.*

Article 6. *The requirements for being a member of the National Council of the Magistracy are the same as those stipulated by law for Justice of the Supreme Court. They enjoy the same benefits, rights, and obligations and must obey the same incompatibilities.*

Article 7. *Titular members of the National Council of the Magistracy are elected jointly with alternates for a period of three years, which may be extended for two more years. They are not subject to an imperative mandate. Their remuneration stems solely from the nation's general budget. The law establishes the organization and operation of the Council.*

Article 8. *District Councils of the Magistracy operate in places set by law. They are made up of the following members:*

- a) *a delegate from the corresponding judicial district elected from among its retired or nonpracticing members;*
- b) *a delegate from the Ministry of Justice of the corresponding judicial district elected by the Board of Prosecutors from among its retired or nonpracticing prosecutors;*
- c) *a delegate from the Bar Associations of the judicial district of the area, elected by direct, secret voting of its members;*
- d) *a delegate elected by the Schools of Law of the corresponding judicial district or the closest one elected from among its main regular professors by direct, secret voting; and*
- e) *a delegate named by the provincial mayors of the corresponding judicial district.*

Its members must fulfill the same requirements as higher-ranking magistrates from the respective judicial district. They enjoy the same benefits, rights, and obligations.

Article 9. *The District Councils of the Magistracy have the powers to:*

- a) *elect the judges and prosecutors to which Article 2 refers;*
- b) *evaluate magistrates and prosecutors from their respective districts and confirm them every five years; and*
- c) *in their sphere, supervise compliance with study programs of the National Academy of the Magistracy;*

Chapter on the Ministry of Justice

Article 1. *The Ministry of Justice is autonomous and organized in a hierarchical manner.*

Article 2. *The Ministry of Justice is headed by the attorney general, who is elected by the National Council of the Magistracy by a vote of two-thirds of the legal number of its members.*

The post of national prosecutor is for a term of three years, which may be extended by reelection for two more years.

Article 3. *Members of the Ministry of Justice have the same prerogatives, rights, and obligations as the members of the Judicial Branch in their respective categories.*

They are subject to the same incompatibilities and their appointment is subject to the identical requirements and procedures as those of the Judicial Branch in their category.

Article 4. *It is the responsibility of the Ministry of Justice to:*

1. *promote automatically or upon request legal action in defense of the legality and public interests protected by law;*
2. *ensure the independence of jurisdictional organs and the lawful administration of justice;*
3. *represent society on trial;*
4. *conduct and participate in the investigation of the crime from the police phase.*

For this purpose, the National Police are required to obey its mandates within the sphere of its duties.

5. *exercise penal action automatically or upon request;*
6. *issue rulings previous to judicial resolutions in cases contemplated by law; and*
7. *take the initiative in the formulation of laws and report to Congress or to the president of the republic on gaps or flaws in legislation.*

Article 5. *The Ministry of Justice includes the following:*

1. *the attorney general;*
2. *the prosecutors at the Supreme Court;*
3. *the prosecutors at the Superior Courts; and*
4. *the prosecutors at the civil, criminal, and specialized courts.*

Article 6. *The Ministry of Justice has the power to present and directly support its budget before the Legislative Branch. The Ministry of Justice's draft budget is approved by the Board of Supreme Prosecutors.*

Chapter on the Public Defender

Article 1. *It is the responsibility of the public defender to defend the fundamental rights of the individual and society and ensure compliance with the duties of the government administration and the proper provision of public services to the citizenry.*

Article 2. *The public defender is autonomous and not subject to imperative mandates. He enjoys the same immunity as members of Congress.*

Article 3. *The public defender is elected and removed by Congress by a vote of two-thirds of the legal number. The post is for three years and may be extended for two more. He may be suspended by Congress for serious breach of duty.*

Article 4. *The public defender has the same requirements, prerogatives, incompatibilities and benefits as Supreme Court Justices in terms of exceptional requirements. The minimum age is 35.*

Article 5. *The public defender will exercise his powers automatically or at the request of any person.*

Article 6. *It is the obligation of any public authority to cooperate with the public defender in exercising his duties.*

Article 7. *The public defender presents reports to Congress once a year or at the latter's request. He has legislative initiative and can propose the measures allowing better performance of his duties.*

Article 8. *The public defender can interpose protective actions which the constitution establishes.*

Chapter on Security and National Defense

Article 1. *The government guarantees the Nation's Security through National Defense.*

