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Guatemala's Constitution of 1985 with Amendments through 1993

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• Source of constitutional authority
• God or other deities
• Motives for writing constitution
• Preamble

Preamble

INVOKING THE NAME OF GOD

We, the representatives of the people of Guatemala, elected freely and democratically, gathered in [the] National Constituent Assembly, with the goal of legally and politically organizing the State; affirming the primacy of the human person as [the] subject and purpose [fin] of the social order; recognizing the family as the primary and fundamental genesis of the spiritual and moral values of the society and the State, as [the one] responsible for promoting the common good, of the consolidation of the regime of legality, security, justice, equality, freedom and peace; inspired by the ideals of our forefathers and embracing [recogiendo] our traditions and cultural heritage; decided to promote the complete validity [vigencia] of the Human Rights within a stable, permanent, and popular institutional order, [one] where the governed and the governors [can] proceed with absolute attachment to the law;

SOLEMNLY DECREE, SANCTION, AND PROMULGATE THE FOLLOWING: POLITICAL CONSTITUTION OF THE REPUBLIC OF GUATEMALA

TITLE I: The Human Person, Objectives and Duties of the State

SOLE CHAPTER

Article 1: Protection of the Person

The State of Guatemala is organized to protect the person and the family; its supreme objective is the realization of the common good.

Article 2: Duties of the State

It is the duty of the State to guarantee to the inhabitants of the Republic the life, the freedom, the justice, the security, the peace, and the integral development of the person.

TITLE II: Human Rights

CHAPTER I: Individual Rights

• Right to life

Article 3: [The] Right to Life

The State guarantees and protects the human life from its conception, as well as the integrity and security of the person.

• Human dignity
• General guarantee of equality
• Equality regardless of gender
• Prohibition of slavery

Article 4: Freedom and Equality

In Guatemala[,] all [of the] human beings are free and equal in dignity and rights. The man and the woman, whatever their civil status may be, have equal opportunities and responsibilities. No person can be subject to servitude or to another condition that diminishes his or her dignity. The human beings must exercise [guardar] brotherly behavior among them.

• Freedom of opinion/thought/conscience

Article 5: [The] Freedom of Action

All persons have the right to do what the law does not prohibit; [the persons] are not obligated to obey orders that are not based in law or issued in accordance to it. Neither may they be persecuted or harassed for their opinions or for acts that do not imply an infraction of it.

Article 6: Legal Detention

No person may be arrested or detained, except for cause of [a] crime or [a] offense [falta] and by virtue of a order issued in accordance to the law [and] by a competent judicial authority. The cases of flagrant crime or offense are excepted. The detained [person] will be placed at the provision of the competent judicial authority within a time limit not exceeding six hours, and may not be subject to any other authority.

The functionary, or agent of the authority who infringes what is established in this Article will be sanctioned according to the Law, and the tribunals, of office, will initiate the corresponding process.

Article 7: Notification of the Cause of Detention

Any person [who is] detained must be notified immediately, in a verbal or written form, of the cause that motivated his [or her] detention, [the] authority which ordered it and the place where he [or she] will remain. The same notification must be made through the most rapid means to the person designated by the detained [person] and the authority will be responsible for the effectiveness of the notification.

Article 8: Rights of the Detained

All detained [persons] must be informed immediately of their rights in a form that will be understandable, especially [of the right] to use a defender [defensor], who may be present at all police and judicial diligences. The detained [person] cannot be obligated to testify except before a competent judicial authority.

Article 9: Interrogation [Interrogatorio] of Those Detained or Imprisoned

The judicial authorities are the only ones competent to interrogate those [who are] detained or imprisoned. This diligence must be practiced within a time that does not exceed twenty-four hours.

Extrajudicial questioning lacks any probatory value.

Article 10: Legal Detention Center

The persons apprehended by the authority may not be taken to places of detention, arrest, or imprisonment different from those which are legally and publicly designated to that effect. The provisional centers of detention, arrest, or imprisonment, shall be different from those where the sentences [condenas] are to be fulfilled.

The authorities and their agents, who violate what is established in this Article, will be personally responsible.

Article 11: Detention for Faults [Faltas] or Infractions

The persons whose identities can be established by means of documents, [through] the testimony of witnesses of substance [de persona de arraigo], or by [its] own authority, may not remain detained for faults or infractions.

In such cases, under the penalty of the corresponding sanction, the authority will limit its duty [cometido] to report the evidence to the competent judge and to warn the offender, as to appear before the same within the subsequent 48 business [hábiles] hours. To that effect, all of the days of the year, and within the hours comprehended between eight and eighteen hours[,] are business [hours].

Whoever disobeys the summons [emplazamiento] will be sanctioned according to the law. The person who may not be identified according to what is established in this Article, will be placed at the provision of the nearest judicial authority, within the first hour following his [or her] detention.

Article 12: Right to Defense

The defense of the person and his [or her] rights are inviolable. No one may be sentenced or deprived from his [or her] rights, without being summoned, heard and defeated in a legal process before a competent and pre-established judge and tribunal.

No person may be tried by Special or Secret Tribunals, nor through proceedings that are not pre-established legally.

Article 13: Motives for a Order [Auto] of Imprisonment

A order of imprisonment may not be dictated, without previous information of a crime having been committed and without the concurrence [of] sufficient rational motives to believe that the detained person has committed it or [has] participated in it.

The police authorities may not present[,] of office, before the media of social communication, any person who has not been previously investigated [indagada] by a competent tribunal.

Article 14: Presumption of Innocence and Publicity of the Process

• Presumption of innocence in trials

Any person is innocent, while not being judicially declared responsible, in a duly executory sentence.

• Right to examine evidence/witnesses

The detained, the offended, the Public Ministry and the attorneys who have been designated by the interested [persons], in a verbal or written form, have the right to take cognizance of, personally, all the actions, documents, and penal diligences without any reservation and in an immediate form.

• Protection from ex post facto laws

Article 15: Non-retroactivity of the Law

The law does not have retroactive effect, except in penal matters when it favors the defendant [reo].

• Protection from self-incrimination

Article 16: Declaration against Oneself and [against] Relatives

In a penal process, no person can be obligated to testify against oneself, against his [or her] spouse or person of legal union, or against relatives within the levels [grados] of law.

Article 17: There Is No Offense or Penalty without a Prior Law

• Principle of no punishment without law

The actions or omissions that are not qualified as crimes or faults and that [are] punishable [penadas] by a law [that is] prior to their perpetration[,] are not punishable.

• Rights of debtors

There is no prison for debt.

Article 18: Death Penalty

The death penalty may not be imposed in the following cases:

a. With basis on presumptions;

b. On women;

c. On those older than sixty years of age;

d. On those convicted of political and common crimes connected with political [ones]; and

e. On [those] convicted and whose extradition has been granted under such condition.

Against a sentence that imposes the death penalty, all of the pertinent legal recourses [recursos], including that of cassation[,] will be admissible; this [recourse] will always be admitted for its processing. The penalty will be executed after all of the recourses are exhausted.

The Congress of the Republic can abolish the death penalty.

Article 19: Penitentiary System

The penitentiary system must tend to the social rehabilitation and reeducation of the prisoners [reclusos] and to comply[,] in their treatment, with [observance to] the following minimum norms:

• Prohibition of corporal punishment
• Prohibition of cruel treatment
• Prohibition of torture

a. They must be treated as human beings; they must not be discriminated against for any reason whatsoever, or be infringed with cruel treatment, physical, moral, [or] psychic tortures, duress or harassments, labor incompatible with their physical state, actions that denigrate their dignity, or make them victims of exactions, or be submitted to scientific experiment.

b. They must fulfill the penalties in the places designated to such effect. The penal centers are of civil character and with specialized personnel; and

c. They have the right to communicate, when they so request, with their families, defense attorney, religious assistant or physician [medico], and in its case, with the diplomatic or consular representative of their own nationality.

The infraction of any of the norms established in this Article, gives the right to the detained [person] to claim of the State an indemnification for the damages caused[,] and the Supreme Court of Justice will order his [or her] immediate protection.

The State must create and promote the conditions for the exact fulfillment of what is provided for [perceptuado] in this Article.

• Privileges for juveniles in criminal process

Article 20: Minors of Age

The minors of age who violate [transgredan] the law are not imputable. Their treatment must be directed towards an integral education [that is] proper for childhood and adolescence.

The minors, whose conduct violates a penal law, will be assisted by specialized institutions and personnel. For no reason can they be incarcerated in penal centers or [centers] of detention [that are] intended for adults. A specific law will regulate this matter.

Article 21: Sanctions for Public Functionaries or Employees

The public functionaries or employees or [the] other persons who give or execute orders against the provisions in the two previous Articles, in addition to the sanctions imposed on them by the law, will be immediately removed [destituidos] from their offices [cargos], as the case may be, and disqualified from the holding of any public office or employment.

The custodian who makes inappropriate use of measures or arms against a detained or imprisoned [person], will be held responsible in accordance with the Penal Law. The crime committed in such circumstances is imprescriptible.

Article 22: Penal and Police Records

The penal and police records are not a cause for persons to be restricted in the exercise of their rights which are guaranteed by this Constitution and the laws of the Republic, except when they limited by the law, or in a final [firme] sentence, and for the term established in it.

• Inalienable rights
• Right to privacy

Article 23: Inviolability of the Home

The home [vivienda] is inviolable. No one may penetrate the dwelling of someone else without the permission of the resident who inhabits it, except by the written order of a competent judge in which the reason for the diligence is specified and never before six or after eighteen hours. Such diligence will always be carried out in the presence of the interested party, or his [or her] representative [mandatario].

• Right to privacy

Article 24: Inviolability of Correspondence, Documents, and Books

• Inalienable rights

The correspondence of any person, his [or her] documents, and books are inviolable. They may only be inspected or seized, by virtue of a firm resolution dictated by a competent judge and with the legal formalities. The secrecy of correspondence and telephone, radio, and cablegram communications and of other products of the modern technology is guaranteed.

• Regulation of evidence collection

The books, documents and archives related with the payment of taxes, rates, charges [arbitrios], and contributions, may be revised by the competent authority in accordance with the law. It is punishable to disclose the amount of taxes paid, [the] earnings, losses, expenses, and any other data referring to the revised accounts of individual or juridical persons, with the exception of general balances, of which publication is ordered by the law.

• Regulation of evidence collection

The documents or [the] information obtained in violation of this Article neither produce faith nor may be used as evidence in trial.

Article 25: Registry of Persons and Vehicles

The registry of the persons and of the vehicles, can only be drawn up [efectuarse] by the elements of the security forces when a justifying cause is established for the same. For that effect, the elements of the security forces must appear wearing the appropriate uniform and belong to the same sex as the subjects [being] requisitioned, having to keep the respect for the dignity, privacy and decorum of the persons.

Article 26: Freedom of Movement [Locomoción]

• Freedom of movement

Any person has [the] freedom to enter, remain, transit, and exit from the national territory and change domiciles or residences, without other limitations than those established by the law.

No Guatemalan may be exiled or forbidden from entering the national territory or be denied a passport or other identification documents.

Guatemalans can enter and exit the country without fulfilling the requirement of a visa.

The law will determine the responsibilities incurred by those who infringe this provision.

Article 27: Right of Asylum

• Protection of stateless persons

Guatemala recognizes the right of asylum and grants it in accordance with the international practices.

• International law

The extradition is regulated by that provided in the international treaties.

• Extradition procedure

The extradition of Guatemalans will not be initiated for political crimes, and they will not be handed over to a foreign government, except for what is established in [the] treaties and conventions regarding crimes against humanity or against the international law.

The expulsion from the national territory of a political refugee will not be accorded, with destination to the country that seeks him [or her].

• Right of petition

Article 28: Right of Petition

The inhabitants of the Republic of Guatemala have the right to direct, individually or collectively, petitions to the authority, who is obligated to process them and resolve them according to the law.

In administrative matters the term to resolve the petitions and to notify the resolutions may not exceed thirty days.

In fiscal matters, to challenge administrative resolutions in those procedures [expedientes] that originate in exceptions [reparos] or adjustments for any tax, the previous payment of the tax or any guarantee will not be required of the taxpayer [contribuyente].

Article 29: Free Access to Tribunals and Dependencies of the State

Every person has free access to the tribunals, dependencies and offices of the State, in order to exercise their actions and enforce their rights in accordance with the law.

Only foreigners may avail themselves of diplomatic channels in case of a denial of justice.

The sole fact that a resolution [fallo] may be adverse to their interests[,] is not qualified as such a denial[,] and in any case, the legal recourses established by the Guatemalan laws must have been exhausted.

• Right to information

Article 30: Publicity of the Administrative Acts

All of the acts of the administration are public. The interested [persons] are entitled to obtain, at any time, reports, copies, reproductions, and certifications that they [may] request and the display of the dossiers [expedientes] that they may wish to consult, except when dealing with military or diplomatic matters relating to national security, or details provided by individuals under the guarantee of confidentiality.

• Right to information

Article 31: Access to Archives and State Registries

All persons have the right to take cognizance of what the archives, records, or any other form of State registries contain about them, and [regarding] the purpose for which such data is used, as well as their correction, rectification, and updating [actualización]. Registries and records of political affiliation, except for those pertaining to the electoral authorities and to the political parties[,] are prohibited.

Article 32: Objective of [the] Summons

The appearance before an authority, functionary, or public employee is not obligatory, if in the corresponding summons the objective of the diligence is not expressly stated.

• Freedom of assembly

Article 33: Right of Assembly and Demonstration [Manifestación]

The right of peaceful assembly and without weapons is recognized.

The rights of assembly and of public demonstration may not be restricted, diminished, or restrained; and the law shall regulate them with the sole purpose of guaranteeing the public order.

The religious manifestations outside of temples are permitted and are regulated by the law.

For the exercise of these rights a prior notification by the organizers before the competent authority will suffice.

• Freedom of association

Article 34: Right of Association

The right of free association is recognized.

No one is obligated to associate [with] or to form part of mutual-interest [autodefensa] or similar groups or associations. The case of professional associations is excepted.

• Freedom of expression
• Freedom of opinion/thought/conscience
• Freedom of press

Article 35: Freedom of Expression of Thought

The expression of thought through any means of dissemination, without censorship or prior permission, is free. This constitutional right may not be restrained by [the] law or by any governmental provision. [The person] who by using the freedom should fail to respect private life or morals, will be held responsible in accordance with the law. Whoever may feel offended has the right of publication of his [or her] defense, clarifications, and rectifications.

The publications which contain denunciations, criticisms, or accusations [imputaciones] against functionaries or public employees for actions conducted in the performance of their duties[,] do not constitute a crime or a fault.

The functionaries and [the] public employees can request a tribunal of honor, composed in the form determined by the law, to declare that the publication that affects them is based on inaccurate facts or that the charges made against them are unfounded. A court ruling [fallo] that vindicates the offended, must be published in the same media of social communication where the accusation appeared.

The activity of the means of social communication is of public interest and in no case may they be expropriated. They may not be closed, attached [embargados], interfered with, confiscated, or seized [decomisados], nor may the enterprises, plants, equipment, machinery, and gear [enseres] of the means of communication be interrupted in their functioning, for faults or crimes in the expression of thought.

The access to the sources of information is free and no authority may limit this right.

The authorization, limitation or cancellation of the concessions granted by the State to persons, may not be used as elements of pressure or duress [coacción] to limit the exercise of the freedom of expression of thought.

A jury will take exclusive cognizance of the crimes or faults to which this Article refers.

Everything that relates to this constitutional right is regulated in the Constitutional Law for the Expression of Thought [Ley Constitucional de Emisión del Pensamiento].

The owners of the means of social communication must provide socio-economic coverage to their reporters, through the contracting of life insurance.

• Freedom of religion

Article 36: Freedom of Religion

The exercise of all the religions is free. Any person has the right to practice his [or her] religion or belief, in public and in private, through teaching, cult and observance, without other limits than the public order and the due respect for the dignity of the hierarchy and the faithful [followers] of [the] other beliefs [credos].

• Tax status of religious organizations

Article 37: Juridical Personality of the Churches

The juridical personality of the Catholic Church is recognized. The other churches, cults, entities, and associations of religious character will obtain the recognition of their juridical personality in accordance with the rules of their institution[,] and the Government may not deny it[,] aside from reasons of public order.

The State will extend to the Catholic Church, without any cost, [the] titles of ownership of the real assets which it holds peacefully for its own purposes, as long as they have formed part of the patrimony of the Catholic Church in the past. The property assigned to third parties or those which the State has traditionally assigned to their services[,] may not be affected.

The real assets of the religious entities assigned [destinados] to cult, to education, and to social assistance, enjoy exemption from taxes, assessments, and contributions.

• Right to bear arms

Article 38: Possession and Bearing of Arms

The right to own [tenencia] weapons for personal use, not prohibited by the law, in the place of inhabitation, is recognized. There will not be an obligation to hand them over, except in cases ordered by a competent judge.

The right to bear arms is recognized, [and is] regulated by the law.

• Right to own property
• Right to transfer property

Article 39: Private Property

Private property is guaranteed as a right inherent to the human person. Any person can freely dispose of his [or her] property in accordance with the law.

The State guarantees the exercise of this right and must create the conditions that enable [faciliten] the owner to use and enjoy his [or her] property, in such a way as to achieve individual progress and the national development to [the] benefit of all Guatemalans.

• Protection from expropriation

Article 40: Expropriation

In specific cases, private property can be expropriated for reasons of duly proven collective utility, social benefit or public interest. The expropriation must be subject to the proceedings specified by the law, and the affected asset will be appraised by experts taking its actual value as a basis.

The indemnification must be prior and in an effective currency of legal tender, unless another form of compensation is agreed upon with the interested party.

Only in [the] cases of war, public calamity, or serious disruption of peace can a property be occupied or intervened, or be expropriated without prior compensation, but the latter must be made immediately following the end of the emergency. The law will establish the norms to be followed with enemy property.

The form of payment of the indemnifications due to the expropriation of idle [ociosas] lands will be determined by the law. In no case will the deadline [término] to make such payment effective exceed ten years.

Article 41: Protection of the Right of Ownership

The right of ownership may not be limited in any form due to political activity or crime. The confiscation of property and the imposition of confiscatory fines are prohibited. In no case may the fines exceed the value of the unpaid tax.

• Provisions for intellectual property

Article 42: [The] Right of the Author or Inventor

The right of an author and an inventor is recognized; the titleholders of the same will enjoy the exclusive ownership of their work or invention, in accordance with the law and the international treaties.

Article 43: Freedom of Industry, Trade, and Work

The freedom of industry, trade, and work is recognized, except for the limitations that due to social motives or the national interest are imposed by the law.

