



# CONSTITUTION POLITICS OF PERU



**OFFICIAL EDITION**



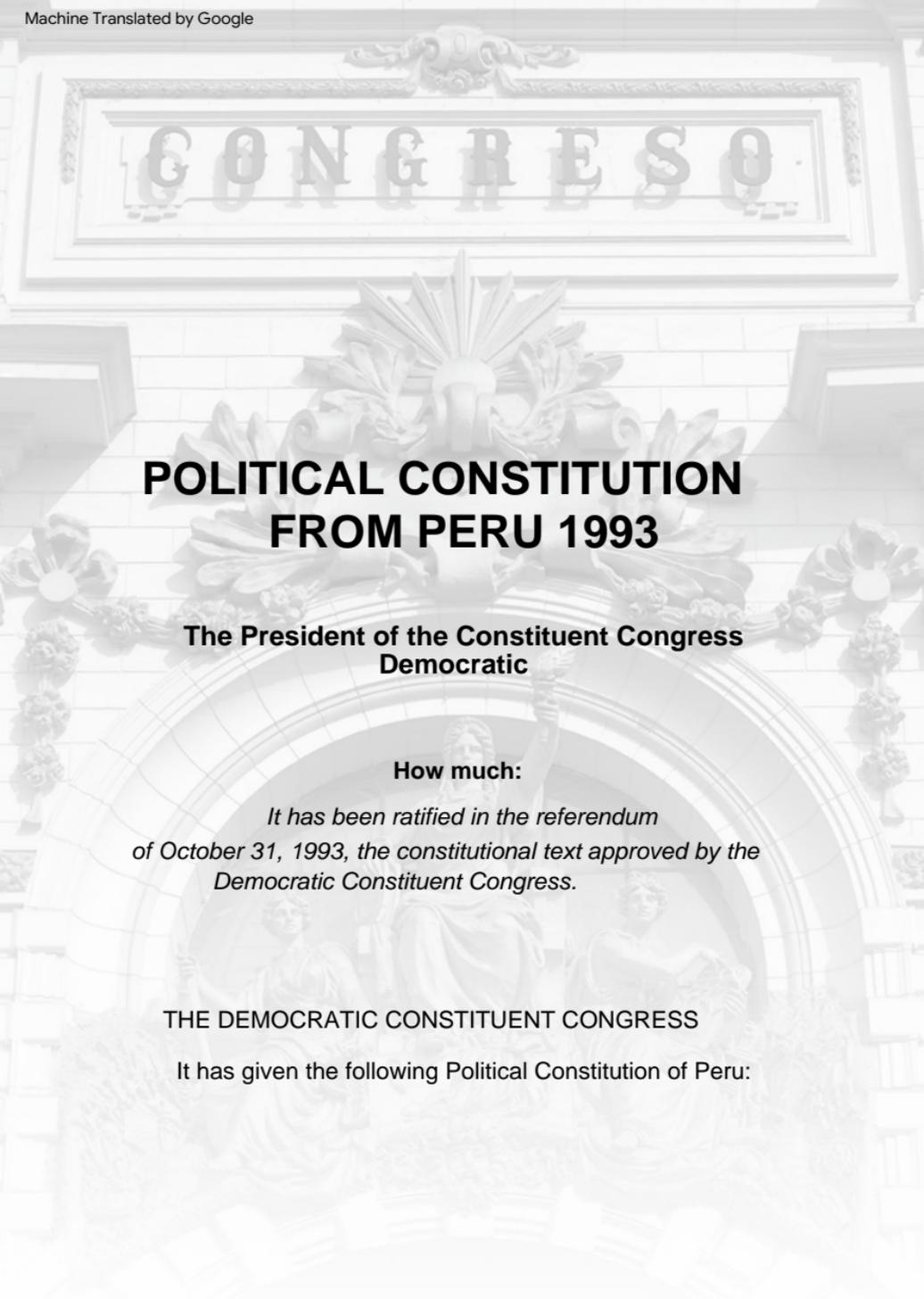


# **POLITICAL CONSTITUTION FROM PERU**

ENACTED ON DECEMBER 29, 1993