Article 2. *National defense is permanent, integral, and conducted internally and externally. Every individual or legal entity is required to participate in it in accordance with the law.*

Article 3. *The direction, planning, and execution of National Defense is done through a system whose organization and functions are determined by law. The President of the Republic directs the system of National Defense.*

Article 4. *The law determines the scope and procedures of mobilization for the purposes of National Defense.*

Chapter on the Armed Forces and the National Police

Article 1. *The Armed Forces are made up of the Army, Navy, and Air Force. Their prime purpose is to guarantee the independence, sovereignty, and territorial integrity of the Republic. They are responsible for ensuring the domestic order in accordance with Article (231 of the Constitution in effect).*

Article 2. *The fundamental purpose of the National Police is to guarantee, maintain, and restore domestic order, lending aid and protection to individuals and society, guarantee compliance with laws, the security of public and private property, prevent and fight crime, and guard and control the nation's borders.*

Article 3. *The President of the Republic is the Commander in Chief of the Armed Forces and the National Police.*

Article 4. *The respective laws and regulations determine the organization, functions, training, use, and discipline of the Armed Forces and the National Police.*

Article 5. *The Armed Forces organize their reserves and use them based on the needs of National Defense and in accordance with the law.*

Article 6. *The Armed Forces and National Police are not deliberative bodies. They are subordinate to constitutional power.*

Article 7. (Pending) *The law allocates funds earmarked for guaranteeing the equipment required by the Armed Forces and the National Police respectively. Such funds may not be used for anything but these purposes and under the control of each of these institutions.*

Article 8. *The Armed Forces and National Police participate in the country's economic and social development.*

Article 9. *The members of the Armed Forces and National Police are determined annually by the Executive Branch. The corresponding resources are approved by the General Budget Law.*

Promotions are conferred in accordance with the law.

Article 10. *In cases of crimes connected with their profession, members of the Armed Forces and the National Police are subject to the respective jurisdiction and Code of Military Justice, whose provisions are not applicable to civilians, except in the case of the crimes of treason, genocide, and terrorism as defined by the law.*

Those who violate the standards of Compulsory Military Service are subject to the Code of Military Justice.

Article 11. *In cases not authorized by military law and regulations, conscription is a crime that may be reported by the people to Judges, the Courts, or Congress.*

Article 12. *The ranks, honors, remuneration, and pensions inherent in the hierarchy of officers of the Armed Forces and National Police are equivalent. The law establishes equivalencies for career military and police personnel who do not have any official rank or hierarchy.*

In both cases, the rights in question cannot be withdrawn except by a court ruling.

Article 13. *Only the Armed Forces and National Police may possess and use weapons of war. All those that exist, are manufactured, or brought into the country become government property without any indemnification or legal action.*

An exception is made for weapons of war manufactured by private industry in cases outlined by law.

The law regulates the manufacture, trade, possession, and use by private parties of weapons that are not for war.

Chapter on the Electoral System

Article 1. *The purpose of the electoral system is to ensure that the votes cast will be the free, spontaneous, and authentic expression of the citizens and that elections will be a precise and timely reflection of the voters' will expressed at the polls.*

Its basic function is the planning, organization, and execution of election processes and referenda and other consultations which record acts modifying the civil status of persons and maintaining and taking care of a single identification registry of such persons.

Article 2. *The election system is made up of the National Election Board, the National Office of Election Procedures, and the National Civil Registry, which acts autonomously by maintaining coordination based on its powers.*

Article 3. *It is up to the National Election Board to oversee the organization of elections, the preparation of election rolls, and the use of the right to vote and election processes. It is also responsible for registering political organizations and others as stated by law.*

It is the task of the National Election Board, acting as the final and irreversible instance of appeal, to resolve matters concerning the validity or nullity of elections and the proclamation and issuance of credentials to candidates elected.

The National Election Board has legislative initiative for election matters.

It submits its draft budget to the Ministry of Economy and Finance and supports it before that institution and before Congress.

Article 4. *The National Election Board is made up of five members:*

- a representative of the Supreme Court of Justice elected by direct, secret, and universal voting from among its justices who have retired during the past three years at the time of their appointment, who will preside over the board;*
- a representative of the Bar Associations of Peru elected from among their members by direct, secret, universal voting of their deans;*
- a representative of the national professional colleges elected by their deans, except for the dean of the Bar Associations;*
- a representative of the National Assembly of Rectors elected from among its former rectors by direct, secret, universal voting.*

Article 5. *The members of the National Election Board are elected for a renewable four-year term. The law provides for the manner of reelecting such members in groups of two every four years.*

Members of the National Election Board may not be under the age of 40 or over 70.