Article 44: [The] Rights Inherent to the Human Person

The rights and [the] guarantees granted by the Constitution do not exclude others that, even though they are not expressly mentioned in it, are inherent to the human person.

The social interest prevails over the individual [particular] interest.

The laws and the government provisions or [those of] any other order that reduce, restrict, or distort the rights guaranteed by the Constitution are void ipso jure.

Article 45: Action Against Offenders [Infractores] and Legitimacy of Resistance

The action to prosecute the violators of human rights is public and may be exercised through a simple denunciation, without any guarantee or formality whatsoever. The resistance of the people for the protection and defense of the rights and guarantees granted in the Constitution[,] is legitimate.

• International law
• Legal status of treaties

Article 46: Preeminence of [the] International Law

The general principle that within matters of human rights, the treaties and agreements approved and ratified by Guatemala, have preeminence over the internal law[,] is established.

CHAPTER II: Social Rights

FIRST SECTION: The Family

• Right to found a family
• Provision for matrimonial equality

Article 47: Protection of the Family

The State guarantees the social, economic, and juridical protection of the family. It will promote its organization on the legal basis of marriage, the equal rights of the spouses, [the] responsible paternity and the right of the persons to decide freely the number and the spacing [espaciamiento] of their children.

Article 48: De facto Unions

The State recognizes de facto unions and the law will regulate [perceptuará] everything relative to it.

• Provision for civil marriage

Article 49: Matrimony

The [state of] matrimony may be authorized by the mayors [alcaldes], council members, notaries in exercise [of their function] and [by] religious ministers authorized [facultados] by the corresponding administrative authority.

• Rights of children

Article 50: Equality of the Children

All of the children are equal before the law and they have the same rights. Any discrimination is punishable.

• State support for the elderly
• State support for children

Article 51: Protection of [the] Minors and [of] the Elderly

The State will protect the physical, mental, and moral health of the minors of age and of the elderly. It will guarantee to them their right to food, health, education, and security and social prevision.

Article 52: Maternity

The [state of] maternity has the protection of the State, which in special form will see to the strict compliance of the rights and obligations that derive from it.

• State support for the disabled

Article 53: [The] Disabled [Minusválidos]

The State guarantees the protection of the disabled and of those persons who suffer from physical, psychic, or sensory limitations. Their medical-social care, as well as the promotion of the policies and the services that make their rehabilitation and their integral reincorporation into society possible, are declared to be of national interest. The law will regulate this matter and will create the technical and executory organs that are necessary.

• State support for children

Article 54: Adoption

The State recognizes and protects adoption. The adopted [person] acquires the status of child of the adopter. The protection of orphaned children and of abandoned children is declared of national interest.

Article 55: Obligation to Provide Food

The refusal to supply food in the form prescribed by the law is punishable.

Article 56: Actions Against Causes of Family Disintegration

The actions against alcoholism, drug addiction, and other causes of family disintegration[,] are declared to be of social interest. The State must take the adequate measures of prevention, treatment, and rehabilitation to make said actions effective, for the well being of the individual, the family, and the society.

SECOND SECTION: Culture

• Right to enjoy the benefits of science

Article 57: Right to Culture

Every person has the right to participate freely in the cultural and artistic life of the community, as well as [to] benefit from the scientific and technological progress of the Nation.

Article 58: Cultural Identity

The right of the persons and of the communities to their cultural identity in accordance to their values, their language, and their customs[,] is recognized.

• Right to culture

Article 59: Protection and Research of the Culture

It is [a] primary obligation of the State to protect, promote, and disseminate [divulgar] the national culture; [to] issue the laws and provisions that tend to its enrichment, restoration, preservation, and recuperation; [to] promote and regulate its scientific research, as well as the creation and [the] application of [the] appropriate technology.

Article 60: Cultural Heritage [Patrimonio]

The paleontological, archeological, historical, and artistic assets [bienes] and values of the country form [part of] the cultural heritage of the Nation and are under the protection of the State. Their transfer, export, or alteration, except in the cases determined by the law, is prohibited.

Article 61: Protection of the Cultural Heritage

The archaeological sites, [the] collections of monuments and the Cultural Center of Guatemala [Centro Cultural de Guatemala], will receive special attention from the State, with the purpose of preserving its characteristics and safeguarding [resguardar] its historical value and cultural assets. The Tikal National Park, the Archeological Park of Quiriguá, and the city of Ancient [Antigua] Guatemala, will be subject to a special conservation regime because they have been declared [part of the] Heritage of the World [Patrimonio Mundial], as well as those that acquire a similar recognition.

• Reference to art

Article 62: Protection of Traditional Art, Folklore, and Handicrafts

The national artistic expression, the popular art, the folklore, and the autochthonous handicrafts and industries, must be [the] object of special protection by the State, with the purpose of preserving their authenticity. The State will propitiate the opening of national and international markets for the free commercialization of the work of the artists and artisans, promoting their production and adequate technification [tecnificación].

• Reference to art
• Reference to science

Article 63: Right to Creative Expression

The State guarantees free creative expression, [it] supports and encourages the scientist, the intellectual and the national artist, promoting their formation and professional and economic improvement.

Article 64: Natural Heritage

The conservation, protection and improvement of the natural heritage of the Nation[,] is declared [to be] of national interest. The State will promote the creation of national parks, reservations, and natural sanctuaries [refugios], which are inalienable. A law will guarantee their protection and that of the fauna and the flora that exists within them.

Article 65: Preservation and Promotion of Culture

The activity of the State with regards to the preservation and promotion of the culture and its manifestations, will be the charge [cargo] of a specific organ with its own budget.

THIRD SECTION: Indigenous Communities

Article 66: Protection of Ethnic Groups

Guatemala is formed by diverse ethnic groups among which are found the indigenous groups of Mayan descent. The State recognizes, respects, and promotes their forms of life, customs, traditions, forms of social organization, the use of the indigenous attire by men and women, [and their] languages and dialects.

Article 67: Protection of the Indigenous Agricultural Lands and Cooperatives

The lands of the cooperatives, [the] indigenous communities or any other forms of communal or collective possession of agrarian ownership, as well as the family patrimony and the people's housing, will enjoy special protection of the State, [and] of preferential credit and technical assistance, which may guarantee their possession and development, in order to assure an improved quality of life to all of the inhabitants.

The indigenous communities and others that hold lands that historically belong to them and which they have traditionally administered in special form, will maintain that system.

Article 68: Lands for Indigenous Communities

Through special programs and adequate legislation, the State will provide state lands to the indigenous communities who may need them for their development.

Article 69: Transfer [Traslación] of Workers and their Protection

The labor activities that involve the transfer of workers outside of their communities, will be the object of protection and legislation to assure adequate conditions of health, security, and social prevision that prevent the payment of wages [that are] not adjusted to the law, the disintegration of those communities and in general all of discriminatory treatment.

Article 70: Specific Law

A law will regulate the matters related to this section.

FOURTH SECTION: Education

• Right to academic freedom

Article 71: Right to Education

The freedom of education and educational [docente] criteria is guaranteed. It is the obligation of the State to provide and facilitate education to its inhabitants without any discrimination whatsoever. The foundation and maintenance of cultural educational centers and museums is declared to be of public utility and necessity.

Article 72: Objectives [Fines] of Education

Education has as its primary objective the integral development of the human person, the knowledge of reality and national and universal culture.

Education, instruction, social development and the systematic teaching of the Constitution of the Republic and of the human rights are declared to be of national interest.

Article 73: Freedom of Education and the Economic Assistance of the State

The family is the source of the education and the parents are entitled to choose what is to be taught [impartirse] to their minor children. The State may subsidize the gratuitous private educational centers and the law will regulate what is relative to this matter. The private educational centers shall function under the inspection of the State. They are obligated to fulfill [llenar], at least, [the] official study plans and programs. As cultural centers they will be enjoy the exemption of all types of taxes and assessments.

Religious education is optional in the official establishments and can be taught during ordinary hours, without any discrimination.

The State will contribute to the maintenance of religious education without any discrimination.

• Compulsory education
• Free education

Article 74: Obligatory Education

The inhabitants have the right and the obligation to receive initial, pre-primary, primary and basic education, within the age limits established by the law.

The education provided by the State is gratuitous.

The State will provide and promote scholarships and educational credits.

Scientific, technological, and humanistic education constitute objectives that the State must guide and develop [ampliar] permanently.

The State shall promote special education, diversified [education] and extracurricular [extraescolar] [education].

Article 75: Literacy

Literacy is declared [to be] of national urgency and it is a social obligation to contribute to it. The State will organize it and promote it with all the necessary resources.

Article 76: Educational System and Bilingual Education

The administration of the educational system must be decentralized and regionalized.

In the schools established in regions with a predominantly indigenous population, the education must be provided preferentially in [a] bilingual form.

Article 77: Obligations of Business Owners

The owners of the industrial, agricultural, livestock, and commercial businesses are obligated to establish and maintain, in accordance with the law, [the] schools, day care centers, and cultural centers for their workers and school population.

Article 78: Teaching Faculty [Magisterio]

The State will promote the economic, social, and cultural improvement of the teaching faculty, including the right to retirement that makes possible their effective dignification [dignificación].

The rights acquired by the national teaching faculty are of a minimal and irrenounceable character. The law will regulate these matters.

Article 79: Agricultural Education

Agricultural study, apprenticeship, explication, commercialization and industrialization are declared to be of national interest. The National Central School of Agriculture [Escuela Nacional Central de Agricultura] is created as an autonomous decentralized entity, with juridical personality and its own patrimony; it must organize, direct, and develop plans of agricultural, livestock, and forestry study of the Nation at the intermediate level; and it will be governed by its own organic law, with an allocation of an amount of no less than five percent of the regular budget of the Ministry of Agriculture.

• Reference to science

Article 80: Promotion of the Science and the Technology

The State recognizes and promotes science and technology as fundamental bases of national development. The law will establish norms for [normará] what is pertinent.

Article 81: Titles and Diplomas

The titles and diplomas of which the issuance corresponds to the State, have full legal validity. The rights acquired for the exercise of the professions accredited by said titles, must be respected and no provisions of any kind may be issued that limit or restrict these rights.

FIFTH SECTION: Universities

Article 82: Autonomy of the University of San Carlos de Guatemala

The University of San Carlos de Guatemala, is an autonomous institution with juridical personality. In its character of [being] the only State university[,] it exclusively corresponds to it to direct, organize, and develop the superior education and the professional university education of the State, as well as the dissemination of the culture in all [of] its manifestations. It will promote by every means within its reach the research in every area of the human knowledge and will cooperate in the study and solution of the national problems.

It is governed by its Organic Law and by the statutes and regulations that it emits, having to observe in the conformation of its directive organs, the principle of representation of its titular professors [catedráticos], its graduates and its students.

Article 83: Government of the University of San Carlos de Guatemala

The government of the University of San Carlos de Guatemala corresponds to the Superior University Council [Consejo Superior Universitario], integrated by the Rector, who presides over it; the deans of the faculties; a representative of the professional association [colegio], graduated from the University of San Carlos de Guatemala, which corresponds to each faculty; a titular professor and a student for each faculty.

Article 84: Budgetary Allocation for the University of San Carlos de Guatemala

A specific [privativa] budgetary allocation corresponds to the University of San Carlos de Guatemala [that is] no less than five percent of the General Budget of Ordinary Revenues of the State, which must generate an adequate budgetary increase sufficient to cover the growth in the student population or the improvement of the academic level.

Article 85: Private Universities

To the private universities, which are independent institutions, corresponds the organization and development of the private superior education of the Nation, with the purpose of contributing to the professional formation, to the scientific research,

to the cultural dissemination and to the study and solution of the national problems.

When the functioning of a private university is authorized, it will have juridical personality and [the] freedom to create its faculties and institutes, to develop its academic and teaching activities, as well as to elaborate its plans and programs of study.

Article 86: Council of the Superior Private Education

The Council of the Superior Private Education [Consejo de la Enseñanza Privada Superior] will have as its functions to see to the maintaining of the academic level in the private universities without undermining their independence and to authorize the creation of new universities; it is integrated by two delegates from the University of San Carlos de Guatemala, two delegates from the private universities and one delegate elected by the presidents of the professional colleges who do not hold any office [cargo] in any university.

The presidency will be exercised in a rotating form. The law will regulate this matter.

Article 87: Recognition of Degrees, Titles, Diplomas, and Incorporations

In Guatemala only degrees, titles, and diplomas granted by the legally established universities organized to function in the country[,] will be recognized, except for what is provided in international treaties.

The University of San Carlos de Guatemala, is the only one entitled [facultada] to resolve the incorporations of the professionals graduated from foreign universities and to set the prior requirements which must fulfilled for that purpose, as well as to recognize the titles and diplomas of university character protected by the international treaties. The titles granted by Central American universities will have full validity in Guatemala when the basic centralization of the study plans is achieved.

Legal provisions that grant privileges to the detriment of those exercising a profession with a title or who have been legally authorized to exercise it, may not be adopted.

Article 88: Tax Exemptions and Deductions

The universities are exempt from the payment of all types of taxes, assessments, and contributions without any exception whatsoever.

The donations given to universities, cultural or scientific institutions will be deductible from the net revenue prior to assessing the income tax.

The State can provide economic assistance to private universities, for the fulfillment of their own objectives.

The University of San Carlos de Guatemala and the private universities may neither be [the] object of processes of execution nor may they be intervened, except in those cases where the private universities assume obligations through civil, mercantile, or labor contracts.

Article 89: Granting of Degrees, Titles, and Diplomas

Only the universities that are legally authorized may grant degrees and issue titles and graduation diplomas within superior education.

Article 90: Professional Association [Colegiación]

The association of university professionals is obligatory and it will have as is its objectives the moral, scientific, technical, and material improvement of the university professions and the control of their exercise.

The professional associations, as work [gremiales] associations with a juridical personality, shall function in accordance with the Law of the Professional Association [Ley de Colegiación Profesional], obligatorily[,] and the statutes of each association will be approved with independence from the universities from which its members have graduated.

They will contribute to the strengthening of the autonomy of the University of San Carlos de Guatemala and for the purposes and goals of all the universities of the country.

In every matter related to the improvement of the scientific and the cultural-technical level of the university professions, the universities of the country will be able to require the participation of the professional associations.

SIXTH SECTION: Sports

Article 91: Budgetary Allocation for Sports

It is the duty of the State to encourage and promote physical education and [the practice of] sports. To that effect, a specific allocation no smaller than three percent of the General Budget of Ordinary Revenues of the State will be set. From such allocation[,] fifty percent will be destined to the federated sports sector through its administrative organs, in the form established by [the] law; twenty-five percent to physical education, recreation, and school sports; and twenty-five percent to non-federated sports.

Article 92: Autonomy of Sports

The autonomy of federated sports is recognized and guaranteed through its administrative [rectores] organs, the Autonomous Sports Confederation of Guatemala [Confederación Deportiva Autónoma de Guatemala] and the Guatemalan Olympic Committee [Comité Olímpico Guatemalteco], which have juridical personality and their own patrimony, being exempt from all types of taxes and assessments.

SEVENTH SECTION: Health, Security, and Social Assistance

• Right to health care

Article 93: Right to Health

The enjoyment of health is a fundamental right of the human being, without any discrimination.

• Right to health care

Article 94: Obligation of the State, Regarding Health and Social Assistance

The State will see to the health and the social assistance of all the inhabitants. It will develop, through its institutions, actions of prevention, promotion, recovery, rehabilitation, coordination and those complementary ones [that are] appropriate in order to procure [for them] the most complete physical, mental, and social wellbeing.

Article 95: Health, [a] Public Asset

The health of the inhabitants of the Nation is a public asset [bien]. All persons and institutions are obligated to see to its conservation and reestablishment.

Article 96: Quality Control of Products

The State will control the quality of food products, pharmaceuticals, chemicals and of everything that can affect the health and the well being of the inhabitants. It will see to the establishment and programming of the primary attention to health, and for the improvement of the conditions of the basic environmental sanitation [saneamiento] of the least protected communities.

• Protection of environment

Article 97: [The] Environment and [the] Ecological Balance

The State, the municipalities and the inhabitants of the national territory are obligated to promote [propiciar] the social, economic, and technological development that prevents the pollution [contaminación] of the environment and maintains the ecological balance. All the necessary regulations will be dictated to guarantee that the use [utilización y el aprovechamiento] of the fauna, [the] flora, [the] land, and [the] water, are conducted rationally, avoiding their depredation.

Article 98: Community Participation in Health Programs

The communities have the right and the duty to actively participate in the planning, execution, and evaluation of [the] health programs.

Article 99: Feeding and Nutrition

The State will see to it that the food and the nutrition of the population meet the minimum health requirements. The specialized institutions of the State must coordinate their actions among themselves or with [the] international organs dedicated to health, [in order] to achieve an effective national food system.

Article 100: Social Security

The State recognizes and guarantees the right to social security for the benefit of the inhabitants of the Nation. Its regime is instituted as a public function, in a national, unitary, and obligatory manner.

The State, the employers, and the workers covered by the regime, with the sole exception of that provided by Article 88 of this Constitution, have the obligation to contribute to the financing of such regime and [the] right to participate in its direction, seeking [procurando] its progressive improvement.

The application of the social security regime corresponds to the Guatemalan Social Security Institute [Instituto Guatemalteco de Seguridad Social], which is an

autonomous entity with juridical personality, [and with] its own patrimony and functions; it enjoys a total exemption from taxes, contributions and assessments, whether established or to be established. The Guatemalan Social Security Institute must participate with the health institutions in [a] coordinated manner.

The Executive Organ will allocate annually in the Budget of Revenues and Expenditures of the State, a specific portion [partida] to cover the share [cuota] that corresponds to the State as such and as an employer, which may not be transferred or canceled during the fiscal year [ejercicio] and [that] will be establish in accordance with the technical actuarial studies of the Institute.

Against the resolutions dictated in this matter, [the] administrative and contentious-administrative recourses proceed in accordance with the law. When dealing with benefits [prestaciones] that the regime must provide, the tribunals of labor and social prevision will take cognizance.

EIGHTH SECTION: Work

• Right to work
• Duty to work

Article 101: [The] Right to Work

To work is a right and a social obligation of the person. The labor regime of the country must be organized in accordance with the principles of social justice.