Edition of the Congress of the Republic  
March 2019





# POLITICAL CONSTITUTION FROM PERU 1993

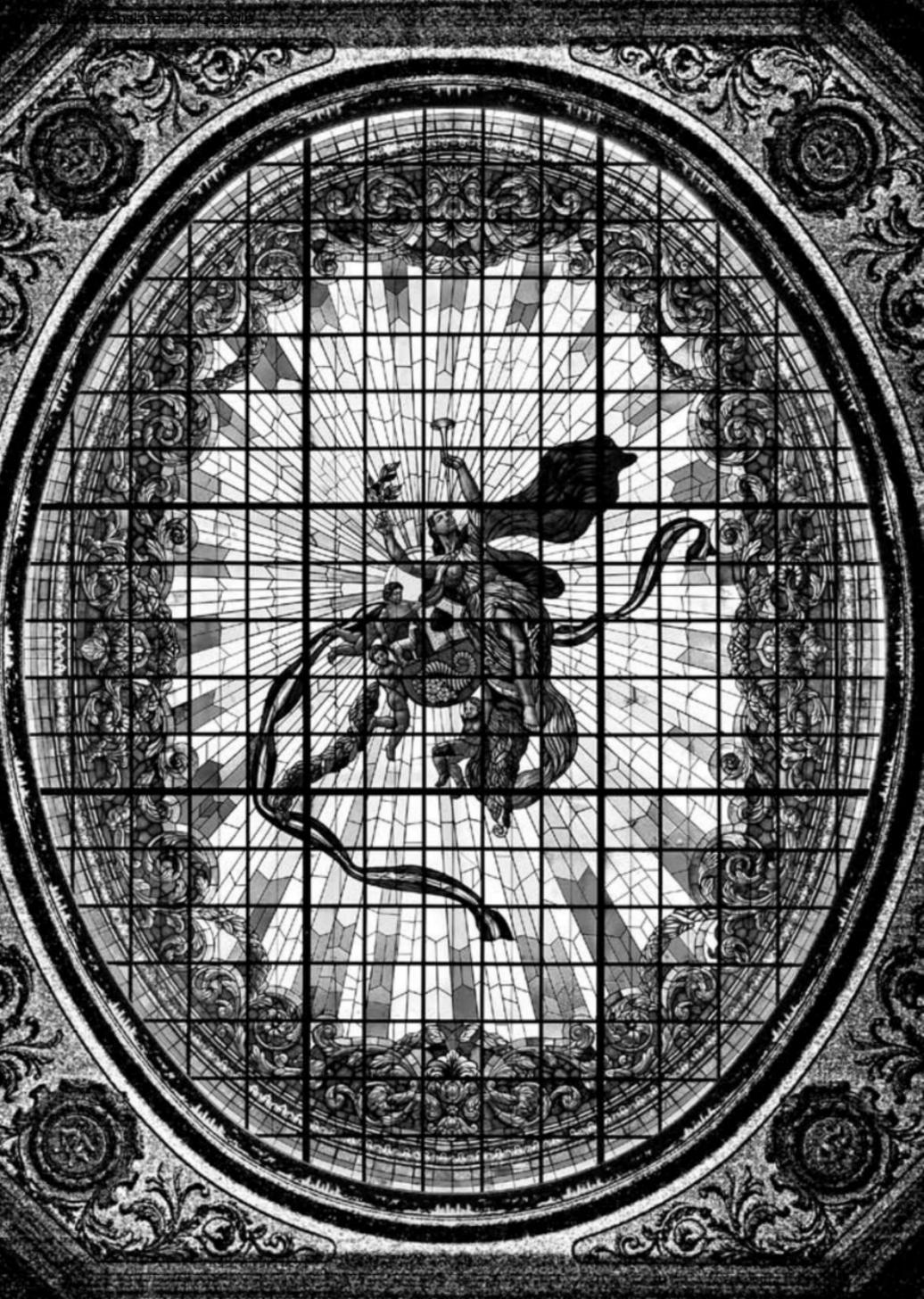
**The President of the Constituent Congress  
Democratic**