The post is remunerated and incompatible with any other public office except for part-time teaching.

Candidates for public office may not be members of the National Election Board, nor can citizens holding leadership posts in political organizations or those who have served as national leaders in the four years preceding their election.

Article 6. *National Election Board members evaluate events based on their conscience and resolve issues based on the law and the general principles of law. Final resolutions are without appeal.*

Article 7. *The National Office of Election Processes is responsible for the planning, organization, and actual holding of election processes, referenda, and other consultations of the people. Its resolutions may be appealed to the National Election Board.*

The law regulates its organization and functions.

Article 8. *The head of the National Office of Election Processes is appointed by the National Council of the Magistracy for a renewable four-year term.*

It is his responsibility to organize the election process, including the planning and drafting of the corresponding budget, in coordination with the National Election Board, the delivery of documents and materials needed for elections and the publication of results, the continuous reporting of the vote count from the time voting begins at the polls, and other tasks set forth by law.

Article 9. (Pending until the end of the chapter.) *The national registrar of the National Civil Registry is appointed by the Executive Branch and confirmed by Congress for a renewable term of four years. He may be removed by Congress in the case of serious breach of duty.*

The National Civil Registry is responsible for the recording of births, marriages, deaths, and other acts which modify the civil status of persons and issues the corresponding documents. It keeps and updates election rolls, provides the National Election Board, and the National Superintendent of Election Processes and Political Organizations with the elements of information needed to perform their duties, keeps the identification registry of citizens, and issues documents proving their identity.

Article 10. *The head of the National Civil Registry is appointed by the National Council of the Magistracy for a renewable four-year term.*

The National Civil Registry is responsible for recording births, marriages, deaths, and other acts which modify the civil status of persons and issues the corresponding documents. It keeps and updates election roles, provides the National Election Board and the National Office of Election Processes with the elements of information needed to perform their duties, keeps the identification registry of citizens, and issues documents proving their identity. [Paragraph apparently repeated, as published]

The law outlines the way in which the offices, officials, and employees of the Civil Registry of local governments and of the Election Registry fit into the National Civil Registry.

Article 11. *The National Election Board declares the nullity of a national election process in the following cases:*

- a) *when voided and blank votes exceed three-fifths of the total number of votes cast;*
- b) *when two-thirds of the votes cast are void or blank; and*
- c) *in the case of municipal elections, if none of the candidates obtains even 20 percent of the votes cast.*

Article 12. *In any type of election, referendum process, and other consultations of the people, votes must be counted publicly and without interruption at the polling place. Results may not be reviewed except in cases of material error or a challenge, which must be resolved in accordance with the law.*

Article 13. *The National Office of Election Processes sets forth the instructions and provisions needed to maintain order and personal freedom in elections. Such instructions and provisions must be obeyed by the Armed Forces and National Police.*

Transitory Provision

Renewal of the term of members of the National Election Board is initiated by the representatives of the Bar Associations of Peru and the National Assembly of Rectors.

Chapter on Decentralization

Article 1. *Decentralization of the country is a continuing goal and process of the government.*

Article 2. *The territory of the republic includes the departments, provinces, and districts over whose jurisdictions a unitary form of government is exercised in a decentralized fashion.*

Article 3. *Decentralization is based on the municipal governments, which enjoy autonomy in matters within their competence, in accordance with the law.*

Article 4. *Municipalities have competence within their jurisdiction over all administrative affairs of government with the exception of those relating to defense, the domestic order, foreign relations, the economy, finance, and work, which are the domain of the National Government. Projects and programs which by their very nature or the size of investments are contained in special laws are the competence of the National Government.*

Article 5. *Every department will have a departmental superintendent appointed by the President of the Republic, who will represent him and have the rank and duties assigned to him by law.*

Mechanisms of coordination between the National Government and municipal governments are established by law.

Article 6. *The metropolitan areas of Lima and Callao and the provincial capitals that are metropolitan in size come under a special system in the organic law on municipalities. The same law establishes the regulatory competence and functions of municipalities and makes a clear distinction between the role of provincial and district responsibilities.*

Article 7. *The mayors and heads [regidores] of Municipal Councils are elected by direct suffrage by the inhabitants of their respective jurisdictions for the period stated by law. Their term is unrenounceable.*

The organic law on municipalities establishes the prerogatives, rights, and limitations on the exercise of their posts.