Article 102: Minimum Social Rights of Labor Legislation

The minimum social rights that form the basis of the labor legislation and the activity of the tribunals and [the] authorities [are]:

• Right to choose occupation
• Right to safe work environment
• Right to reasonable standard of living

a. The right to the free choice [elección] of work and the satisfactory economic conditions that guarantee a dignified existence for the worker and his [or her] family;

• Right to equal pay for work

b. That all work be equitably remunerated, except with what the law determines in that regard;

c. The equality of salary for the same rendered work in equality of conditions, productivity, and seniority;

d. The obligation to pay the worker in currency of legal tender. However, the field worker [trabajador de campo] can receive, by choice [a su voluntad], food products until up to thirty percent of his [or her] salary. In this case the employer will provide those products at a price no superior than their cost;

e. The freedom from lien [inembargabilidad] of the salary in the cases determined by the law. The personal work implements may not be subject to a lien for any reason. Nevertheless, for the protection of the family of the worker and by judicial order, part of the salary can be retained and delivered to the corresponding [party];

f. The periodic establishment [fijación] of the minimum salary in accordance with the law;

g. The ordinary effective workday [jornada] can neither exceed eight hours of work per day, nor forty-four hours per week, equivalent to forty-eight hours for the exclusive purpose of the payment of the salary.

The ordinary effective workday on the night shift can neither exceed six hours per day, nor thirty-six hours per week. The mixed ordinary effective workday can neither exceed seven hours per day, nor forty-two hours per week. All work effectively performed outside [of the] ordinary working hours, constitutes an extraordinary workday and must be remunerated as such. The law will determine the very qualified situations of exception where the provisions relative to the workdays are not applicable.

Those that by provision of the law, by custom or by agreement with the employers work less than forty-four hours per week during the day, thirty-six hours during the night, or forty-two hours in mixed-schedule workdays, will have the right to receive the weekly salary in its entirety.

It is understood that effective work means the entire time that the worker remains under the orders or at the disposal of the employer;

• Right to rest and leisure

h. The right of the worker to a day of remunerated rest for each ordinary work week or for any six consecutive workdays. The holidays [días de asueto] recognized by the law will also be remunerated;

i. The right of the worker to fifteen working days of paid vacation after each year of continuous service, with the exception of agricultural enterprise workers, who will have the right to ten working days [of vacation]. The vacations must be effective and the employer may not compensate such right in a different manner, except when the labor relationship already acquired would cease;

j. The obligation of the employer to grant[,] every year[,] a bonus [aguinaldo] of no less than one hundred percent of the monthly salary, or the one already established if greater, to those workers who may have worked for an uninterrupted year prior to the date of the payment. The law will regulate the form of payment. For those workers with less than one year of service, such bonus will be covered proportionally to the time [of duration] of [the] work;

k. The protection of the working woman and [the] regulation of the conditions under which she must render her services.

There may not be differences established between married and single women in terms of [the] work. The law will regulate the protection of the maternity rights of the working woman, who may not be required to [conduct any] work that may require an effort that puts her pregnancy in jeopardy [gravidez]. The working mother will enjoy a compulsory rest [period] [descanso forzoso] paid on the basis of one hundred percent of her salary, during the thirty days prior to giving birth and [during] the subsequent forty-five days. During the period of lactation she will have the right to two periods of extraordinary rest, during her workday. The prenatal and postnatal rest periods will be expanded according to her physical conditions, by medical prescription;

• Limits on employment of children

l. Minors under fourteen years of age may not be employed in any type of work, except for the exceptions established by the law. It is forbidden to employ [ocupar] minors in works that are incompatible with their physical capacity or that endanger their moral formation.

The workers older than sixty years of age will be the object of a treatment [that is] adequate to their age;

m. The protection and [the] promotion [fomento] of the work of the blind, the disabled and the persons with physical, psychic, or nervous deficiencies.

n. The preference of Guatemalan workers over foreigners in equality of conditions and in the percentages determined by the law. In comparable [paridad] circumstances, no Guatemalan worker may earn a lesser salary than a foreigner, be subject to inferior conditions of employment, or obtain lesser economic advantages or other benefits [prestaciones];

ñ. The establishment of the norms of obligatory compliance for employers and workers in the individual and collective labor contracts. The employers and [the] employees will procure the economic development of their enterprise for [their] common benefit;

o. The obligation of the employer to indemnify with the salary of one month for each year of continuous service when unjustifiably or indirectly dismissing [despida] a worker, as long as the law does not establish another more appropriate [conveniente] system that would provide the worker with better provisions.

For the effects of computing the continuous services[,] the date in which the work relation began will be taken into account, whichever it may be;

p. It is the obligation of the employer to provide to the spouse or partner, the minor children or the disabled [relatives] of a worker who may die while in service, a benefit [prestación] equivalent to the salary of one month for each year worked. This benefit will be covered by monthly payments and its amount will not be less than the final salary received by the worker.

If death should occur for a reason of which risk is entirely covered by the social security regime, this obligation of the employer will cease. In case that this method should not cover the benefit completely, the employer must pay the difference;

• Right to join trade unions

q. The right to the free unionization [sindicalización] of the workers. This right can be exercised without any discrimination and without being subject to any previous authorization, having only to fulfill the requirements established by the law. The workers may not be dismissed for participating in the establishment of a [labor] union, [and] must be abler to enjoy such a right from the time that they notify the General Inspectorate of Labor [Inspección General de Trabajo].

Only the Guatemalans by birth can intervene in the organization, direction and advising of [labor] unions. The cases of governmental technical assistance and what is provided in international treaties or in intra-union conventions authorized by the Executive Organ[,] are excepted;

r. The establishment of economic institutions and of social prevision which, in benefit of the workers, grant benefits of all types, especially for disability, retirement, and survival;

s. If the employer should not be able to prove a reasonable cause for the dismissal, he [or she] must pay the salary of one month to the worker to compensate for damages and losses if the case should be settled in a court of first instance, two monthly salaries if the sentence is appealed, and[,] if the legal process should last longer than two months, [the employer] must pay fifty percent of the salary of the worker for each month beyond that deadline, up to a maximum of six months in this case; and

t. The State will participate in international or regional agreements and treaties relating to labor matters and which grant better protection of conditions to [the] workers.

In such cases, what is established in said agreements and treaties will be considered as part of the minimum rights enjoyed by the workers of the Republic of Guatemala.

Article 103: Protection [Tutelaridad] of the Labor Laws

The laws that regulate the relations between employers and workers are conciliatory, protective [tutelares] for the workers and [they] will attend to all the pertinent economic and social factors. For agricultural work[,] the law will especially take into account their needs and the zones in which it is executed.

All of the conflicts concerning [the] work [activity] are subject to a specific [privativa] jurisdiction. The law will establish the norms corresponding to that jurisdiction and the organs charged with [encargadas] putting them into practice.

• Right to strike

Article 104: Right to Strike [Huelga] and to Work Stoppage [Paro]

The right to strike and to work stoppage exercised in accordance with the law, after all conciliation procedures have been exhausted, is recognized. These rights can be exercised solely for reasons of economic-social order. The laws shall establish the cases and situations where the strike and work stoppage will not be allowed.

• Right to shelter

Article 105: Housing of the Workers

The State, through the specific entities, will support the planning and construction of housing complexes [conjuntos], establishing the adequate systems for financing, which would make it possible to involve the different programs, so that the workers may opt for adequate housing and meet [the] health requirements.

The owners of enterprises [empresas] are obligated to provide to their workers, in the cases established by the law, [the] housing units that meet the aforementioned requirements.

Article 106: Irrenouncability of the Labor Rights

The rights consigned in this section are irrenounceable for the workers, susceptible of being exceeded [superado] through individual or collective contracting, and in the form established by the law. For this objective the State will encourage and protect collective negotiation. The stipulations that call for the renunciation, reduction, distortion [tergiversación], or limitation of the rights recognized for the workers in the Constitution, in the law, in the international treaties ratified by Guatemala, in the regulations or in [any] other provisions with regards to work, will be void ipso jure and will not obligate the workers, even if they are expressed in a collective or individual labor contract, in an agreement or in another document.

In case of doubt in the interpretation or scope of [the] legal provisions, regulations, or contractual [provisions] within the labor matters, they will be interpreted in the most favorable sense for the workers.

NINTH SECTION: [The] Workers of the State

Article 107: [The] Workers of the State

The workers of the State are at the service of the public administration and never of a political party, group, organization or [of] any person.

Article 108: Regime of the Workers of the State

The relations of the State and its decentralized or autonomous entities with its workers are governed by the Law of the Civil Service [Ley de Servicio Civil], with the exception of those governed by the own laws or provisions of such entities.

The workers of the State or of its decentralized or autonomous entities which by law or by custom receive benefits [prestaciones] that exceed those established in the Law of the Civil Service, will retain that treatment.

Article 109: Payroll Workers

The workers of the State and its decentralized or autonomous entities who work [with payment] through payroll, will receive [the] salaries, benefits, and rights that are equal to those of the other workers of the State.

Article 110: Indemnification

When the workers of the State are dismissed without a reasonable cause, [they] will receive the equivalent of the salary of one month for each year of continuous service rendered. In no case will this right exceed ten months of salary.

Article 111: [The] Regime of Decentralized Entities

The decentralized entities of the State, which perform economic functions similar to [those of] enterprises of [a] private character, will be governed in their working relations with the personnel at their service by the common labor laws, as long as they do not diminish other acquired rights.

Article 112: Prohibition of Performing [Desempeñar] More Than One Public Office

No person may perform more than one remunerated employment or public office, with the exception of those who render services in educational centers or [in social] assistance institutions and as long as the [time] schedules are compatible.

Article 113: Right to Opt for Public Employment or Office

The Guatemalans have the right to opt for public employment or office and to do so only their capabilities, fitness, and honesty will be taken into account.

Article 114: Revision to Retirement

When a worker of the State who enjoys the benefit of retirement, returns to a public office, such retirement will cease immediately, but at the end of the new work relationship, he [or she] has the right to opt for the revision of the corresponding benefit [expediente] and to the granting of the benefit derived from the time served and of the last wage received, during the new office.

In accordance to the possibilities of the State, it will proceed to periodically revise the amounts assigned for retirements, pensions and allowances [montepíos].

Article 115: Free Coverage by the Guatemalan Social Security Institute to Retirees

The persons[,] who enjoy retirement, pension, or allowance payments from the State and the autonomous and decentralized entities, have the right to receive gratuitously the complete coverage for the medical services by the Guatemalan Social Security Institute.

Article 116: Regulation of the Strike for the Workers of the State

The associations, groups, and unions formed by the workers of the State and its decentralized and autonomous entities, may not participate in partisan political activities.

The right to strike of the workers of the State and its decentralized and autonomous entities is recognized. This right can only be exercised in the form provided by the law of the matter and in no case may it affect the provision [atención] of the essential public services.

Article 117: Option for the Passive Classes Regime

The workers of the decentralized or autonomous entities who are neither subject to deductions for the passive classes fund [fondo de clases pasivas], nor enjoy the corresponding benefits, may attach [themselves] to this regime and, the respective dependency, in this case, must accept the request of the interested [person] and order the one responsible to make the corresponding deductions.

TENTH SECTION: Economic and Social Regime

• Right to work

Article 118: Principles of the Economic and Social Regime

The economic and social regime of the Republic of Guatemala is based on the principles of social justice.

It is the obligation of the State to guide the national economy to achieve the utilizations of the natural resources and the human potential, to increase wealth and to try to achieve full employment and the equitable distribution of the national income.

When deemed as necessary, the State will act by complementing private initiative and activity, for the achievement of the stated purposes.

Article 119: [The] Obligations of the State

The following are the fundamental obligations of the State:

a. To promote the economic development of the Nation, stimulating the initiative in agricultural, livestock, industrial, tourist, and other types of activities.

b. To promote in a systematic manner the administrative economic decentralization, to achieve an adequate regional development of the country;

c. To adopt the means that may be necessary for the conservation, development and exploitation [aprovechamiento] of the natural resources in an efficient form;

d. To see to the raising of the standard of living of all the inhabitants of the country, securing [procurando] the wellbeing of the family;

e. To promote and protect the creation and functioning of [the] cooperatives, providing them with the necessary technical and financial aid;

f. To grant incentives, in accordance to the law, to the industrial enterprises [empresas] that may be established in the interior of the Republic and who contribute to decentralization;

g. To promote with priority the construction of popular housing [projects], through financing systems which are adequate so that the greatest number of Guatemalan families may enjoy them in ownership. When concerning emerging or cooperatively-held housing, the system of possession [tenencia] may be different;

h. To prevent the functioning of excessive practices leading to the concentration of assets and means of production in detriment of the collectivity;

• Protection of consumers

i. The defense of the consumers and [the] users with regards to the preservations of the quality of the domestic and export consumer products to guarantee their health, security, and legitimate economic interests;

j. To actively promote programs of rural development which tend to increase and diversify the national production based on the principle of private property and of the protection of family patrimony. The peasant [campesino] and the artisan must be provided with technical and economic assistance;

k. To protect the formation of capital, savings and investment;

l. To promote the ordered and efficient development of the domestic and foreign trade of the country, promoting markets for national products;

m. To maintain within the economic policy, a congruent relationship between the public spending and the national production; and

n. To create the conditions adequate to promote the investment of national and foreign capital.

Article 120: Intervention in [the] Enterprises that Provide Public Services

In case of force majeure and for the strictly necessary time period, the State can intervene in the enterprises that provide essential public services for the community, if their functioning is obstructed.

• Ownership of natural resources

Article 121: [The] Assets of the State

The following are assets of the State:

a. Those of public domain;

b. The waters of the maritime zone that border the shores of its territory, the lakes, the navigable rivers and their banks, the secondary rivers [ríos vertientes] and the streams that serve as the international limit of the Republic, the waterfalls and headwaters for hydroelectric exploitation, the underground waters and [the] others that are susceptible to regulation by the law and the waters not exploited by individuals to the extent and limit set by the law.

c. Those which constitute the patrimony of the State, including those of the municipality and of the decentralized or autonomous entities;

d. The terrestrial maritime zone, the continental shelf and the air space, in the extension and the form determined by the laws or the international treaties ratified by Guatemala;

e. The subsoil, the deposits of hydrocarbons and minerals, as well as any other organic or inorganic substances of the subsoil;

f. The archeological monuments and relics;

g. The fiscal and municipal revenues, as well as those of a private character which are assigned by the laws to the decentralized and autonomous entities; and

• Radio

h. The radio-electric frequencies.

Article 122: [The] Territorial Reserves of the State

The State reserves for itself the dominion over a strip of land [faja terrestre] of three kilometers along the oceans, counted from the superior line of the tide; of two hundred meters around the shores of the lakes; of one hundred meters on each bank of the navigable rivers; and of fifty meters around the sources and springs supplying water to the populated places [poblaciones].

[The following] are excepted from the stated reserves:

a. The real property located in the urban areas; and

b. The assets over which there are rights registered in the Registry of Property [Registro de la Propiedad], prior to March first of nineteen fifty-six.

The foreigners will need [the] authorization of the Executive, to acquire in ownership, real property comprehended in the exceptions of the two aforementioned paragraphs. When they concern properties declared as national monuments or when they are located among a set of monuments, the State will enjoy preferential right in any transfer of ownership.

Article 123: Limitations in the Border Strips

Only Guatemalans of origin, or the communities [sodiedades] whose members possess the same qualities, may own and possess real property located in a strip of fifteen kilometers wide along the borders, measured from the dividing line. The urban property and [the] property of which title was registered prior to March first of nineteen fifty-six is excepted.

Article 124: Transfer [Enajenación] of National Property

The national property may only be transferred in the form determined by the law, which will establish the limitations and formalities to which the operation and its fiscal objectives must be subject.

The decentralized or autonomous entities, will be regulated according to their laws and regulations.

Article 125: Exploitation of Non-Renewable Natural Resources

The technical and rational exploitation of hydrocarbons, minerals, and other non-renewable natural resources is declared to be of public utility and necessity.

The State will establish and propitiate the conditions for their exploration, exploitation, and commercialization.

Article 126: Reforestation

The reforestation of the country and the conservation of [the] forests is declared to be a matter of national urgency and social interest. The law will determine the form and [the] requirements for the rational exploitation of [the] forestry resources and their renewal, including the resins, rubber, uncultivated wild forest vegetal products and other similar products, and will promote their industrialization. The exploitation of all these resources will correspond exclusively to Guatemalan persons, individual or juridical.

The forests and the vegetation on the banks of the rivers and lakes, and in the vicinities of the water fountains, will enjoy special protection.

Article 127: Water Regime

All the waters belong to the public domain, [they are] inalienable and imprescriptible. Their exploitation, use and enjoyment are granted in the form established by the law, in accordance with the social interest. A specific law will regulate this matter.

Article 128: Exploitation [Aprovechamiento] of Waters, Lakes, and Rivers

The exploitation of the waters of the lakes and rivers, for agricultural, livestock, tourism, or [purpose] of any other nature that contributes to the development of the national economy, is at the service of the community and not that of any particular person whatever, but the users are obligated to reforest the banks and corresponding courses, as well as to facilitate access roads [vías].

Article 129: Electrification

The electrification of the country, based on the plans formulated by the State and the municipalities, in which the private initiative may participate, is declared a matter of national urgency.

• Right to competitive marketplace

Article 130: Prohibition of Monopolies

Monopolies and privileges are prohibited. The State, shall limit the operation of the enterprises that absorb or tend to absorb, in prejudice to the national economy, the production in one or another industrial sectors [ramos] or of the same commercial or agricultural activity. The laws will determine what is relative to this matter. The State will protect the market economy and will discourage those associations which tend to restrict the freedom of the market or to cause prejudice to the consumers.

Article 131: Commercial Transportation Service

Due to its economic importance in the development of the country, all commercial and tourist transportation services are recognized to be of public utility and therefore [they] enjoy the protection of the State. These services may consist of ground, maritime, or air transportation and comprise vessels, vehicles, installations, and services.

The commercial land, airport, and maritime port terminals, are considered to be property of [the] common public use and like the transportation services, [they] continue to be exclusively subject to the jurisdiction of the civil authorities. The use of vessels, vehicles, and terminals, [which are] property of the government agencies or of the National Army, for commercial purposes, is prohibited; this provision is not applicable to those decentralized state entities that provide transportation services.

For the installation and exploitation of any national or international transportation service, the authorization of the government is necessary. For this purpose, once the corresponding legal requirements have been fulfilled by the petitioner, the government authority must extend the authorization immediately.

Article 132: Currency

It is the exclusive authority of the State, to issue and regulate the currency, as well as to formulate and realize the policies that tend to create and maintain [the] exchange and credit conditions favorable for the orderly development of the national economy. The monetary, banking, and financial activities will be organized under the central banking system, which exercises control over all matters relative to the circulation of money and the public debt. The Monetary Board [Junta Monetaria], to which the Bank of Guatemala, an autonomous entity with its own resources, is responsible, will direct this system. This bank will be regulated by its Organic Law and [by] the Monetary Law.