**How much:**

*It has been ratified in the referendum  
of October 31, 1993, the constitutional text approved by the  
Democratic Constituent Congress.*

**THE DEMOCRATIC CONSTITUENT CONGRESS**

**It has given the following Political Constitution of Peru:**



# PREAMBLE

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The Democratic Constituent Congress,  
invoking Almighty God, obeying the  
mandate of the Peruvian people and  
remembering the sacrifice of all the  
generations that have preceded us in  
our country, has resolved to enact the  
following Constitution:





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# POLITICAL CONSTITUTION FROM PERU

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## TITLE I OF THE PERSON AND OF THE SOCIETY

### Chapter I Fundamental rights of the person

**Article 1.** The defense of the human person and respect for his dignity are the supreme goal of society and the State.

**Article 2.** Every person has the right:

1. To life, to their identity, to their moral, mental and physical integrity and to their free development and well-being. The conceived is a subject of law in everything that favors him.
2. To equality before the law. No one should be discriminated against on the grounds of origin, race, sex,

language, religion, opinion, economic condition or of any other nature.

3. To freedom of conscience and religion, individually or in association. There is no persecution for reasons of ideas or beliefs. There is no crime of opinion. The public exercise of all confessions is free, as long as it does not offend morality or alter public order.
4. To the freedoms of information, opinion, expression and dissemination of thought through oral or written word or image, by any means of social communication, without prior authorization or censorship or any impediment, under the responsibilities of law.

Crimes committed by means of books, the press and other means of social communication are typified in the Penal Code and are judged in the common jurisdiction.

Any action that suspends or closes any organ of expression or prevents it from circulating freely is a crime. The rights to inform and give opinions include those of founding media outlets.

5. To request without expression of cause the information required and to receive it from any public entity, within the legal term, at the cost

that the request entails. Information that affects personal privacy and that which is expressly excluded by law or for reasons of national security is excepted.

Bank secrecy and tax reserve may be lifted at the request of the judge, the Attorney General, or an investigative commission of Congress in accordance with the law and provided that they refer to the case under investigation.

6. That information services, computerized or not, public or private, do not provide information that affects personal and family privacy.
7. Honor and good reputation, personal and family privacy, as well as one's own voice and image.

Any person affected by inaccurate or aggrieved statements in any means of social communication has the right to have it rectified free of charge, immediately and proportionally, without prejudice to legal responsibilities.

8. To the freedom of intellectual, artistic, technical and scientific creation, as well as to the ownership of said creations and their product. The State promotes access to culture and encourages its development and dissemination.

9. To the inviolability of the home. Nobody can enter it or carry out investigations or searches without the authorization of the person who inhabits it or without a court order, except in flagrante delicto or in very serious danger of its perpetration. Exceptions for reasons of health or serious risk are regulated by law.

10. To the secrecy and inviolability of your communications and private documents.

Communications, telecommunications or their instruments can only be opened, seized, intercepted or intervened by reasoned order of the judge, with the guarantees provided by law. Secrecy is kept of matters unrelated to the fact that motivates its exam.

Private documents obtained in violation of this precept have no legal effect.

Accounting and administrative books, vouchers and documents are subject to inspection or oversight by the competent authority, in accordance with the law. The actions taken in this regard cannot include its removal or seizure, except by court order.

11. To choose their place of residence, to travel through the national territory and to leave it and enter

him, except for limitations due to health reasons or by court order or by application of the immigration law.