Article 8. *Municipalities may form partnerships in order better to accomplish their purposes. Likewise, the municipalities and the National Police will cooperate in the field of citizens' security in the manner and according to the terms defined by law.*

Additional and Transitory Provisions

Additional provision: By means of a referendum, two or more adjacent departments may combine into a single department, in accordance with the procedure established by law.

Likewise, by means of a referendum, adjacent provinces, and districts may merge or change districts in accordance with the procedure outlined by law.

Additional provision: The transfer of duties and resources to municipalities is done gradually within the period and in the manner prescribed by law.

Transitory provision: General elections alternate with municipal elections so that the latter will be held halfway through the presidential term of office. In any case, municipalities [sic] now in office end their term on 31 December 1995.

Section on Constitutional Guarantees

Article 1. *The following are constitutional guarantees:*

1. *the notion of habeas corpus, which must precede the action or omission of any authority, official, or person who might violate or threaten the individual freedom or constitutional rights relating to it;*
2. *the notion of asylum, which must precede the action or omission of any authority, official or person who might violate or threaten other rights recognized by the constitution. It is not relevant against legal norms or judicial resolutions emanating from regular proceedings.*
3. *the notion of habeas data, which must precede the action or omission of any authority, official, or person*

who violates or threatens the right of information or that of righting wrongs or the suppression of personal information referred to in paragraphs [blank] of Article [blank] of this constitution.

4. the notion of unconstitutionality, which is relevant against norms having the rank of law, laws, legislative orders, regional laws, municipal ordinances, emergency orders, treaties and international agreements, and congressional regulations.

5. the notion of people's action, which is relevant against other legal norms and administrative norms, regardless of the authority from which they emanate, when they violate constitutional or legal precepts.

6. the notion of compliance, which is relevant against any authority or official who refuses to comply with a legal norm or administrative act, irrespective of related responsibilities.

An organic law regulates the exercise of these guarantees and the effects of the declaration of unconstitutionality or illegality of the standards.

The right of habeas corpus and asylum is not suspended under the special regimes referred to in Article 231 of the constitution in effect. Whenever such an action is imposed with respect to one of the rights suspended, the competent jurisdictional organ will examine the rationale and proportionality of the restrictive act adopted.

Article 2. The constitutional chamber is the organ that oversees the constitution and is part of the Supreme Court of Justice.

Article 3. The constitutional chamber of the Supreme Court has the power to:

1. hear, as the sole instance, cases involving the notion of unconstitutionality; and
2. hear, as the second and final instance, cases involving the notion of habeas corpus, habeas data, asylum, action by the people, and the action of compliance.

Article 4. The following are empowered to label an action as unconstitutional:

1. the President of the Republic;
2. the Attorney General;
3. the Public Defender;
4. 25 percent of the number of congressional representatives;
5. 10,000 citizens whose signatures are verified by the National Election Board; and
6. provincial mayors with the consent of their council.

Article 5. The ruling of the Chamber declaring all or part of a norm unconstitutional is not retroactive.

Article 6. The ruling declaring the unconstitutionality of a norm is published in the *DIARIO OFICIAL* and such a norm is null and void the following day.

Article 7. When appeals to all domestic jurisdictions are exhausted, anyone who feels that the rights recognized by the Constitution have been violated may appeal to the international courts or agencies set up by the treaties or agreements to which Peru subscribes.

Section on Constitutional Reform

Single Article. [as published] Any constitutional reform must be approved by a regular session of the Legislature and ratified by another regular session.

The Executive Branch has no right of oversight over the corresponding law.

Approval and ratification require an absolute majority of the votes of the legal number of members of Congress.