The Monetary Board is comprised of the following members:

a. The President, who will also be [the president] of the Bank of Guatemala, [and who is] appointed by the President of the Republic for a period established in the law;

b. The Ministers of Public Finance, Economy and Agriculture, Livestock and Food;

c. A member elected by the Congress of the Republic;

d. A member elected by the business, industrial, and agricultural associations;

e. A member elected by the presidents of the administration councils or boards of directors of the private national banks; and

f. A member elected by the Superior Council of the University of San Carlos de Guatemala.

These last three members will last in their functions one year.

All the members of the Monetary Board, will have substitutes, except [for] the President, who will be substituted by the Vice-President and the Ministers of the State, who will be substituted by their own respective vice-minister.

The Vice-President of the Monetary Board and of the Bank of Guatemala, who will also be appointed by the President of the Republic, will be able to attend the sessions of the Monetary Board, jointly with the President, with a voice, but without a vote, except when he [or she] substitutes the President in his [or her] functions, in which case, [he or she] will have a vote.

The President, Vice-President and those appointed by the Superior University Council and by the Congress of the Republic, must be persons of recognized integrity [honorabilidad] and of notable preparation and competence in economic and financial matters.

The acts and decisions of the Monetary Board, are subject to administrative recourses and to the contentious-administrative and cassation [recourses].

Article 133: [The] Monetary Board

The Monetary Board will have as its charge [cargo] the determination of the monetary, exchange and credit policy of the country and will see to the liquidity and solvency of the National Banking System, assuring the stability and the strengthening of the national savings.

With the objective [finalidad] of guaranteeing the monetary, exchange and credit stability of the country, the Monetary Board may not authorize the Bank of Guatemala to grant direct or indirect financing, guarantees or endorsements to the State, to its decentralized or autonomous entities, nor to private entities[,] that are not involved in [the] banking [sector]. To this same end, the Bank of Guatemala may not acquire the securities issued or negotiated by these entities in the primary market. The financing that may be granted in cases of catastrophes or public disasters is exempt from these prohibitions, given that it is approved by the two-thirds part of the total number of deputies that make up the Congress, on request of the President of the Republic.

The Superintendence of Banks [Superintendencia de Bancos], organized according to the law, is the organ that will exercise the supervisions and inspection of [the] banks, credit institutions, financial enterprises, financing and insurance entities, and the others provided for by the law.

Article 134: Decentralization and Autonomy

The municipality and the autonomous and decentralized entities, act by delegation of the State.

The autonomy, outside of the special cases contemplated in the Constitution of the Republic, will be conceded exclusively, when it is deemed [as] indispensable for the greater efficiency of the entity and the better fulfillment of its objectives. [In order] to create decentralized and autonomous entities, the favorable vote of the two-thirds part of the Congress of the Republic will be necessary.

The following are established to be the minimum obligations of the municipality and of every decentralized and autonomous entity:

a. To coordinate its policy, with the general policy of the State and, in such case, with the special [policy] of the Branch [Ramo] to which it corresponds;

b. To maintain close coordination with the planning organ of the State;

c. To remit to the Executive Organ and to the Congress of the Republic, its detailed ordinary and extraordinary budgets, with the expression of [the] programs, projects, activities, revenues and expenditures. The University of San Carlos de Guatemala is excepted.

Such remission will be for the purpose of approval, when the law so provides;

d. To remit to the same organs, the reports [memorias] relating to their work and the specific reports [informes] that will be requested, with the confidential nature of the operations of the particulars in banks and financial institutions in general being protected;

e. To provide the necessary facilities so that the organ charged with of the fiscal control, may perform its functions broadly and effectively; and

f. In all [of the] activities of an international nature, to be subject to the policy outlined by the Executive Organ.

When the functioning of a decentralized entity is considered inoperable, it will be suppressed by the favorable vote of the two-thirds part of the Congress of the Republic.

CHAPTER III: Civic and Political Duties and Rights

Article 135: Civic Duties and Rights

The rights and duties of Guatemalans, besides those consigned in other norms of the Constitution and the laws of the Republic, are the following:

a. To serve and defend the Country [Patria]

• Duty to obey the constitution

b. To comply with[,] and see to compliance with[,] the Constitution of the Republic;

c. To work for the civic, cultural, moral, economic, and social development of [the] Guatemalans;

• Duty to pay taxes

d. To contribute to [the] public expenditures, in the form prescribed by the law;

e. To obey the laws;

f. To keep due respect for the authorities; and

• Duty to serve in the military

g. To render military and social service, in accordance with the law.

Article 136: Political Duties and Rights

The following are the rights and duties of the citizens:

a. To register in the Registry of Citizens [Registro de Ciudadanos];

b. To elect and be elected;

c. To see to the freedom and effectiveness of the suffrage and the purity of the electoral process;

d. To opt for public offices [cargos]

e. To participate in political activities; and

f. To defend the principle of the alternation and the non-reelection of the President of the Republic.

Article 137: Right of Petition in Political Matters

The right of petition in political matters, corresponds exclusively to [the] Guatemalans.

Any petition in this matter must be resolved and [the person] notified within period not exceeding eight days. If the authority has not resolved it within that time [termino], the petition will be [considered] denied and the interested [person] may interpose the recourses of law.

CHAPTER IV: Limitation to the Constitutional Rights

• Emergency provisions

Article 138: Limitation of Constitutional Rights

It is the obligation of the State and of the authorities, [to] maintain the inhabitants of the Nation, in the complete enjoyment of their rights guaranteed by the Constitution. However, in case of invasion of the territory, [of] grave disturbance of the peace, of activities against the security of the State or of public calamity, the State can suspend the full force of the rights referred to in Articles 5, 6, 9, 26, 33, paragraph one of Article 35, paragraph two of Article 38 and paragraph two of Article 116.

On determining [concurrir] the existence of any of the cases indicated in the paragraph above, the President of the Republic will make the appropriate declaration by means of a decree dictated by the Council of Ministers and the provisions of the Law of Public Order [Ley de Orden Público] will be applied. In a state of prevention [estado de prevención], this formality will not be necessary.

The decree will specify:

a. The motives that justify it;

b. The rights that may not be fully assured;

c. The territory that it affects; and

d. The time that its validity will last.

Furthermore, within the decree itself, the Congress will be convoked, so that within a term of three days, it may take cognizance of the document, ratify it, amend it, or disapprove it. If the Congress is in session, it must take cognizance of it immediately.

The effects of the decree may not exceed thirty days on each occasion. If before the expiration of this deadline the causes motivating the decree should no longer apply, its effects will be terminated for this reason and any citizen will have the right to seek its revision. Should the 30-day deadline be reached, the full validity of the rights will automatically be reestablished, unless a new decree in the same sense is dictated. When Guatemala faces a real state of war, the decree will not be subject to the time limits mentioned in the previous paragraph.

Once the causes that motivated the decree referred to in this Article should no longer apply, any person will have the right to infer the legal responsibilities that are consequent, for unnecessary acts and measures unauthorized by the Law of Public Order.

Article 139: Law of Public Order and States of Exception

All of what is relative to this matter, is regulated in the Constitutional Law of Public Order [Ley Constitucional de Orden Público].

The Law of Public Order, shall not affect the functioning of the organs of the State and its members will always enjoy the immunities and prerogatives that the law recognizes to them; neither will it affect the functioning of [the] political parties.

The Law of Public Order, shall establish the means and the rights that proceed, in accordance with the following gradation:

a. State of prevention;

b. State of alarm;

c. State of public calamity;

d. State of siege; and

e. State of war.

TITLE III: The State

CHAPTER I: The State and its Form of Government

• Type of government envisioned

Article 140: [The] State of Guatemala

Guatemala is a free, independent and sovereign State, organized to guarantee to its inhabitants the enjoyment of their rights and freedoms. Its system of government is republican, democratic, and representative.

Article 141: Sovereignty

[The] sovereignty is rooted in the people who delegate it, for its exercise, to the Legislative, Executive, and Judicial Organs. Subordination among them, is prohibited.

Article 142: Of the Sovereignty and the Territory

The State exercises full sovereignty, over [the following]:

a. The national territory integrated by its soil, subsoil, internal waters, [and] the territorial sea to the extent established by the law and the airspace extending over the same;

b. The zone contiguous to the sea adjacent to the territorial sea, for the exercise of specific [determinadas] activities recognized by the international law; and

c. The natural and living resources of the seabed and ocean subsoil and those existing in the waters adjacent to the coast outside of the territorial sea, which constitute the exclusive economic zone, to the extent established by the law, in accordance with international practice.

• Official or national languages
• Protection of language use

Article 143: Official Language

The official language of Guatemala, is Spanish. The vernacular languages, form part of the cultural heritage of the Nation.

CHAPTER II: Nationality and Citizenship

• Requirements for birthright citizenship
• Conditions for revoking citizenship

Article 144: Nationality of Origin

Those born in the territory of the Republic of Guatemala, [on] Guatemalan vessels and aircraft[,] and the children of a Guatemalan father or mother, born abroad, are considered native Guatemalans of origin. The children of diplomatic officials and of those who perform legally comparable duties are excepted.

No native Guatemalan can be deprived of his [or her] nationality.

• Requirements for birthright citizenship

Article 145: [The] Nationality of Central Americans

The nationals by birth of the republics that constituted the Federation of Central America, if they acquire domicile in Guatemala and manifest before the competent authority their wish to become Guatemalans, will also be considered Guatemalans of origin. In such case they can retain their nationality of origin, without prejudice to what is established in [the] Central American treaties or agreements.

• Requirements for naturalization

Article 146: Naturalization

Those who obtain their naturalization in accordance with the law are Guatemalans.

The naturalized Guatemalans, have the same rights as those of origin, except for the limitations established in this Constitution.

Article 147: Citizenship

The Guatemalans who are 18 years of age are [considered] Guatemalan citizens. The citizens will not have more limitations, than those established by this Constitution and the law.

• Conditions for revoking citizenship

Article 148: Suspension, Loss, and Recovery of Citizenship

The citizenship is suspended, lost, and recovered in accordance with the provisions of the law.

CHAPTER III: International Relations of the State

Article 149: Of the International Relations

Guatemala will establish norms for [normará] its relations with other States, in accordance with the international principles, rules, and practices with the purpose of contributing to the maintenance of the peace and the freedom, for the respect and defense of human rights, [and] the strengthening of the democratic processes and international institutions that guarantee the mutual and equitable benefit between the States.

• Regional group(s)

Article 150: Of the Central American Community

Guatemala, as part of the Central American community, will maintain and cultivate relations of cooperation and solidarity with the other States that made up the Federation of Central America; shall adopt [the] adequate means to put into practice, in a partial or total form, the political or economic unity of Central America. The competent authorities are obligated to strengthen the economic integration of Central America on the basis of equity.

• Reference to fraternity/solidarity

Article 151: Relations with Allied [afines] States

The State will maintain relations of friendship, solidarity and cooperation with those States, whose economic, social, and cultural development, are analogous to those of Guatemala, with the purpose of finding solutions [that are] appropriate to their common problems and to jointly formulate, policies tending to the progress of the respective nations.

TITLE IV: Public Power

CHAPTER I: Exercise of the Public Power

Article 152: Public Power

The power emanates from the people. Its exercise is subject to the limitations established in this Constitution and [in] the law.

No person, sector of the people [pueblo], armed or political force, may arrogate its exercise.

Article 153: [The] Rule of Law [Imperio de la ley]

The rule of law extends to all the persons who are found on the territory of the Republic.

Article 154: [The] Public Function; Subjection to the Law

• Duty to obey the constitution

The functionaries are depositories of the authority, [they are] legally responsible for their official conduct, [and they are] subject to the law and never superior to it.

The functionaries and public employees are at the service of the State and not of any political party.

The public function may not be delegated, except in the cases specified by the law, and it may not be exercised without a previous oath of loyalty to the Constitution.

Article 155: [The] Responsibility for Violating the Law

When a dignitary, functionary or worker of the State, in the exercise of his [or her] office, violates the law in prejudice to [the] individuals [particulares], the State or the institution of the State to which he [or she] serves, will be jointly responsible for the damages and prejudices that may have been caused.

The civil responsibility of the functionaries and [of] public employees, can be deduced while prescription has not been concluded [consumado], of which [the] term will be 20 years.

The criminal responsibility is extinguished, in this case, by the passing of twice the time established by the law for the prescription of the penalty.

Neither Guatemalans nor foreigners may claim from the State, indemnification for the damages or prejudices caused by the movement of armed forces or [by] civil disturbance.

Article 156: Non-obligation of Force [No obligatoriedad] of Illegal Orders

No functionary or public employee, civil or military, is obligated to perform manifestly illegal orders or those which involve the commission of a crime.

CHAPTER II: The Legislative Organ

FIRST SECTION: [The] Congress

• Secret ballot
• Structure of legislative chamber(s)
• Replacement of legislators
• First chamber selection
• Term length for first chamber
• Claim of universal suffrage

Article 157: Legislative Power [Potestad] and the Composition [Integración] of the Congress of the Republic

The legislative power belongs to the Congress of the Republic, made up of deputies elected directly by the people by universal and secret suffrage, through the system of electoral districts and [by] national list, for a period of four years, being able to be reelected.

Each one of the Departments of the Republic, constitutes an electoral district. The Municipality of Guatemala forms the central district and the other Municipalities of the department of Guatemala constitute the district of Guatemala. For each electoral district a minimum of one deputy must be elected. The law establishes the

number of deputies that correspond to each district according to its population. A number equivalent to twenty-five percent of the district deputies shall be directly elected as deputies by [the process of] national list.

In case of the definitive absence [falta] of a deputy the office shall be declared vacant. The vacancies shall be filled, as the case may be, by calling the postulate that appears in the respective district list or national list in continuation of the last office awarded.

• Extraordinary legislative sessions
• Length of legislative sessions
• Standing committees

Article 158: Sessions of the Congress

The annual period of sessions of the Congress is initiated the fourteenth of January of each year without [the] necessity of convocation. The Congress will meet in ordinary sessions from the fourteenth of January to the fifteenth of May and from the first of August to the thirtieth of November of each year. It will meet in extraordinary sessions when it is convoked by the Permanent Commission or by the Executive Organ to take cognizance of the matters that motivated the convocation. It can take cognizance of other matters with the favorable vote of the absolute majority of the total of the Deputies that integrate it. Twenty-five percent of the Deputies or more have the right to request of the Permanent Commission the convocation of the Congress for sufficient reasons of necessity or [of] public convenience. If it is requested by at least half plus one of the total [number] of Deputies, the Permanent Commission shall proceed immediately to the convocation.

Article 159: Majority for Resolutions

The resolutions of the Congress, must be taken through the favorable vote of the absolute majority of the members that integrate it, except in those cases where the law requires [exija] a special number.

• Eligibility for cabinet
• Outside professions of legislators

Article 160: Authorization to Deputies to Perform another Office

The deputies can hold the office of a minister or functionary of the State or of any other decentralized or autonomous entity. In these cases permission must be granted to them for the period in which their executive responsibilities last. During their temporary absence, it will be proceed in accordance with the last paragraph of Article 157.

Article 161: [The] Prerogatives of [the] Deputies

The deputies are representatives of the people and dignitaries of the Nation; as a guarantee for the exercise of their functions they will enjoy, from the day they are declared elected, the following prerogatives:

• Immunity of legislators

a. Personal immunity from arrest or trial if the Supreme Court of Justice does not previously declare that there is probable cause, after examining the report of the investigating [pesquisidor] judge who will be named for this purpose. The case of flagrante delicto is excepted for which the deputy shall be immediately placed at the provision of the Directive Board or the Permanent Commission of the Congress for the purpose of the corresponding preliminary hearing [antejuicio].

b. They may not be held responsible for their opinions, for their initiative and for the manner of handling public business, in the performance of their office.

All of the dependencies of the State have the obligation to show [the] deputies the considerations derived of their high investiture. These prerogatives do not authorize arbitrariness, excess of personal initiative, or any type of action tending to undermine the principle of non-reelection for the exercise of the Presidency of the Republic. Only the Congress will be competent to judge and qualify if there has been arbitrariness or excess and to impose the pertinent disciplinary sanctions.

When the declaration to which paragraph a) in this Article refers to has been conducted, those accused are subject to the jurisdiction of the competent judge. If their provisional imprisonment has been decreed[,] they shall be suspended from their functions as long as the imprisonment decree is not revoked.

In the case of firm condemnatory sentence, the office shall remain vacant.

• Eligibility for first chamber

Article 162: Requirements for the Office of Deputy

To be elected deputy the candidate must be a Guatemalan of origin and be in exercise of his [or her] rights of citizenship.

• Standing committees

Article 163: Directive Board [Junta Directiva] and Permanent Commission

Each year the Congress will elect its Directive Board. Before the closing of its period of ordinary sessions the Congress will elect its Permanent Commission, [which will be] presided over by the President of the Congress, [and] which will function while the Congress is not in session.

The composition and attributions of the Directive Board and Permanent Commission will be established in the Law of the Internal Regime [Ley de Régimen Interior].

Article 164: Prohibitions and Compatibilities

[The following] may not be deputies:

a. The functionaries and employees of the Executive and Judicial Organs and of the Tribunal and Office of the Comptroller of Accounts, as well as the Magistrates of the Supreme Electoral Court and the director of the Register of Citizens;

Those performing teaching duties and the professionals at the service of social welfare establishments, are excepted from the above-mentioned prohibition;

b. The contractors of public works or enterprises funded by the State or the municipality, their guarantors [fiadores] and those who[,] because of such projects or enterprises, have outstanding claims of their own;

c. The relatives of the President of the Republic and of the Vice-President up to the fourth degree of consanguinity or second of affinity;

d. Those who, having been sentenced in a judgment of accounts [juicio de cuentas], have not fulfilled [solventado] their responsibilities;

e. Those who represent the interests of companies or individual persons using [exploten] public services; and

f. The Military personnel in active service.

If at the time of his [or her] election, or subsequently, the elected [deputy] should be [resultare] included under any of the prohibitions contained in this Article, his [or her] seat will be declared vacant. The election of a deputy is null if he [or she] was an official exercising jurisdiction in the electoral district for which he [or she] was a candidate or if he [or she] had exercised jurisdiction three months prior to the date on which the election was held.

The position of deputy is compatible with the performance of temporary or special diplomatic missions and with the representation of Guatemala in international congresses.