12. To assemble peacefully without weapons. Meetings in private venues or venues open to the public do not require prior notice. Those convened in squares and public thoroughfares require advance notice to the authority, which can only prohibit them for proven reasons of public safety or health.
13. To join and set up foundations and various forms of non-profit legal organization, without prior authorization and in accordance with the law. They can not be dissolved by administrative decision.
14. To contract for lawful purposes, provided that public order laws are not contravened.
15. To work freely, subject to law.
16. Property and inheritance.
17. To participate, individually or in association, in the political, economic, social and cultural life of the Nation. Citizens have, according to law, the rights of election, removal or revocation of authorities, legislative initiative and referendum.

18. To keep confidential their political, philosophical, religious or any other convictions, as well as to keep professional secrecy.
19. To their ethnic and cultural identity. The State recognizes and protects the ethnic and cultural plurality of the Nation.

All Peruvians have the right to use their own language before any authority through an interpreter. Foreigners have this same right when summoned by any authority.

20. To formulate requests, individually or collectively, in writing before the competent authority, which is obliged to give the interested party a response also in writing within the legal term, under responsibility.

Members of the Armed Forces and the National Police can only individually exercise the right to petition.

21. To your nationality. Nobody can be removed from her. Nor can he be deprived of the right to obtain or renew his passport inside or outside the territory of the Republic.
22. To peace, to tranquility, to the enjoyment of free time and rest, as well as to enjoy a

balanced environment suitable for the development of their lives.

23. To legitimate defense.

24. To personal liberty and security. On consequence:

to. No one is obliged to do what the law does not command, nor prevented from doing what it does not prohibit.

b. No form of restriction of personal freedom is allowed, except in cases provided by law. Slavery, servitude and human trafficking in any form are prohibited.

c. There is no prison for debt. This principle does not limit the legal mandate for failure to comply with maintenance obligations.

d. No one will be prosecuted or convicted for an act or omission that at the time of committing it is not previously qualified in the law, expressly and unequivocally, as a punishable offense; nor sanctioned with a penalty not provided for in the law.

and. Every person is considered innocent as long as their responsibility has not been judicially declared.

F. No one can be detained except by written and reasoned order of the judge or by the police authorities in case of flagrant crime. The detention will not last longer than the time strictly necessary to carry out the investigations and, in any case, the detainee must be placed at the disposal of the corresponding court, within a maximum period of forty-eight hours or within the term of the distance.

These deadlines do not apply to cases of terrorism, espionage, illicit drug trafficking and crimes committed by criminal organizations. In such cases, the police authorities may carry out the preventive detention of those presumed involved for a term not exceeding fifteen calendar days. They must report to the Public Ministry and the judge, who may assume jurisdiction before said term expires.<sup>1</sup>

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**1 Letter f of subsection 24 of article 2 modified by Law 30558, published on May 9, 2017. Before the reform, this literal had the following text:**

*"F. No one can be arrested except by written and reasoned order of the judge or by the police authorities in case of flagrante delicto.*

*The detainee must be placed at the disposal of the corresponding court, within twenty-four hours or within the distance.*

*These deadlines do not apply to cases of terrorism, espionage and illicit drug trafficking. In such cases, law enforcement authorities may*

- g. No one can be held incommunicado except in an essential case for the clarification of a crime, and in the manner and for the time provided by law. The authority is obliged under responsibility to indicate, without delay and in writing, the place where the detained person is.
  
- h. No one should be a victim of moral, mental or physical violence, or subjected to torture or inhuman or humiliating treatment. Anyone can immediately request a medical examination of the aggrieved person or of the person unable to resort to the authority on their own. There is no value in declarations obtained by violence. Whoever uses it incurs responsibility.

**Article 3.** The enumeration of the rights established in this chapter does not exclude the others that the Constitution guarantees, nor others of a similar nature or that are based on the dignity of man, or on the principles of sovereignty of the people, of the democratic State of law and of the republican form of government.

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*to carry out the preventive detention of the presumed implicated for a term not exceeding fifteen calendar days. They must report to the Public Ministry and the judge, who can assume jurisdiction before said term expires."*

## Chapter II Of social and economic rights

**Article 4.** The community and the State especially protect the child, the adolescent, the mother and the elderly in a situation of abandonment. They also protect the family and promote marriage. They recognize the latter as natural and fundamental institutes of society.