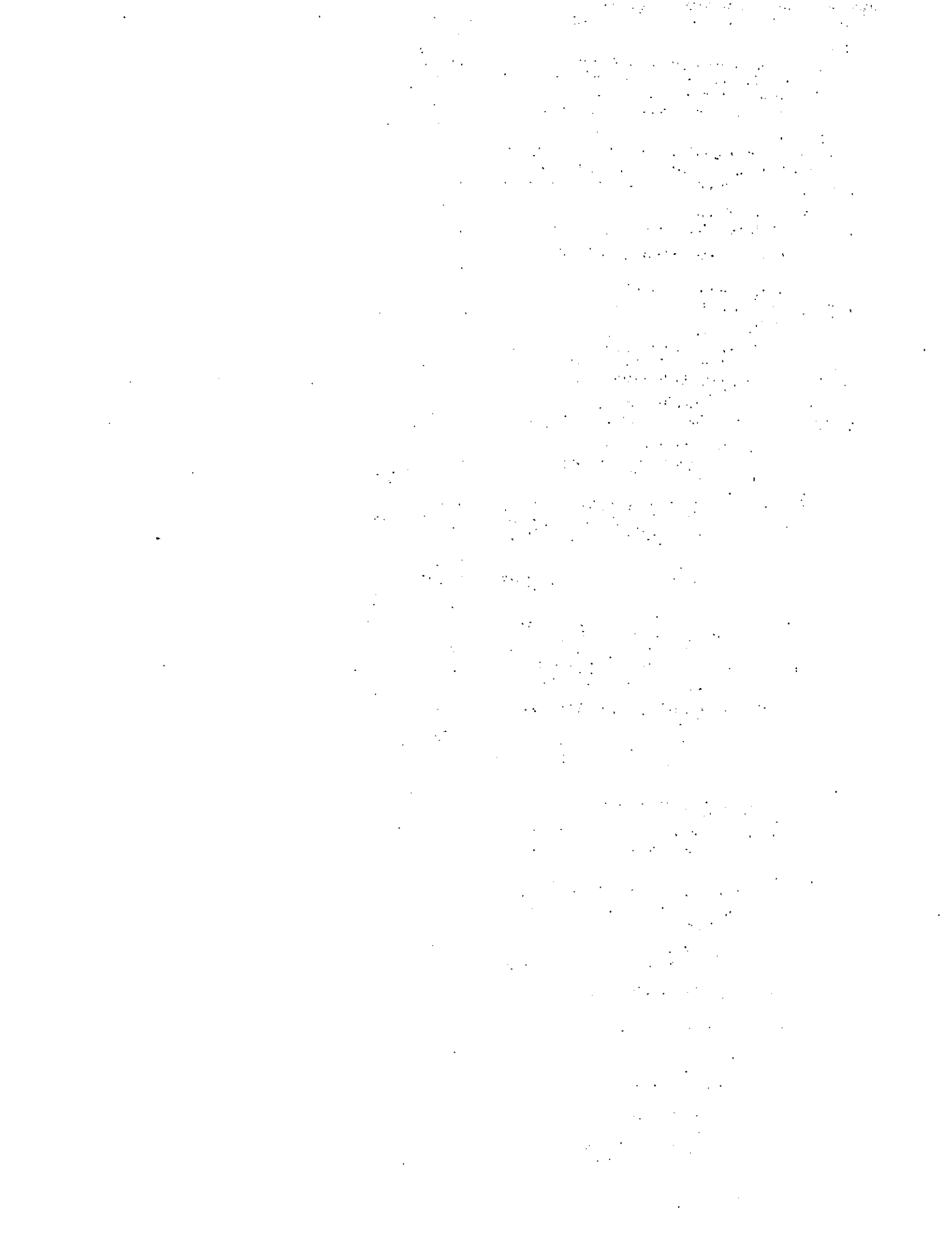
This initiative is enjoyed by the President of the Republic with the approval of the Cabinet, members of Congress, the Supreme Court in legal matters with the consent of the Plenary chamber, and .3 percent of the citizens comprising the voting population whose signatures must be verified by the National Election Board.

Chapter on the State of Emergency

Article 1. The President of the Republic, acting with the consent of the Cabinet, may order, for a specific amount of time, in all or part of the territory, and while reporting to Congress or the Standing Committee, the states of emergency envisioned in this article:

a) the state of emergency in the case of disturbances of the peace or the domestic order, disasters or serious circumstances affecting the life of the nation. Under such conditions, he may suspend constitutional guarantees relating to personal freedom and security, the inviolability of the home, and the freedom to assemble and move about within the territory, as contemplated in paragraphs [blank] of Article [blank] and paragraph [blank] of the same article. Under no circumstances may the punishment of exile be imposed. The term of the state of emergency is not to exceed 60 days. Its extension requires a new order. Under a state of emergency, the Armed Forces assume control of the domestic order when the President of the Republic so orders.

b) the state of siege in the case of invasion, foreign or civil war, or the imminent danger that they might occur, accompanied by a specific listing of the personal guarantees that remain in force. Its length is not to exceed 45 days. When the state of siege is declared, Congress has the right to convene. Its extension requires congressional approval.





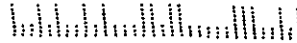


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