SECOND SECTION: Attributions of the Congress

Article 165: Attributions

It corresponds to the Congress of the Republic:

a. To open and close its periods of sessions;

• Oaths to abide by constitution

b. To receive the oath of law from the President and the Vice-President of the Republic, the President of the Judicial Organ and give them possession of their offices [cargos];

c. To accept or not the resignation of the President or the Vice-President of the Republic. The Congress will confirm the authenticity of the respective resignation;

d. To give possession of the Presidency of the Republic, to the Vice-President in case of the definitive or temporary absence of the President;

e. To know with anticipation, for the purpose of temporary succession, of the absence of the President and the Vice-President of the Republic from [the] national territory. In no case may the President and Vice-President be absent simultaneously.

f. To elect the functionaries who, in accordance with the Constitution and the law, must be appointed by the Congress; to accept or not their resignation and elect the persons who must substitute them;

g. To ignore [desconocer] the President of the Republic if, after his [or her] constitutional term has expired, he [or she] continues in the exercise of the office. In such a case, the Army will automatically redirect [pasará] to depend on the Congress.

• Head of state removal

h. To declare whether it is appropriate or not to form a cause against the President or the Vice-President of the Republic, the President or the Judges of the Supreme Court of Justice; of the Supreme Electoral Tribunal and of the Court of Constitutionality, the Ministers or the Vice-Ministers of State when these are in charge of the office, the Secretaries of the Presidency of the Republic, or the Under-Secretary replacing him [or her], the Procurator of Human Rights, the Attorney General [Fiscal General] and the Procurator General of the Nation.

Any resolution in this respect must be taken with the favorable vote of the two- thirds part of the total number of deputies that make up [the] Congress;

i. To declare, through the vote of the two-thirds part of the total number of deputies who make up the Congress, the physical or mental incapacity of the President of the Republic for the exercise of his [or her] duties. The declaration must be based on the prior opinion [dictamen] of a commission of five physicians appointed by the Directive Board of the corresponding College after a request from Congress;

j. To interpellate [interpelar] the ministers of State; and

jbis. To bestow the honors [condecoraciones] proper to the Congress of the Republic, on Guatemalans and foreigners.

k. All the other attributions assigned to it by the Constitution and [the] other laws.

• Legislative oversight of the executive

Article 166: Interpellations to Ministers

The ministers of State, have the obligation to appear in Congress, in order to answer the interpellations formulated by one or more deputies. Those which refer to diplomatic or pending military operations are excepted.

The basic questions must be communicated to the questioned [interpelados] minister or ministers, with forty-eight hours of anticipation. Neither the plenary Congress, nor any authority, may limit the deputies to the Congress in their right to interpellate, qualify the questions or restrict them.

Any deputy can make the additional questions that are deemed pertinent related to the matter or matters underlying the interpellation and from it will derive the suggestion [planteamiento] of a vote of no confidence which must be requested by four deputies, at least, and carried out [tramitado] without delay, in the same session or in one of the two immediately subsequent ones.

Article 167: Effects of the Interpellation

When an interpellation is conducted to a minister, he [or she] may not be absent from the country, or decline [excusarse] to answer in any form.

If a vote of no confidence of a minister is taken, approved by not less than an absolute majority of the total [number] of deputies in [the] Congress, the minister will immediately present his [or her] resignation. The President of the Republic can accept it, however, if [when] considered in the Council of Ministers that the censored act or acts are consistent with the national interest and policy of the government, the interpellated [person] will be able to appeal to the Congress within eight days

following the date of the vote of no confidence. If this is not done, he [or she] will be considered to be dismissed from his [or her] position and be disqualified from exercising the duty of Minister of State for a period of no less than six months.

If the affected minister appeals [the matter] before the Congress, after hearing the explanations presented and the matter discussed and the interpellation conducted, a vote will be taken on the ratification of no confidence, of which approval will call for the affirmative vote of the two-thirds part of the total number of deputies in Congress. Should the no confidence vote be ratified, the minister will be considered to be dismissed from his [or her] position immediately.

In like manner, it will be proceeded when the vote of no confidence is passed against several ministers but not exceeding four in each case.

• Legislative committees

Article 168: Assistance of Ministers, Officials, and Employees of the Congress

The Ministers of State are required to attend the sessions of the Congress, of the commissions and legislative blocs when they are invited for this purpose. Nevertheless, they can attend in any case and participate with voice in all discussions concerning matters of their competence. They can have themselves [be] represented by their Vice-Ministers.

All of the functionaries and public employees are obligated to appear and report to the Congress, when the same, its commissions or [its] legislative bocks consider it [as] necessary.

• Electoral court powers

Article 169: Call for Elections by the Congress

It is the obligation of the Congress, or in its defect of the Permanent Commission, to convoke without delay for general elections if on the date indicated by the Law, the Supreme Electoral Tribunal has not done so.

Article 170: Specific Attributions

The specific attributions of [the] Congress are the following:

a. To qualify the credentials that the Supreme Electoral Tribunal will extend to the elected deputies;

b. To appoint and remove its administrative personnel. The relations of the Legislative Organ with its administrative, technical, and service personnel, will be regulated by a specific law, which will establish the regime of classification, wages, discipline, and dismissals;

The labor benefits of the personnel of the Legislative Organ, which may have be obtained by law, internal agreement, resolution, or by custom, may not be diminished or distorted [tergiversadas];

c. To accept or not the resignations that its members may present;

d. To call the substitute deputies in case of death, resignation, nullification of the election, temporary permit or impossibility of participating [concurrir] of the proprietary [persons]; and

e. To elaborate and approve its budget, for inclusion in the one of the State.

Article 171: Other Attributions of the Congress

[The following attributions] also correspond to the Congress:

a. To decree, to reform and to abrogate [derogar] the laws;

• Budget bills

b. To approve, modify or disapprove the Budget of Revenues and Expenditures of the State at the latest 30 days prior to its entrance into effect. The Executive must send the budget bill to the Congress with one hundred and twenty days notice prior to the start of the fiscal year. If by the time the fiscal year begins, the budget has not been approved by the Congress, the budget in effect in the previous fiscal year will again be valid, which can be modified or adjusted by the Congress;

c. To decree [the] ordinary and extraordinary taxes in accordance with the needs of the State and [to] determine the bases of their collection;

d. To approve or disapprove annually, in all or in part, with the previous report of the Office of the Comptroller of Accounts, the detail and justification of all revenues and expenditures of the public finances, presented by the Executive concerning the previous fiscal year;

e. To decree public honors for major services rendered to the Nation. In no case may they be granted to the President or the Vice-President of the Republic, during the time of their government, or to any other functionary in the exercise of his [or her] office;

• Power to declare/approve war

f. To declare war and approve or disapprove peace treaties;

g. To decree amnesty for political and related common crimes when public convenience demands it;

h. To establish the characteristics of the currency, with the opinion of the Monetary Board;

i. To contract, convert, consolidate or effect other operations relative to the internal or external public debt. In all cases the opinions of the Executive and of the Monetary Board must be previously heard;

For the Executive, the Central Bank or any other State entity to be able to conduct negotiations regarding loans or other forms of indebtedness, internally or externally, the prior approval of the Congress will be necessary, as well as to issue all types of obligations;

j. To approve or disapprove bills of law relating to claims against the State, on account of unrecognized credits, to be submitted to its cognizance by the Executive and to report special allowances for their settlement or amortization.

[To] see to it that the credits owed by the State and its institutions consequent on court judgments are duly paid;

k. To decree, at the request of the Executive Organ, [the] reparations or indemnifications in case of international claims, when there is no recourse for arbitration or international trial;

• Treaty ratification

l. To approve, before their ratification, the treaties, agreements, or any international settlement when:

1. They affect the existing laws where this Constitution may require the same majority of votes;

2. They affect the power of the Nation, establish the economic or political union of Central America, whether partially or totally, or attribute or transfer competences to organs, institutions, or mechanisms created, within a communitarian juridical order to realize regional and common objectives in the Central American area [ámbito];

3. They obligate the State financially, in proportion that it exceeds one percent of the Budget of the Ordinary Revenues or when the amount of the obligation is indeterminate;

4. They constitute a commitment to submit any matter to an international judicial or arbitration decision;

5. They contain a general arbitration clause or one for submission to an international jurisdiction; and

m. To appoint commissions of investigation in specific matters of the public administration, which may involve problems of national interest.

Article 172: Qualified Majority

To approve before their ratification, with the vote of the two-thirds part of the total number of deputies who integrate the Congress, the treaties, agreements, or any international settlement, when:

a. They refer to the passage of foreign armed forces through the national territory or the temporary establishment of foreign military bases; and

b. They affect or can affect the security of the State or put an end to a state of war.

• Electoral court powers
• Referenda

Article 173: Consultation Procedure

The political decisions of special significance [trascendencia] must be submitted to a [popular] consultation procedure involving all citizens.

The consultation will be called by the Supreme Electoral Tribunal at the initiative of the President of the Republic or of the Congress of the Republic, which will determine precisely the question or [the] questions to be submitted to the citizens.

The Constitutional Electoral Law [Ley Constitucional Electoral] shall regulate what is relative to this institution.

THIRD SECTION: Formation and Sanction of the Law

• Initiation of general legislation

Article 174: [The] Initiative of Law

The deputies of Congress, the Executive Organ, the Supreme Court of Justice, the University of San Carlos de Guatemala, and the Supreme Electoral Tribunal have initiative for the formation of the laws.

• Constitutional interpretation
• Constitutionality of legislation

Article 175: Constitutional Hierarchy

No law may contradict the provisions of the Constitution. The laws that violate or distort [tergiversen] the constitutional mandates are null ipso jure.

The laws qualified as constitutional require, for their reform, the vote of the two-thirds part of the total number of deputies that integrate the Congress, prior to the favorable ruling of the Court of Constitutionality.

Article 176: Presentation and Discussion

When a bill of law is presented the procedure specified by the Organic Law and [the] Interior Regime of the Legislative Organ shall be observed. It will be discussed at three different sessions held on three different days, and it will not be possible to vote on the bill until it will be considered to have been sufficiently discussed at the third session. Those cases where the Congress declares a national emergency by a vote of the two-thirds part of the total number of deputies that integrate it[,] are excepted.

Article 177: Approval, Sanction, and Promulgation

Once a bill of law is approved, the Directive Board of the Congress of the Republic, within a term not exceeding ten days, shall send it to the Executive for its sanction, promulgation and publication.

• Approval of general legislation

Article 178: Veto

Within 15 days of receiving the decree and with prior approval of the Council of Ministers, the President of the Republic can return it to [the] Congress with the observations deemed pertinent, in exercise of his [or her] right of veto. The laws may not be vetoed partially.

Should the Executive not return the decree within fifteen days from the date of its reception, it will be considered to have been sanctioned and the Congress must promulgate it as a law within the subsequent eight days. Should the Congress close its sessions before [the] expiration of the deadline within which the veto can be exercised, the Executive must return the decree within the first eight days of the ordinary sessions of the subsequent period.

• Veto override procedure

Article 179: Legislative Primacy

Once the decree is sent back to [the] Congress, the Directive Board must bring it to the attention of the plenary in the next session, and the Congress may reconsider it or reject it during a period not to exceed thirty days. If the observations made by the Executive are not accepted and the Congress rejects the veto by the vote of the two-thirds part of its members, the Executive must, obligatorily, approve and promulgate the decree within the eight subsequent days after its reception. Should the Executive not do so, the Directive Board of the Congress shall order its publication within a period not to exceed three days so it may enter into effect as a law of the Republic.

Article 180: Validity

The law enters into force across the national territory, eight days following its integral publication in the Diario Oficial [Official Gazette], unless the said law should expand or restrict this period or its territorial area [ambito territorial] of application.

Article 181: Dispositions of the Congress

The dispositions of the Congress concerning its Interior Regime and the contents of Articles 165 and 170 of this Constitution do not require the sanction of the Executive.

CHAPTER III: [The] Executive Organ

FIRST SECTION: [The] President of the Republic

• Name/structure of executive(s)

Article 182: The Presidency of the Republic and the Composition of the Executive Organ

The President of the Republic is the Head of [the] State of Guatemala and [he or she] exercises the functions of the Executive Organ through the mandate of the people.

The President of the Republic shall always act together with the Ministers, in Council or separately with one or more of them; he [or she] is the General Commander of the Army, represents the national unity and shall watch over the interests of the entire population of the Republic.

The President of the Republic along with the Vice-President, the Ministers, the Vice-Ministers and [the] other dependent functionaries integrate the Executive Organ and [they] are prohibited from favoring any political party.

• Head of state powers

Article 183: [The] Functions of the President of the Republic

The following are [the] functions of the President of the Republic:

a. To comply with[,] and have complied with[,] the Constitution and the laws;

b. To provide for the defense and the security of the Nation, as well as the conservation of the public order;

• Designation of commander in chief

c. To exercise the command of the Armed Forces of the Nation with all the corresponding functions and attributions;

d. To exercise the command of the entire public force;

• Head of state decree power

e. To sanction, to promulgate, to execute, and to cause the execution of the laws, to dictate decrees authorized by the Constitution, as well as the agreements, regulations and orders for the strict compliance of the laws, without altering their spirit;

f. To dictate the provisions that may be necessary in the cases of grave emergency or public calamity, having to give account to the Congress in its immediate sessions;

g. To present initiatives of law to the Congress of the Republic;

h. To exercise the right of veto concerning the laws issued by the Congress, except in those cases where the approval of the Executive may not be necessary in accordance with the Constitution;

• Legislative oversight of the executive

i. To present annually to the Congress of the Republic, at the start of its period of sessions, a written report on the general situation of the Republic and the actions [negocios] of his [or her] administration conducted during the previous year;

• Budget bills

j. To submit annually to the Congress, for its approval, with no less than one hundred and twenty days notice from the start of the fiscal year through the respective ministry, the bill of the budget detailing the revenues and expenditures of the State. Should the Congress not be in session, it must hold extraordinary sessions to take cognizance of the bill;

• Treaty ratification

k. To submit to the consideration of the Congress for its approval, and prior to its ratification, the treaties and agreements [convenios] of international character and the contracts and concessions concerning public services;

l. To call the Legislative Organ into extraordinary sessions when the interests of the Republic demand it;

m. To coordinate in the Council of Ministers, the policy of development of the Nation;

n. To preside over the Council of Ministers and exercise the position of hierarchical superior of the functionaries and employees of the Executive Organ;

ñ. To maintain the territorial integrity and dignity of the Nation;

• Foreign affairs representative
• Treaty ratification

o. To direct [the] foreign policy and [the] international relations; to celebrate, ratify, and denounce treaties and agreements in accordance with the Constitution;

p. To receive diplomatic representatives as well as to issue and withdraw the recognition of consuls;

q. To administer public finance [hacienda] in accordance with the law;

r. To relieve [exonerar] from fines and surtaxes those taxpayers who may have incurred in them for not settling their taxes within the legal deadlines or for acts or omissions in the administrative order;

• Cabinet removal
• Cabinet selection

s. To appoint and remove the Ministers of State, [the] Vice-Ministers, [the] Secretaries and [the] Sub-secretaries of the Presidency, [the] ambassadors and [the] other officials which correspond to him [or her] in accordance with the law.

t. To grant retirement benefits, pensions, and allowances [montepíos] in accordance with the law;

u. To grant decorations [condecoraciones] to Guatemalans and foreigners;

v. To inform the Congress of the Republic of the intention of any travel that he [or she] may have completed outside of national territory and of its result within fifteen days of its completion;

w. To submit every four months to the Congress of the Republic, for its knowledge and control, through the respective ministry, an analytical report on budgetary performance; and

x. All of the other functions assigned to him [or her] by this Constitution or the law.

• Deputy executive
• Head of state selection
• Head of state term length

Article 184: Election of the President and [the] Vice-President of the Republic

The President and [the] Vice-President of the Republic will be elected by the people through universal and secret suffrage and for a single term of four years.

If none of the candidates should secure an absolute majority it will be proceeded to a second election within a period no longer than sixty[,] or less than forty-five days, counting from the first Sunday, between the candidates who have won the two highest relative number of votes.

• Minimum age of head of state
• Eligibility for head of state

Article 185: Requirements to Opt for the Positions of President and Vice-President of the Republic

The Guatemalans of origin who are citizens in good standing and who are above forty years of age can opt for the office of President or Vice-President of the Republic.

Article 186: Prohibitions to Opt for the Offices of President or Vice-President of the Republic

The following may not opt for the offices of President or Vice-President of the Republic:

a. The leader [caudillo] or the chiefs of a coup d'état [golpe de Estado], armed revolution or similar movement, who have altered the constitutional order, or those who as a consequence of such events have assumed the leadership of the government;

b. The person exercising the position of President or Vice-President of the Republic when elections are held for such office, or [the one] who has exercised same for any duration within the presidential term in which the elections are held;

c. The relatives to the fourth degree of consanguinity and second of affinity of the President or [the] Vice-President of the Republic, when the latter exercises the office of the President, and those of the persons referred to in the first paragraph of this Article;

d. The person who may have been Minister of State, for any period during the six months prior to the election;

e. The members of the Army, unless they have resigned [de baja] or retired for at least five years before the date of the convocation for elections;

f. The ministers of any religion or cult; and

g. The magistrates of the Supreme Electoral Tribunal.

• Head of state term limits

Article 187: Prohibition of Re-election

The person who has held for any time the office of [the] President of the Republic through a popular election, or the one who has exercised it for more than two years, may not perform the office again in any case.

The re-election or extension of the presidential term by any means, are punishable in accordance with the law. The mandate intended to be exercised will be null.

Article 188: Convocation for Elections and Taking of Possession

The convocation for elections and the taking of possession by the President and [the] Vice-President of the Republic, will be governed by what is established in the Electoral Law and [the Law] of Political Parties.

• Head of state replacement

Article 189: Temporary or Absolute Absence [Falta] of the President of the Republic

In case of the temporary or absolute absence of the President of the Republic, he [or she] will be substituted by the Vice-President. If the absence is absolute, the Vice-President will assume the functions of the Presidency until the termination of the constitutional term, and in case of the permanent absence of both, the person appointed by the Congress of the Republic will complete the said term following the favorable vote of the two-thirds part of the total number of deputies.

SECOND SECTION: [The] Vice-President of the Republic

• Deputy executive

Article 190: [The] Vice-President of the Republic

The Vice-President of the Republic will exercise the functions of [the] President of the Republic in the cases and in the form established by the Constitution.

He [or she] will be elected on the same ballot as the President of the Republic, in an identical form and for the same term.

The Vice-President must meet the same qualifications as the President of the Republic, [he or she] will enjoy similar immunities, and will hold in the hierarchical order of the State, the level immediately below that functionary.