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

**Article 5.** The stable union of a man and a woman, free of matrimonial impediment, who form a de facto household, gives rise to a community of property subject to the regime of the community property insofar as it is applicable.

**Article 6.** The national population policy aims to spread and promote responsible fatherhood and motherhood. It recognizes the right of families and individuals to decide. In this sense, the State ensures adequate education and information programs and access to the media, which do not affect life or health.

It is the duty and right of parents to feed, educate and give security to their children. Children have the duty to respect and assist their parents.

All children have equal rights and duties.  
Any mention of the marital status of the parents and the nature of the parentage in the civil registries and in any other identity document is prohibited.

**Article 7.** Everyone has the right to the protection of their health, that of the family environment and that of the community, as well as the duty to contribute to its promotion and defense. The person unable to care for himself because of a physical or mental deficiency has the right to respect for his dignity and a legal system of protection, care, rehabilitation and security.

**Article 7-A.-** The State recognizes the right of every person to progressively and universally access drinking water. The State guarantees this right by prioritizing human consumption over other uses.

The State promotes the sustainable management of water, which is recognized as an essential natural resource and, as such, constitutes a public good and patrimony of the Nation. His domain is inalienable and imprescriptible.

**Article 8.** The State combats and punishes illicit drug trafficking. Likewise, it regulates the use of social toxins.

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*2 Article added by Law 30588, published on June 22, 2017.*

**Article 9.** The State determines the national health policy. The Executive Power regulates and supervises its application. It is responsible for designing and conducting it in a plural and decentralizing manner to facilitate equitable access to health services for all.

**Article 10.** The State recognizes the universal and progressive right of every person to social security, for their protection against the contingencies required by law and for the improvement of their quality of life.

**Article 11°.** The State guarantees free access to health benefits and pensions, through public, private or mixed entities. Likewise, supervise its effective function.

The law establishes the entity of the National Government that administers the pension regimes in charge of the State.<sup>3</sup>

**Article 12.** Social security funds and reserves are intangible. Resources are applied in the manner and under the responsibility established by law.

**Article 13.** Education aims at the integral development of the human person. The State recognizes and guarantees freedom of education. Parents have a duty to educate their children

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<sup>3</sup> Paragraph added by Law 28389, published on November 17 from 2004.

and the right to choose educational centers and to participate in the educational process.

**Article 14°.** Education promotes the knowledge, learning and practice of the humanities, science, technology, the arts, physical education and sports. It prepares for life and work and fosters solidarity.

It is the duty of the State to promote the scientific and technological development of the country.

Ethical and civic training and the teaching of the Constitution and human rights are mandatory throughout the civil or military educational process. Religious education is imparted with respect for freedom of conscience.

Education is provided, at all levels, subject to constitutional principles and the purposes of the corresponding educational institution.

The means of social communication must collaborate with the State in education and in moral and cultural formation.

**Article 15.** Teachers in official education are public careers. The law establishes the requirements to work as director or teacher of an educational center, as well as their rights and obligations. The State and society seek its evaluation,

permanent training, professionalization and promotion.

The student has the right to an education that respects his identity, as well as good psychological and physical treatment.

Every person, natural or juridical, has the right to promote and conduct educational institutions and to transfer their property, in accordance with the law.

**Article 16.** Both the system and the educational system are decentralized.

The State coordinates educational policy. Formulates the general guidelines of the study plans, as well as the minimum requirements of the organization of educational centers. Monitors compliance and quality of education.

It is the duty of the State to ensure that no one is prevented from receiving adequate education due to their economic situation or mental or physical limitations.

Priority is given to education in the allocation of ordinary resources of the Budget of the Republic.

**Article 17.** Initial, primary and secondary education are compulsory. In state institutions, education is free. In public universities, the State guarantees the right to free education

to students who maintain a satisfactory performance and do not have the necessary economic resources to cover the costs of education.