• Deputy executive

Article 191: [The] Functions of the Vice-President

The following are the functions of the Vice-President of the Republic:

a. To participate in the deliberations of the Council of Ministers with a voice and [a] vote;

b. By designation of the President of the Republic, to represent him [or her] with all the privileges [preeminencias] that correspond to him [or her], in official acts and the [acts] of protocol or in other functions;

c. To assist [coadyuvar], with the President of the Republic, in the implementation of the general policy of the government;

d. To participate, jointly with the President of the Republic, in the formulation of the foreign policy and the international relations, as well as to undertake diplomatic or other missions abroad;

e. To preside over the Council of Ministers in the absence of the President of the Republic;

f. To preside over the organs of assistance [asesoría] of the Executive established by the laws;

g. To coordinate the work of the Ministers of the State; and

h. To exercise the other attributions established by the Constitution and the laws;

Article 192: Absence [falta] of the Vice President

In case of the absolute absence of the Vice-President of the Republic, or the resignation of the same, he [or she] will be replaced by the person designated by the Congress of the Republic, selecting him [or her] from a terna [list of three persons] proposed by the President of the Republic; in such cases, the substitute will function until the end of the term with equal functions and privileges.

THIRD SECTION: [The] Ministers of State

• Establishment of cabinet/ministers

Article 193: [The] Ministries

For conducting the businesses of the Executive Organ, there will be the ministries established by the law, with the attributions and the competence established therein.

• Powers of cabinet

Article 194: Functions of the Minister

Each ministry is the responsibility [cargo] of a Minister of State who will have the following functions:

a. To exercise jurisdiction over all the dependencies of his [or her] ministry;

b. To appoint and remove the functionaries and employees of his [or her] department [ramo], when it corresponds in accordance with the law;

c. To countersign [refrendar] the decrees, agreements, and regulations dictated by the President of the Republic, related to his [or her] office so as to have validity;

d. To present to the President of the Republic the plan of work of his [or her] department and an annual report of the works conducted;

e. To present annually to the President of the Republic, at the appropriate time, the bill of the budget of his [or her] ministry;

f. To direct, process, resolve, and inspect all the business related to his [or her] ministry;

g. To participate in the deliberations of the Council of Ministers and to subscribe to the decrees and agreements issued by it;

h. [abrogated] [suprimido]

i. To see to the strict compliance with the laws, the administrative probity and the correct investment of the public funds in the businesses entrusted [confiados] to his [or her] office [cargo].

• Cabinet removal

Article 195: [The] Council of Ministers and their Responsibility

The President, the Vice-President of the Republic and the Ministers of State, when meeting in session, constitute the Council of Ministers which takes cognizance of the matters submitted to its consideration by the President of the Republic, who convokes it and presides over it.

The ministers are responsible for their acts, in accordance with this Constitution and the laws, even in the cases where they perform duties by express order of the President. From the decisions of the Council of Ministers, the ministers who had concurred will be jointly responsible, except for those who made their adverse vote known.

• Eligibility for cabinet

Article 196: Requirements to be [a] Minister of State

The following are the requirements to be a Minister of State:

a. To be Guatemalan;

b. To be in enjoyment of the rights of citizenship; and

c. To be thirty years of age or greater.

Article 197: Prohibitions to be Minister of State

Ministers of State may not be:

a. The relatives of the President or [the] Vice-President of the Republic, as well as those of other Ministers of State, up to the fourth degree of consanguinity and second of affinity;

b. Those who having been sentenced in a judgment of accounts have not settled their responsibilities;

c. The contractors of projects or enterprises funded [costeen] with funds of the State, [of] its decentralized, autonomous, or semi-autonomous, or municipal entities, its sponsors [fiadores] and whoever has claims pending for said businesses;

d. Whoever represents or defends the interests of individual or juridical persons who exploit public services; and

e. The ministers of any religion or cult.

In no case may the ministers act as the empowered agents of individual or juridical persons, or oversee the business of individuals [particulares] in any form whatsoever.

Article 198: Report [Memoria] of the Activities of the Ministries

The Ministers are obligated to present to the Congress annually, during the first ten days of the month of February of each year, the report of the activities of their respective departments, which must contain the budgetary execution of their ministry.

• Legislative oversight of the executive

Article 199: Obligatory Appearance in Interpellations

The Ministers have the obligation to appear before the Congress, with the purpose of answering the interpellations addressed to them.

Article 200: Vice-Ministers of State

In each Ministry of State there will be a vice-minister.

The same qualifications as for a minister are required of a vice-minister.

For the creation of additional vice-ministerial positions, the favorable opinion of the Council of Ministers will be necessary.

Article 201: Responsibility of the Ministers and the Vice-Ministers

The ministers and [the] vice-ministers of State are responsible for their acts, in accordance with what is specified in Article 195 of this Constitution and what is determined by the Law of Responsibilities [Ley de Responsibilidades].

Article 202: [The] Secretaries of the Presidency

The President of the Republic will have the secretaries that are necessary. The attributions of these will be determined by the law.

The General and Private Secretaries of the Presidency of the Republic must meet the same requirements that are required for a Minister and will enjoy the same prerogatives and immunities.

CHAPTER IV: [The] Judicial Organ

FIRST SECTION: General Provisions

• Judicial independence
• Structure of the courts

Article 203: Independence of the Judicial Organ and the Power to Judge

Justice is imparted in accordance with the Constitution and the laws of the Republic. The power to judge and to promote the execution of what is judged corresponds to the tribunals of justice. The other organs of [the] State must give to the tribunals the assistance they require for the fulfillment of their resolutions.

The magistrates and judges are independent in the exercise of their functions and are subjected solely to the Constitution of the Republic and to the laws. Whoever attempts to undermine the independence of the Judicial Organ, in addition to the [application of the] penalties set by the Penal Code, [he or she] will be disqualified

from exercising any public office.

The jurisdictional function is exercised, with absolute exclusivity, by the Supreme Court of Justice and the other tribunals established by the law.

No other authority will be able to intervene in the administration of justice.

Article 204: Essential Conditions of the Administration of Justice

In all their decisions or sentences, the tribunals of justice will obligatorily observe the principle that the Constitution of the Republic prevails over any law or treaty.

Article 205: Guarantees of the Judicial Organ

The following are established as [the] guarantees of the Judicial Organism:

a. Functional independence;

b. Financial independence;

c. Irremovability of the magistrates and judges of the first instance, except in the cases established by the law; and

d. The selection of the personnel.

Article 206: Right of Preliminary Hearing [antejuicio] for Magistrates and Judges

The magistrates and the judges will enjoy the right of preliminary hearing in the form determined by the law. The Congress of the Republic is competent to declare if it is appropriate or not to form a cause against the President of the Judicial Organ and the magistrates of the Supreme Court of Justice.

To the latter belongs the competence in relation to the other magistrates and judges.

• Eligibility for administrative judges
• Eligibility for supreme court judges
• Oaths to abide by constitution
• Eligibility for ordinary court judges

Article 207: Requirements to be a Magistrate or Judge

The magistrates and [the] judges must be Guatemalans of origin, of recognized integrity [honorabilidad], be in enjoyment of their rights of citizenship, and be collegiate lawyers, with the exceptions established by the law regarding this last requirement in connection with [the] specific judges of private jurisdiction and lower-level judges [jueces menores].

The law will establish the number of magistrates, as well as the organization and functioning of the tribunals and the procedures that they must observe, depending on the matter being treated.

The function of magistrate or judge is incompatible with any other employment, with directive positions [cargos directovos] in labor unions and political parties, and with the status of minister of any religion.

The magistrates of the Supreme Court of Justice will take an oath before the Congress of the Republic, swearing to apply prompt and impartial justice. The other magistrates and judges will take their oath before the Supreme Court of Justice.

• Administrative court term length
• Ordinary court term length

Article 208: Period of Functions of the Magistrates and Judges

The magistrates, whatever their category, and the judges of first instance, will remain in their positions for five years, with the possibility of the former being reelected and the latter reappointed. During that term they can neither be removed nor suspended, except in the cases and with the formalities provided for by the law.

• Administrative court selection

Article 209: Appointment of Judges and Auxiliary Personnel

The judges, secretaries and auxiliary personnel will be appointed by the Supreme Court of Justice.

The judicial career is established. The entries, promotions and advancements will be conducted through opposition. A law will regulate this matter.

Article 210: [The] Law of the Civil Service of the Judicial Organ

The work relations of the functionaries and employees of the Judicial Organ will be regulated by its Law of Civil Service [Ley de Servicio Civil].

The judges and magistrates may not be removed, suspended, transferred or retired [jubilados], except for any of the causes and with the guarantees provided for in the law.

Article 211: Instances in all Proceedings

In no proceeding will there be more than two instances and the magistrate or [the] judge who has exercised jurisdiction in any of them will be barred from participation in the other or in cassation, in the same case, without incurring responsibility.

No tribunal or authority may take cognizance of expired [fenecidos] actions, except in the cases and forms of review determined by the law.

Article 212: Specific Jurisdiction of the Tribunals

The common tribunals will take cognizance of all the controversies of private law in which the State, the municipality, or any other decentralized or autonomous entity may act as a party.

Article 213: Budget of the Judicial Organ

It is the attribution of the Supreme Court of Justice to draw up the budget of the branch [ramo]; for that effect, an amount of no less than two percent of the Budget of Ordinary Revenues of the State is allocated to it, to be transferred to the Treasury of the Judicial Organ every month, in proportional and anticipatory form, by the corresponding organ.

The funds derived from the administration of justice are exclusive to the Judicial Organ and their investment corresponds to the Supreme Court of Justice. The Judicial Organism shall annually publish its programmatic budget and inform the Congress of the Republic every four months of its extent [alcances] and the analytical exercise of it.

SECOND SECTION: [The] Supreme Court of Justice

• Structure of the courts

Article 214: Composition [Integración] of the Supreme Court of Justice

The Supreme Court of Justice is composed of thirteen magistrates, including its president, and [it] shall be organized into the chambers [cámaras] that it determines. Each chamber shall have its president.

The President of the Judicial Organ is also that of the Supreme Court of Justice having authority [that] extends over the tribunals of the entire Republic.

In the case of the temporary absence [falta] of the President of the Judicial Organ or when in accordance with the law he [or she] is unable to act or take cognizance of the specified cases, the other magistrates of the Supreme Court of Justice will substitute him [or her], in the order of their designation.

• Supreme court selection
• Supreme court term length

Article 215: Election of the Supreme Court of Justice

The Magistrates of the Supreme Court of Justice will be elected by the Congress of the Republic for a period of five years, from a list of twenty-six candidates proposed by a nominating commission composed of a representative of the Rectors of the Universities of the country, who presides over it, the Deans of the Faculties of Law or [of] Juridical and Social Sciences of each University of the country, an equivalent number of representatives elected by the General Assembly of the Association of Lawyers and Notaries of Guatemala and by an equal number of representatives elected by the titular magistrates of the Court of Appeals and other tribunals referred to in Article 217 of this Constitution.

The election of candidates requires the vote of at least the two-thirds part of the members of the Commission.

In the elections [votaciones], to make up the Nominating Commission as well as to make up the list of candidates, no representation whatsoever will be accepted.

The magistrates of the Supreme Court of Justice will elect, from among their members, with the favorable vote of the two-thirds part, the president of the same, who will remain in his [or her] functions for one year and may not be reelected during this term of the Court.

• Attorney general
• Minimum age of supreme court judges
• Eligibility for supreme court judges

Article 216: Requirements to be a Magistrate of the Supreme Court of Justice

In order to be elected magistrate of the Supreme Court of Justice, besides the requirements mentioned in Article 207 of this Constitution, it is necessary that the candidate be over forty years of age and that he [or she] will have completed one full term as judge in the Court of Appeals or of other collegiate tribunals with similar characteristics, or that he [or she] will have exercised the profession of lawyer for more than ten years.

THIRD SECTION: [The] Court of Appeals and Other Tribunals

• Structure of the courts
• Minimum age of ordinary court judges
• Eligibility for ordinary court judges
• Ordinary court selection

Article 217: [The] Magistrates

To be a magistrate in the Court of Appeals, of the collegiate tribunals and of others that will be created in the same category, besides the requirements mentioned in Article 207, it is necessary that the candidate be over thirty-five years of age, that he [or she] will have been [a] judge of the first instance or that he [or she] will have exercised the profession of lawyer for more than five years.

The titular magistrates to whom this Article refers to will be elected by the Congress of the Republic, from a nónima [list of candidates] with double the number to be elected, proposed by a nominating commission composed of one representative of the Rectors of the Universities of the country, who shall preside over it, the Deans of the Law or [of] Juridical and Social Sciences Departments of each University of the country, an equivalent number of members elected by the General Assembly of the Association of Lawyers and Notaries of Guatemala and by [an] equal number of representatives elected by the magistrates of the Supreme Court of Justice.

The election of candidates requires the vote of at least the two-thirds part of the members of the Commission.

In the elections [votaciones], whether it is to elect the Nominating Commission or for the integration of the list of candidates, no representation whatsoever will be accepted.

Article 218: Composition [Integración] of the Court of Appeals

The Court of Appeals is composed of the number of chambers [cámaras] determined by the Supreme Court of Justice, which will also determine its location and jurisdiction.

• Establishment of military courts

Article 219: [The] Military Tribunals

The military courts will take cognizance of [the] crimes or faults [faltas] committed by the members [integrantes] of the Army of Guatemala.

No civil may be judged by [the] military tribunals.

Article 220: [The] Tribunals of Accounts

The judicial function in matters of accounts will be exercised by the judges of first instance and [by] the Court of Second Instance of Accounts [Tribunal de Segunda Instancia de Cuentas].

Against the sentences and the final decisions [autos definitivos] of accounts putting an end to the process in matters [concerning] major amounts, proceeds the recourse of cassation. This recourse is inadmissible in economic-coactive [econmíco-coactivos] proceedings.

• Establishment of administrative courts

Article 221: [The] Contentious-Administrative Tribunal

Its function is to control the legality of [the] public administration and it has the attributions to take cognizance in case of dispute through actions or resolutions of the administration and of the decentralized and autonomous entities of the State, as well as in the cases of disputes deriving from [the] administrative contracts and concessions.

To resort [ocurrir] to this Tribunal, no prior payment or deposit [caución] whatsoever will be necessary. However, the law may establish specific situations where the petitioner must pay interest at the going rate concerning [the] taxes that he [or she] has challenged or contested and whose payment to the tax authorities was delayed because of the recourse.

Against the resolutions and decrees which end the process, the recourse of cassation may be interposed.

Article 222: Substitute Magistrates

The Magistrates of the Supreme Court of Justice will be substituted by the magistrates of the tribunals referred to in Article 217 of this Constitution, in accordance with what is established in the Law of the Judicial Organ, provided that they meet the same requirements.

The magistrates of the tribunals to which Article 217 of this Constitution refers shall have as substitutes the magistrates that the Congress of the Republic has elected for this category.

The substitute magistrates will be elected with the same opportunities and in the same form as the titulars and from the same nónima.

TITLE V: Structure and Organization of the State

CHAPTER I: Electoral Political Regime

• Right to form political parties

Article 223: Freedom in the Formation and Functioning of the Political Organizations

The State guarantees the free formation and functioning of the political organizations and they shall only have the limitations determined by this Constitution and the law.

Everything that is related to the exercise of suffrage, the political rights, [the] political organizations, [the] electoral authorities and organs and the electoral process, will be regulated by the constitutional law of the matter.

Once the convocation to elections has been made, the President of the Republic, the functionaries of the Executive Organ, the mayors and [the] municipal functionaries are prohibited from making propaganda concerning the works [obras] and activities conducted.

CHAPTER II: Administrative Regime

• Subsidiary unit government

Article 224: Administrative Division

For the purpose of its administration, the territory of the Republic is divided into departments and these into municipalities.

The administration will be decentralized and regions of development will be established with economic, social, and cultural criteria that may be constituted by one or more departments to provide a rationalized impulse to the integral development of the country.

However, when it is appropriate for the interests of the Nation, the Congress can modify the administrative division of the country, establishing a regime of regions, departments, and municipalities, or any other system, without undermining the municipal autonomy.

Article 225: National Council of Urban and Rural Development

For the organization and coordination of the public administration, the National Council of Urban and Rural Development [Consejo Nacional de Desarollo Urbano y Rural] is created, coordinated by the President of the Republic and structured [integrado] in the form established by the law.

This Council shall have as its charge [cargo] the formulation of urban and rural development policies, as well as that of territorial ordering.

Article 226: Regional Council of Urban and Rural Development

The regions which are established according to the law, will have a Regional Council of Urban and Rural Development [Consejo Regional de Desarollo Urbano y Rural], presided over by a representative of the President of the Republic and made up of the governors of the departments which form the region, by a representative of the municipal corporations of each one of the departments included in the same, and by the representatives of the public and private entities established by the law.

The presidents of these councils will be ex officio members of the National Council of Urban and Rural Development.

• Subsidiary unit government

Article 227: [The] Governors

The government of [each of] the departments will be the charge [cargo] of a governor appointed by the President of the Republic who must meet the same qualifications as a Minister of State and [will] enjoy the same immunities, having to be domiciled for the five years prior to his [or her] appointment in the department in order to be appointed.

Article 228: Departmental Council

In each department there will be a Departmental Council to be presided over by the governor; it will be integrated by the mayors of all the municipalities and [the] representatives of the organized public and [the] private sectors, with the purpose of promoting the development of the department.

Article 229: Financial Contribution of the Central Government to the Departments

The regional and departmental councils, shall be entitled to the necessary financial support for their functioning from the Central Government.

Article 230: General Registry of Property

The General Registry of Property, shall be organized so that[,] in each department or region determined specifically by the law, a specific registry [registro] of property and the respective fiscal registry [catastro] are established.

• National capital

Article 231: [The] Metropolitan Region

The city of Guatemala as [the] capital of the Republic and its area of urban influence, will constitute the metropolitan region, integrating [these] into the same corresponding Regional Development Council.

The matters relative to the territorial jurisdiction, [the] administrative organization, and [the] financial participation of the Central Government will be determined by the law of the matter.

CHAPTER III: Regime of Control and Supervision [Fiscalización]

Article 232: Office of the Comptroller General of Accounts [Contraloría]

The Office of the Comptroller General of Accounts is a decentralized technical institution, with control functions of the revenues, expenditures, and in general [of] all the fiscal interests of the organs of the State, the municipalities, [the] decentralized and autonomous entities, as well as of any person who may receive funds of the State or undertake public collections.

Also subject to this control are the contractors of public works and any other person who, through the delegation of the State, should invest or administer public funds.

Its organization, functioning, and attributions shall be determined by the law.

Article 233: Election of the Comptroller General of Accounts

The head of the Office of the Comptroller General of Accounts will be elected for a term of four years by the Congress of the Republic, by an absolute majority of the total number of deputies that comprise this Organ. He [or she] may only be removed by the Congress of the Republic in cases of negligence, crime, or lack of fitness [falta de idoneidad]. He [or she] will render a report of his [or her] management to the Congress of the Republic, whenever requested to do so and[,] of office[,] twice a year. He [or she] will enjoy [the] equal immunities as the magistrates of the Court of Appeals. In no case may the Comptroller General of Accounts be reelected.

The Congress of the Republic shall carry out the election to which this Article refers to from a nómina of six candidates proposed by a nominating commission integrated by a representative of the Rectors of the Universities of the country, who shall preside over it, the Deans of Departments that include the career of Public

Accounting and Auditing of each University of the country and an equivalent number of representatives elected by the General Assembly of the Association of Economists, Public Accountants and Auditors and Business Administrators [Assemblea General del Colegio de Economistas, Contadores Públicos y Auditores y Administradores de Empresas].

The election of [the] candidates requires the vote of at least the two-thirds part of the members of the such Commission.

In the elections [votaciones], to make up the Nominating Commission as well as to make up the nómina of candidates, no representation whatsoever will be accepted.

Article 234: Qualifications of the Comptroller General of Accounts

The Comptroller General of Accounts shall be the Head of the Office of the Comptroller General of Accounts and [he or she] shall be over forty years of age, [a] Guatemalan, a public accountant and auditor, of recognized integrity and professional prestige, be in the enjoyment of his [or her] rights of citizenship, not being involved in a lawsuit pertaining to matters of accounts, and having previously exercised his [or her] profession for [a period of] at least ten years.

Article 235: Faculties of the Comptroller General of Accounts

The Comptroller General of Accounts has the faculty to appoint and remove the functionaries and employees of the various agencies of the Office of the Comptroller General of Accounts and to appoint auditors [interventores] in the matters of its competence, all of this in accordance with the Law of Civil Service.

Article 236: Legal Recourses

Against the acts and resolutions of the Office of the Comptroller General of Accounts, the judicial and administrative recourses specified by the law proceed.

CHAPTER IV: [The] Financial Regime

Article 237: [The] General Budget of [the] Revenues and Expenditures of the State

The General Budget of [the] Revenues and Expenditures of the State [Presupuesto General de Ingresos y Egresos del Estado], approved for each fiscal year, in accordance with what is established in this Constitution, will include the estimate of all revenues to be obtained and a detailed account of expenditures and [the] investments to be made.

The unifications of the budget is obligatory and its structure is programmatic. All of the revenues of the State constitute a common indivisible fund destined exclusively to cover its expenditures.

The Organs, [and] the decentralized and autonomous entities may have budgets and private funds when the law so provides, their budgets will obligatorily be sent annually to the Executive Organ and to the Congress of the Republic, for their information and inclusion into the general budget and will, additionally[,] be subject to the control and supervision of the corresponding organs of the State. The Law may establish other cases in which the funds of dependencies of the Executive will be

administered in [a] private form to assure their efficiency. The noncompliance with this provision is punishable and the functionaries under whose direction the dependencies function shall be held personally responsible.

[The] confidential expenditures, [and] any expenditure that cannot be verified or that is not subject to inspection may not be included in the General Budget of [the] Revenues and Expenditures of the State. This provision is applicable to the budgets of any organ, institution, business or autonomous or decentralized entity.

The General Budget of [the] Revenues and Expenditures of the State and its analytical execution are public documents, accessible to any citizen who would like to consult them, to which effect the Ministry of Public Finances shall arrange that copies of it are available [obren] in the National Library, the General Archive of Central America and the libraries of the universities of the country. The other institutions of the government and the decentralized and autonomous entities that manage their own budgets shall proceed in equal form. The public functionary that impedes or makes consultation difficult will incur in penal responsibility.

The Organs or entities of the State that dispose of private funds are obligated to annually publish in detail their origin and application, properly audited by the Office of the Comptroller General of Accounts. The aforementioned publication shall be made in the Diario Oficial [Official Gazette] within the six months following the closing of each fiscal year.

Article 238: [The] Organic Law of the Budget

The Organic Law of the Budget will regulate:

a. The formulation, execution, and liquidation of the General Budget of [the] Revenues and Expenditures of the State and the norms that according to this Constitution are submitted for discussion and approval;

b. In those cases where funds may be transferred within the total allocated for each organ, dependency, [or] decentralized or autonomous entity, the transfer of items must be reported immediately to the Congress of the Republic and to the Office of the Comptroller General of Accounts;

The funds of investment programs may not be transferred to programs of [the] functioning or [the] payment of the public debt.

c. The use of [the] economies and the investment of any eventual surplus and revenues;

d. The standards and regulations to which all matters relative to the domestic and foreign public debt, their amortization and settlement, are subject;

e. The measures of control and supervision of entities that dispose of privative funds, concerning the approval and execution of their budget;

f. The form and quantity of [the] remuneration of all the functionaries and public employees, including those of the decentralized and autonomous entities.

It will regulate specifically those cases where some functionaries, exceptionally and by being necessary for the public service, receive

expenses of representation.

Any other forms of remuneration are prohibited, and whoever authorizes them will be personally responsible;

g. The form of verifying [the] public expenditures; and

h. The forms of collecting the public revenues.

When a work or service is contracted that lasts for two or more fiscal years, the necessary funds shall be adequately provisioned for its completion within the corresponding budgets.

Article 239: Principle of Legality

It corresponds exclusively to the Congress of the Republic, to decree [the] ordinary and extraordinary taxes, [the] assessments [arbitrios], and [the] special contributions in accordance with the needs of the State and in accordance with [an] equitable and tributary justice, as well as how to determine the bases of collection, especially those following:

a. The generating event [hecho generador] of the taxable relationship;

b. The exemptions [exenciones];

c. The taxpayer [sujeto pasivo] and the unified responsibility;

d. The taxable base and the type of taxation;

e. The deductions, the discounts, [the] reductions and charges; and

f. The tax infractions and sanctions.

The provisions, hierarchically inferior to the law, which contradict or distort the legal norms regulating the bases of tax collection, are null ipso jure. The regulatory provisions may not modify the mentioned bases and shall establish norms to specify [matters] relative to the administrative collection of [the] taxes and to establish the procedures facilitating their collection.

Article 240: [The] Source of [the] Investments and Expenditures of the State

Any law which involves the investments and [the] expenditures of the State, must indicate the source from which the funds designated to cover them will originate.

If the investment or the expense is not included and identified in the General Budget of [the] Revenues and Expenditures of the State approved for the respective fiscal year, the Budget may not be extended [ampliado] by the Congress of the Republic without the favorable opinion of the Executive Organ.

If the opinion of the Executive Organ should be unfavorable, the Congress of the Republic may only approve the extension with the vote of at least the two-thirds part of the total number of deputies that integrate it.

Article 241: [The] Rendering of [the] Accounts of the State

The Executive Organ will annually present to the Congress of the Republic the rendering of [the] accounts of the State.

The respective Minister will formulate the liquidation of the annual budget and will bring it to the attention of the Office of the Comptroller General of Accounts within the first three months of each year. Once the liquidation is received, the Office of the Comptroller General of Accounts will issue a report [dictamen] and will [also] issue an opinion within [a term of] no more than two months, which report he [or she] must remit to the Congress of the Republic, which will approve or disapprove the liquidation.

In case of disapproval [improbación], the Congress of the Republic must request the appropriate reports or explanations and[,] if due to punishable causes[,] the result will be certified to the Public Ministry.

Once the liquidation of the budget is approved, a summary of the financial statements of the State will be published in the Diario Oficial.

The organs and decentralized or autonomous entities of the State, having their own budget, will present to the Congress of the Republic in the same form and within the same period the corresponding liquidation, to satisfy the principle of unity in the control [fiscalización] of the revenues and expenditures of the State.

Article 242: Fund of Guarantee

With the purpose of financing the economic and social development programs conducted by the nonprofit organizations of the private sector, legally recognized in the country, the State will constitute a specific fund of guarantee from its own resources, [and those] of decentralized or autonomous entities, of private contributions or of international origin. A law will regulate this matter.

Article 243: Principle of [the] Capacity [Capcidad] to Pay

The taxation system must be just and equitable. For that purpose the tax laws will be based on the principle of the capacity to pay.

Confiscatory taxes and double or multiple domestic taxation are prohibited. There is double or multiple taxation when the same taxable event[hecho,] attributable to the same passive subject [sujeto passivo,] is levied [gravado] two or more times, by one or more subjects with taxing power, and for the same event [evento] or tax period.

When this Constitution is promulgated, the cases of double or multiple taxation must be eliminated progressively in order not to hinder the tax authorities.

CHAPTER V: [The] Army

Article 244: [The] Integration, Organization, and Objectives [Fines] of the Army

The Army of Guatemala, is an institution destined to maintain the independence, sovereignty, and [the] honor of Guatemala, its territorial integrity, [the] peace, and [the] internal and external security.

It is unique and indivisible, essentially professional, apolitical, obedient, and non-deliberative.

It is composed of ground, air and naval forces.

Its organization is hierarchical and it is based on the principles of discipline and obedience.

Article 245: Prohibition of Illegal Armed Groups

The organization and functioning of armed groups unregulated by the laws of the Republic and its regulations[,] is punishable.

• Designation of commander in chief

Article 246: Responsibilities [Cargos] and Attributions of the President in the Army

The President of the Republic is the Commander General of the Army and will convey his [or her] orders through the general officer or colonel or its equivalent in the Navy [Marina de Guerra], who holds the position of Minister of National Defense.

In that capacity he [or she] has the attributions mentioned in the law and especially the following:

a. To decree the mobilization and demobilization; and

b. To grant promotions to the officers [de la oficialidad] in the Army of Guatemala in time of peace and war as well as to confer military decorations and honors in the cases and forms established by the Constitutive Law of the Army [Ley Constitutiva de Ejército] and [the] other laws and military regulations. He [or she] may, likewise, approve extraordinary pensions.

Article 247: Requirements to be an Officer of the Army

To be an officer of the Army of Guatemala, the candidate must be a Guatemalan of origin and never have adopted a foreign citizenship.

• Restrictions on the armed forces

Article 248: Prohibitions

The members [integrantes] of the Army on active duty, may not exercise their right of suffrage, or the right of petition in political matters. Neither may they exercise the right of petition in a collective form.

Article 249: Cooperation of the Army

The Army will lend its cooperation in emergency situations or public calamity.

• Selection of active-duty commanders

Article 250: Legal Regime of the Armed Forces

The Army of Guatemala is governed according to what is established in Constitution, its Constituent Law and [the] other military laws and regulations.

CHAPTER VI: The Public Ministry and the Office of the Procurator General of the Nation

• Attorney general

Article 251: The Public Ministry

The Public Ministry is an auxiliary institution of the public administration and of the tribunals with autonomous functions, whose principal goals are to see to the strict fulfillment of the laws of the country. Its organization and functioning will be regulated by its organic law.

The Head of the Public Ministry shall be the Attorney General [Fiscal General] of the Republic and the exercise of the public penal action corresponds to him [or her]. He [or she] shall be a collegiate lawyer, and have the same qualities as the magistrates of the Supreme Court of Justice and he [or she] shall be appointed by the President of the Republic from a nómina of six candidates proposed by a nominating commission, integrated by the President of the Supreme Court of Justice, who shall preside over it, the Deans of the Departments or [of] Law and Social and Juridical Sciences of the Universities of the country, the President of the Directive Board of the Association of Lawyers and Notaries of Guatemala and the President of the Tribunal of Honor of the that association [Colegio].

The election of the candidates requires the vote of at least the two-thirds part of the members of the Commission.

In the elections [votaciones], to make up the Nominating Commission as well as to make up the nómina of candidates, no representation whatsoever will be accepted.

The Attorney General of the Nation will remain four years in the exercise of his [or her] functions and shall have the same privileges and immunities as the magistrates of the Supreme Court of Justice. The President of the Republic can remove him [or her] for a duly established justified cause.

Article 252: The Office of the Procurator General of the Nation

The Office of the Procurator General of the Nation [Procuraduría General de la Nación] has at its charge [cargo] the advisory and consultative activities for the state organs and entities. Its organization and functioning is regulated by its organic law.

The Procurator General of the Nation exercises the representation of the State and is the Head of the Office of the Procurator General of the Nation. The Procurator General of the Nation will be appointed by the President of the Republic, who will also be able to remove him [or her] on account of a duly established justified cause. To be the Procurator General of the Nation, the candidate must be a collegiate lawyer and to have the same qualities corresponding to a magistrate of the Supreme Court of Justice.

The Procurator General of the Nation will remain four years in the exercise of his [or her] functions and shall have the same privileges and immunities as the magistrates of the Supreme Court of Justice.

• Municipal government

CHAPTER VII: [The] Municipal Regime

Article 253: [The] Municipal Autonomy

The municipalities of the Republic of Guatemala are autonomous institutions.

It corresponds to them to, among other functions:

a. To elect their own authorities;

b. To obtain and dispose of their resources; and

c. To attend to the local public services, the territorial order of their jurisdiction, and the fulfillment of their own objectives.

For the corresponding effects they will issue the appropriate orders and regulations.

Article 254: [The] Municipal Government

The municipal government shall be administered by a council, which is comprised of the mayor, the representatives [síndicos], and the councilmen [concejales], elected directly by universal and secret suffrage for a period of four years, [and] who may be reelected.

Article 255: [The] Economic Resources of the Municipality

The municipal corporations must procure the economic strengthening of their respective municipalities in order to be able to conduct the projects and render those services that may be necessary for them.

The collection [captación] of resources must be adjusted to the principle established in Article 239 of this Constitution, to the law and the needs of the municipalities.

Article 256

[Abrogated by Legislative Accord No. 18-93 of 17 November 1993]

Article 257: Allocation for the Municipalities

The Executive Organ shall annually include in the General Budget of [the] Ordinary Revenues of the State, ten percent of it for the municipalities of the country. This percentage shall be distributed in the form established by the law and at least ninety percent shall be allocated to educational, preventative health, infrastructure and public services programs and projects that improve the quality of life of the inhabitants. The remaining ten percent shall be used to finance costs of functioning.

Any additional allocation for the municipalities within the General Budget of [the] Revenues and Expenditures of the State, which does not originate from the distribution of the percentages that by the law corresponds to [each of] them from specific taxes[,] is prohibited.

Article 258: Right of [the] Mayors to [a] Preliminary Hearing

The Mayors may not be arrested or tried, without a prior finding of cause by the competent judicial authority, except in cases of flagrante delicto.

Article 259: Court of Municipal Affairs

For the execution of their ordinances and the fulfillment of their provisions, the municipalities may create, in accordance with the law, their Court of Municipal Affairs and their Police Corps in accordance with their resources and necessities, which shall function under the direct orders of the mayor.

Article 260: Privileges and Guarantees of [the] Municipal Assets [Bienes]

The assets, revenues, assessments, and taxes are the exclusive property of the municipality and will enjoy the same guarantees and privileges as [the] property of the State.

Article 261: Prohibitions Against Exemption from Taxes or Municipal Assessments

No organ of the State has the faculty to exempt natural or juridical persons from taxes or municipal assessments, except for the municipalities themselves and in accordance with what is established by this Constitution.

Article 262: [The] Law of [the] Municipal Service

The labor relations of the functionaries and employees of the municipalities, will be regulated by the Law of [the] Municipal Service [Ley de Servicio Municipal].

TITLE VI: Constitutional Guarantees and Defense of the Constitutional Order

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CHAPTER I: [The Recourse of] Personal Exhibition

• Protection from unjustified restraint

Article 263: [The] Right to [the recourse of] Personal Exhibition

Whoever finds himself [or herself] illegally imprisoned, detained, or restrained in any other way in the enjoyment of their individual freedom, threatened with the loss of the same, or suffers ill-treatment [vejámenes], even when the imprisonment or detention is based on the law, has the right to petition for an immediate exhibition before the tribunals of justice for the purpose of restitution of[,] or guaranteeing of[,] liberty, of bringing the ill-treatment to an end, or terminating the constraint to which he [or she] has been subject.

If the tribunal decrees the liberty of the illegally confined [recluida] person, the same will be freed at the same hearing and place.

When it is so petitioned or the judge or tribunal deems it pertinent, the requested [recourse of personal] exhibition will occur at the location where the detained person is being held, without previous opinion [aviso] or notification.

The [recourse of] personal exhibition of the detainee in which favor it was requested is unavoidable [es ineludible].

Article 264: Responsibilities of the Offenders [Infractores]

The authorities who order the concealment [ocultamiento] of the detainee or who refuse to present him [or her] to the respective tribunal or who in any form evade this guarantee, as well as the executive agents, will be guilty of the offense of abduction and will be sanctioned in accordance with the law.

If as a result of the proceedings [diligencias] pursued the person benefitting from the [recourse of] personal exhibition may not be located, the tribunal will order[,] of office[,] immediately an investigation of the case until its total clarification.

CHAPTER II: The Recourse of] Amparo

• Right to amparo

Article 265: [The] Proceeding of [the recourse of] Amparo

[The recourse of] amparo is instituted for the purpose of protecting persons against the threats of violations of their rights or to restore the rule of the same when the violation has occurred. There is no area which is not subject to [the recourse of] amparo, and it will always proceed whenever the acts, resolutions, provisions, or laws of [an] authority should imply a threat, restraint, or violation of the rights which the Constitution and the laws guarantee.

CHAPTER III: [The] Unconstitutionality of the Laws

Article 266: [The] Unconstitutionality of the Laws in Specific Cases

In specific cases, in every process of whatever competence or jurisdiction, in any instance and in cassation and even before a sentence is decreed, the parties will be able to present as an action [acción], plea [excepción], or incidental issue [incidente], the total or partial unconstitutionality of a law. The tribunal must decide concerning it.

• Constitutionality of legislation

Article 267: [The] Unconstitutionality of the Laws of General Character

The actions against the laws, regulations or provisions of a general character which contain a partial or total defect [vicio] of unconstitutionality, will be heard directly before the Tribunal or Court of Constitutionality.

• Establishment of constitutional court

CHAPTER IV: [The] Court of Constitutionality

Article 268: [The] Essential Function of the Court of Constitutionality

The Court of Constitutionality is a permanent tribunal of privative jurisdiction, of which the essential function is the defense of the constitutional order; [it] acts as a collegiate tribunal with independence from the other organs of the State and exercises [the] specific functions assigned to it by the Constitution and the law of the matter.

The economic independence of the Court of Constitutionality, will be guaranteed through a percentage of the revenues that correspond to the Judicial Organ.

• Constitutional court selection
• Constitutional court term length

Article 269: Integration of the Court of Constitutionality

The Court of Constitutionality is integrated by five titular magistrates, each of whom will have his [or her] respective substitute. When it takes cognizance of matters of unconstitutionality against the Supreme Court of Justice, the Congress of the Republic, or the President or [the] Vice-President of the Republic, the number of its members [integrantes] will be raised to seven, with the other two magistrates being selected from a drawing among the substitutes.

The magistrates will remain in their functions for five years and [they] will be appointed in the following manner:

a. One magistrate by the plenary of the Supreme Court of Justice;

b. One magistrate by the plenary of the Congress of the Republic;

c. One magistrate by the President of the Republic in the Council of Ministers;

d. One magistrate by the Superior University Council of the University of San Carlos de Guatemala; and

e. One magistrate by the Assembly of the College of Attorneys.

Simultaneously with the appointment of the titular, that of the respective substitute will be made, before the Congress of the Republic.

The installation of the Court of Constitutionality will become effective ninety days after that of the Congress of the Republic.

• Eligibility for const court judges

Article 270: Requirements of the Magistrates of the Court of Constitutionality

In order to be a magistrate of the Court of Constitutionality, the following requirements must be met:

a. To be a Guatemalan of origin;

b. To be a collegiate attorney belonging to the College of Attorneys;

c. To be of recognized integrity [honorabilidad]; and

d. To have at least fifteen years of professional experience [graduación].

The magistrates of the Court of Constitutionality will enjoy the same privileges and immunities as the magistrates of the Supreme Court of Justice.

Article 271: [The] Presidency of the Court of Constitutionality

The Presidency of the Court of Constitutionality will be performed by the same titular magistrates that compose it, in rotating form, for a period of one year, commencing with the oldest [member] and following in descending order of age.

• Constitutional court powers

Article 272: Functions of the Court of Constitutionality

The Court of Constitutionality has the following functions:

a. To take cognizance in sole [unique] instance of the challenges interposed against the laws or provisions of general character, objected to for partial or total unconstitutionality;

b. To take cognizance in sole instance in its status of Extraordinary Tribunal of [the recourse of] amparo, of actions of amparo interposed against the Congress of the Republic, the Supreme Court of Justice, [or] the President or [the] Vice-President of the Republic;

c. To take cognizance on appeal of all [recourses of] amparo interposed before any of the tribunals of justice. If the appeal should be against a resolution of amparo of the Supreme Court of Justice, the Court of Constitutionality shall be expanded by two members [vocales] in the form specified in Article 268;

d. To take cognizance on appeal of all the challenges against the laws objected to for unconstitutionality in specific cases, in any trial, in cassation, or in the cases contemplated by the law in the matter;

• Legal status of treaties

e. To issue an opinion regarding the constitutionality of treaties, agreements, and bills of law at the request of any of the organs of the State;

f. To take cognizance and resolve [the] issues concerning to any conflict of jurisdiction in matters of constitutionality;

g. To compile the doctrine and constitutional principles that have been invoked with the purpose of resolving them through [the recourse of] amparo and [through the recourse] of unconstitutionality of the laws, [and] maintain the jurisprudential bulletin or gazette;

h. To issue an opinion on the unconstitutionality of the laws vetoed by the Executive alleging unconstitutionality; and

i. To act, to render opinions [opinar], to dictate, or to take cognizance of those matters under its competence established in the Constitution of the Republic.

CHAPTER V: [The] Commission and [the] Procurator of Human Rights

• Human rights commission

Article 273: [The] Human Rights Commission and [the] Procurator of the Commission

The Congress of the Republic will appoint a Commission of Human Rights formed by a deputy for each political party represented in the corresponding period. This Commission shall propose to the Congress three candidates for the election of a Procurator, who must meet the requirements of a magistrate of the Supreme Court of Justice and will enjoy the same immunities and privileges as the deputies to Congress. The law will regulate the attributions of the Commission and of the Procurator of Human Rights to which this Article refers.

Article 274: [The] Procurator of Human Rights

The Procurator of Human Rights is a commissioner [comisionado] of the Congress of the Republic for the defense of the Human Rights guaranteed by the Constitution. He [or she] will have the faculties to supervise the administration; will exercise the office for a term of five years, and will render an annual report to the plenary of the Congress, with which he [or she] will relate through the Commission of Human Rights.

• Human rights commission

Article 275: Attributions of the Procurator of Human Rights

The Procurator of Human Rights has the following attributions:

a. To promote the adequate [buen] functioning and expediting [agilización] of the government administration, in matters of Human Rights;

b. To investigate and denounce [the] administrative behavior that is detrimental to the interests of persons;

c. To investigate every type of denunciations that may be brought by any person regarding the violations of Human Rights;

d. To recommend privately or publicly to the functionaries the modification of any administrative behavior objected to;

e. To issue public censure for acts or behavior against the Constitutional rights;

f. To promote actions or recourses, judicial or administrative, in those cases in which they proceed; and

g. The other functions and attributions assigned to him [or her] by the law.

The Procurator of Human Rights, of office[,] or at the instance of a person, will act with due diligence so that, during the regime of exception, the fundamental rights whose application may not have been expressly restrained may be fully guaranteed. For the fulfillment of his [or her] functions[,] every day and all hours are considered working [hours].

CHAPTER VI: Law of [the Recourses of] Amparo, Personal Exhibition and Constitutionality

• Right to amparo

Article 276: Constitutional Law in the Matter

A constitutional law will develop the matters relative to [the recourse of] amparo, personal exhibition and the constitutionality of the laws.

TITLE VII: Reforms to the Constitution

• Constitution amendment procedure

SOLE CHAPTER: Reforms to the Constitution

Article 277: Initiative

The following have the initiative to propose reforms to the Constitution:

a. The President of the Republic in the Council of Ministers;

b. Ten or more deputies to the Congress of the Republic;

c. The Court of Constitutionality; and

d. The people [el pueblo] through a petition directed to the Congress of the Republic, by not fewer than five thousand citizens duly registered [empadronados] in the Registry of Citizens.

In any of the above-mentioned cases, the Congress of the Republic must address the raised issue without any delay.

• Electoral court powers

Article 278: National Constituent Assembly

In order to reform this or any Article contained in Chapter I of Title II of this Constitution, it is indispensable that the Congress of the Republic, with the affirmative vote of the two-thirds part of the members that integrate it, to convoke a National Constituent Assembly. In the decree of convocation[,] the Article or Articles to be reformed shall be specified[,] and it shall be communicated to the Supreme Electoral Tribunal so that it may determine the date when the elections will be held within the maximum deadline of one hundred twenty days, proceeding in the other respects in accordance with the Constitutional Electoral Law.

Article 279: [The] Deputies to the National Constituent Assembly

The National Constituent Assembly and the Congress of the Republic may function simultaneously. The qualities required to be [a] deputy to the National Constituent Assembly are the same as those that are required to be a deputy of the Congress, and the constituent deputies shall enjoy equal immunities and privileges.

One may not be[,] simultaneously[,] a deputy to the National Constituent Assembly and to the Congress of the Republic.

The elections of [the] deputies to the National Constituent Assembly, the number of deputies to be elected, and the other related questions, [together] with the electoral process will be governed in equal form as for the elections to the Congress of the Republic.

Article 280: Reforms by the Congress and [the] Popular Consultation

For any other constitutional reform, it will be necessary for the Congress of the Republic to approve it with an affirmative vote of the two-thirds part of the total number of deputies. The reforms will not enter into effect unless they are ratified through the popular consultation referred to in Article 173 of this Constitution.

If the result of the popular consultation were to ratify the reform, it will enter into effect sixty days after the Supreme Electoral Court announces the result of the consultation.

• Unamendable provisions

Article 281: Articles Not Subject to Reform

In no case may Articles 140, 141, 165 paragraph g) , 186, and 187 be reformed, nor may any question concerning the republican form of government, [or] to the principle of the non-reelection for the exercise of the Presidency of the Republic[,] be raised in any form, neither may the effectiveness or application of the Articles that provide for alternating the tenure of the Presidency of the Republic be suspended or their content [be] changed or modified in any other way.

TITLE VIII: Transitory and Final Provisions

• Transitional provisions

SOLE CHAPTER: Transitory and Final Provisions

Article 1: Law of the Civil Service of the Legislative Organ

The specific law that governs the relations of the Legislative Organ with its personnel, must be issued within the thirty days following the installation of such Organ.

Article 2: Lower Level [Menores] Courts

No municipal authority shall perform judicial functions, so that within a time no greater than two years from the effectiveness of this Constitution, the lower level courts must be severed from the municipalities of the country and the Judicial Organ shall appoint the specific authorities, regionalizing and appointing judges where it corresponds. Within this time, the laws and other provisions necessary for the appropriate compliance of this Article must be adopted.

Article 3: Conservation of Nationality

Whoever has obtained [the] Guatemalan nationality, of origin or through naturalization, will retain it with the totality of its rights. The Congress of the Republic shall issue a law concerning citizenship, in the briefest time possible.

Article 4: De facto Government

The Government of the Republic, organized in accordance with the Fundamental Statute of the Government [Estatuto Fundamental de Gobierno] and its reforms, will retain its functions until the person elected to the office [cargo] of President of the Republic takes possession [of it].

The Fundamental Statute of Government contained in Decree-Law 24-82 dated 27 April 1982, 36-82 dated 9 June 1982, 87-83 dated 8 August 1983, and the other reforms, will continue in force until the moment of initiation of the effectiveness of this Constitution.

Article 5: General Elections

On 3 November 1985, general elections will be held for the President and Vice-President of the Republic, [for the] deputies to the Congress of the Republic, and for municipal corporations in all the country, in accordance with what is established by the specific Electoral Law issued by the Office of the Head of State [Jefatura de Estado] for the conduct of such general elections.

If it proceeds, a second election will be held for President and Vice-President of the Republic on 8 December 1985, in accordance with the same law.

• Electoral court powers

The Supreme Electoral Tribunal will organize such elections [comicios] and will make the definitive determination [calificación] of the results, proclaiming those citizens elected.

Article 6: [The] Congress of the Republic

The National Constituent Assembly will give possession of their responsibilities [cargos] to the deputies declared elected by the Supreme Electoral Tribunal on 14 January 1986.

The deputies elected to the Congress of the Republic will hold preparatory sessions in such manner that in the same act of taking possession of their responsibilities, the Directive Board of the Congress of the Republic integrated in the form established by this Constitution may take possession of its [responsibilities].

Article 7: Dissolution of the National Constituent Assembly

Once the mandate of giving possession to the deputies elected to the Congress of the Republic is completed and the Congress is organized, on 14 January 1986, the National Constituent Assembly of the Republic of Guatemala elected on 1 July 1984, will have terminated its functions and by expiration of its mandate on the same day, proceeds to dissolve. Prior to its dissolution, it will examine its accounts and grant them its approval.

Article 8: [The] Presidency of the Republic

The Congress of the Republic, once installed in accordance with the preceding norms, is obligated to give possession of his [or her] office to the person declared elected as [the] President of the Republic by the Supreme Electoral Tribunal, and it shall do this in a solemn session that will be held at the latest at 16:00 hours on 14 January 1986.

By the same act, the Congress of the Republic will give possession of his [or her] office to the person declared elected by the Supreme Electoral Tribunal as the Vice-President of the Republic.

In the preparatory sessions of the Congress of the Republic, the necessary ceremony shall be planned and shall be organized.

Article 9: [The] Municipalities

The elected municipal corporations will take possession of their offices and will initiate the period for which they were elected, on 15 January 1986.

The Congress of the Republic must issue a new Municipal Code [Código Municipal], the Law of Municipal Service [Ley de Servicio Municipal], the Preliminary Law of Regionalization [Ley Preliminar de Regionalización] and a Municipal Tax Code [Código Tributario Municipal], adjusted to the constitutional precepts, at the latest, in the time of one year from the installation of the Congress.

Article 10: [The] Supreme Court of Justice

The magistrates of the Supreme Court of Justice and the other functionaries whose appointment corresponds to the Congress of the Republic, on this occasion, will be appointed and take possession of their responsibilities in the period contemplated between 15 January 1986 and 14 February 1986

Its period will terminate on the dates established in this Constitution and in the Law of the Civil Service of the Judicial Organ.

Six months after taking possession of their offices, the members of the Supreme Court of Justice, in exercise of their initiative of law, must send to the Congress of the Republic the bill of law of the composition [integración] of the Judicial Organ.

Article 11: [The] Executive Organ

During the first year of effectiveness of this Constitution, the President of the Republic, in the exercise of his [or her] initiative of law, must send to the Congress of the Republic the bill of law of the Executive Organ.

Article 12: [The] Budget

From the entrance into force of the Constitution, the Government of the Republic may submit to the cognizance of the Congress of the Republic the General Budget of [the] Revenues and Expenditures of the State brought into force by the previous government. If it is not modified, it will continue in force during the fiscal year of 1986.

Article 13: Allocation for [Improving] Literacy

One percent of the General Ordinary Budget of [the] Revenues of the State is allocated, to eradicate illiteracy [analfabetismo] among the economically active population, during the first three governments originating from this Constitution, [an] allocation that will be deducted, in these periods, from the percentage established in Article 91 of this Constitution.

Article 14: National Committee for [Improving] Literacy

The approval of the budgets and of [the] programs of literacy, and the control and supervision of its development, will be the charge [cargo] of a National Committee of Literacy [Comité Nacional de Alfabetización] comprised by the public and private sectors, [of which] half plus one of its members shall be from the public sector. A Law of Literacy [Ley de Alfabetización] shall be issued by the Congress of the Republic in the six months following the effectiveness of this Constitution.

Article 15: Integration of Petén

The promotion and [the] economic development of the Department of Petén, for its effective integration into the national economy[,] is declared to be of national urgency. The law shall determine the measures and activities that will lead [tiendan] to such purposes.

Article 16: Decree-Laws

The juridical validity of the decree-laws originating from the Government of the Republic beginning on 23 March 1982, as well as all the administrative and government acts realized in accordance with the law beginning on said date[,] are recognized.

• Campaign financing

Article 17: Financing to Political Parties

The political parties shall enjoy financing, beginning with the general elections of 3 November 1985, which will be regulated by the Constitutional Electoral Law.

Article 18: Revelation [Divulgación] of the Constitution

In the course of the year following its effectiveness, the Constitution shall be broadly disseminated in the Quiché, Mam, Cakchiquel, and Kekchí languages.

Article 19: Belize [Belice]

The Executive will have the faculty to realize those measures [gestiones] that would tend to resolve the situation of the rights of Guatemala with respect to Belize, in accordance with the national interests. Any definitive agreement must be submitted by the Congress of the Republic to the procedure of popular consultation specified in Article 173 of the Constitution.

The Government of Guatemala will promote social, economic, and cultural relations with the population of Belize.

For the effects of nationality, the nationals of Belize [Beliceños] of origin are subject to the regime which this Constitution established for [those nationals] of origin of the Central American countries.

Article 20: Headings [epígrafes]

The headings that precede the Articles of this Constitution do not have interpretive validity and may not be quoted with respect to the content and scope of [the] constitutional norms.

Article 21: Effectiveness of the Constitution

This Political Constitution of the Republic of Guatemala will enter into force on 14 January 1986, on the installation of the Congress of the Republic and will not lose its validity and effectiveness regardless of any temporary interruption resulting from situations of force.

This Article and Articles 4, 5, 6, 7, 8, 17, and 20 of the transitory and final provisions of this Constitution are excepted from the date of effectiveness, [and] they will enter into force on 1 June 1985.

Article 22: Abrogation [Derogatoria]

All the Constitutions of the Republic of Guatemala and the constitutional reforms decreed prior to the present, are abrogated, as well as any laws and provisions that may have had equal effects.

Article 23

For adequate implementation [adecuación] by the Congress of the Republic of the constitutional reforms approved on 17 November 1993 it must proceed in the following manner:

a. When these constitutional reforms are in force the Supreme Electoral Tribunal must convoke elections for the deputies to the Congress of the Republic, which must be realized in a time not more than one hundred and twenty days after being convoked.

b. The deputies that are elected [as a] result shall take possession of their offices thirty days after the election is effected, [the] date on which the term and functions of the deputies of the Congress of the Republic which was installed on 15 January 1991 terminates.

c. The Congress of the Republic that is installed in accordance with provisions a) and b) of this Article, shall conclude its functions on 14 January 1996

This same day the deputies that are elected in the general elections of 1995 shall take possession [of office].

Article 24

For the adequate implementation by the Supreme Court of Justice and the other tribunals which are referred to in Article 217 of this Constitution, by the Office of the Comptroller General of Accounts and by the Public Ministry of the approved constitutional reforms, it shall proceed in the following manner:

a. The Congress of the Republic which is installed in accordance with the previous Transitory Article, shall convoke, within the three days following its installation, the Nominating Commissions specified in Articles 215, 217 and 233 of this Constitution, so that in a time of not more than fifteen days it shall proceed to make the corresponding nominations.

b. The Congress of the Republic which is installed in accordance with the previous Transitory Article must elect the magistrates of the Supreme Court of Justice and of the other tribunals referred to in Article 217 of this Constitution and the Comptroller General of Accounts within the thirty days following the installation of the new Congress, [a] date on which the elected [persons] must take possession of their offices [cargos] and on which the term and functions of the magistrates and [the] comptroller which they must substitute terminates.

c. For the effects of the previous provisions, the Congress will meet in extraordinary sessions if it should be necessary.

d. The President of the Republic must appoint the Procurator General of the Nation within thirty days after the effectiveness of these reforms, [a] date on which he [or she] must take possession [of office] and on which the term and functions of the procurator that he [or she] substituted[,] terminates.

e. The President of the Republic must appoint the Attorney General of the Republic within the thirty days after the effectiveness of these reforms, [a] date on which he [or she] must take possession [of office].

f. The Procurator General of the Nation shall continue to perform the responsibilities of Head of the Public Ministry until the Attorney General takes possession [of office].

Article 25

The provisions contained in Articles 23 and 24 of the Sole Chapter of Title VIII of this Constitution are of special character and [they will] prevail over any others of general character.

Article 26

At the latest, within a period of eighteen months from the date of the effectiveness of these reforms, the Executive Organ, in order to modernize and make the public administration more efficient, in exercise of its initiative of law, must send to the Congress of the Republic, an initiative of law that contains the Law of the Executive Organ.

Article 27

With the objective that the elections of the municipal governments be realized on one same date, conjointly with the presidential elections and [the elections] of deputies, in those municipalities where municipal governments took possession [of their responsibilities] in June of 1993 for a period of five years, the next elections shall be for a term that will conclude on 15 January 2000.

For this effect the Supreme Electoral Tribunal must take the pertinent measures.

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