In order to guarantee the greatest plurality of the educational offer, and in favor of those who cannot pay for their education, the law establishes the way to subsidize private education in any of its modalities, including communal and cooperative.

The State promotes the creation of educational centers where the population requires them.

The State guarantees the eradication of illiteracy. It also promotes bilingual and intercultural education, according to the characteristics of each area. It preserves the diverse cultural and linguistic manifestations of the country. Promotes national integration.

**Article 18.** University education is aimed at professional training, cultural dissemination, intellectual and artistic creation, and scientific and technological research. The State guarantees academic freedom and rejects intolerance.

Universities are promoted by private or public entities. The law establishes the conditions to authorize its operation.

The university is the community of professors, students and graduates. The representatives of the promoters participate in it, in accordance with the law.

Each university is autonomous in its regulatory, government, academic, administrative and economic regime. Universities are governed by their own statutes within the framework of the Constitution and the laws.

**Article 19.** Universities, higher institutes and other educational centers constituted in accordance with the legislation on the matter are exempt from all direct and indirect taxes that affect the goods, activities and services of their educational and cultural purpose. In terms of import tariffs, a special affectation regime can be established for certain goods.

Donations and scholarships for educational purposes will enjoy tax exemption and benefits in the manner and within the limits established by law.

The law establishes the control mechanisms to which the aforementioned institutions are subject, as well as the requirements and conditions that must be met by cultural centers that, by exception, can enjoy the same benefits.

For private educational institutions that generate income that is classified as profit by law, the application of income tax can be established.

**Article 20.** Professional associations are autonomous institutions with personality under public law.

The law indicates the cases in which registration is compulsory.

**Article 21.** The archaeological sites and remains, constructions, monuments, places, bibliographic and archive documents, artistic objects and testimonies of historical value, expressly declared cultural assets, and provisionally those that are presumed as such, are the cultural heritage of the Nation, regardless of its status as private or public property. They are protected by the state.

The law guarantees ownership of said heritage. In accordance with the law, it promotes private participation in its conservation, restoration, exhibition and dissemination, as well as its restitution to the country when it has been illegally transferred outside the national territory.

**Article 22.** Work is a duty and a right. It is the basis of social welfare and a means of personal fulfillment.

**Article 23.** Work, in its various forms, is the object of priority attention by the State, which especially protects mothers, minors and disabled people who work.

The State promotes conditions for social and economic progress, especially through policies to promote productive employment and education for work.

No employment relationship can limit the exercise of constitutional rights, or ignore or lower the dignity of the worker.

No one is obliged to provide work without remuneration or without their free consent.

**Article 24°.** The worker has the right to equitable and sufficient remuneration, which seeks material and spiritual well-being for him and his family.

The payment of the worker's remuneration and social benefits has priority over any other obligation of the employer.

Minimum wages are regulated by the State with the participation of representative organizations of workers and employers.

**Article 25°.** The ordinary working day is eight hours a day or forty-eight hours a week, at most. In the event of cumulative or atypical shifts, the average number of hours worked in the corresponding period may not exceed said maximum.

Workers have the right to paid weekly and annual rest. Their enjoyment and compensation are regulated by law or by agreement.

**Article 26.** The following principles are respected in the employment relationship:

1. Equal opportunities without discrimination.
2. Inalienable nature of the rights recognized by the Constitution and the law.
3. Interpretation favorable to the worker in case of insurmountable doubt about the meaning of a rule.

**Article 27.** The law grants the worker adequate protection against arbitrary dismissal.

**Article 28.** The State recognizes the rights to organize, collective bargaining and strike. Caution its democratic exercise:

1. Guarantees freedom of association.
2. It encourages collective bargaining and promotes forms of peaceful resolution of labor conflicts.

The collective agreement has binding force in the scope of the agreement.

3. Regulates the right to strike so that it is exercised in harmony with the social interest. Point out its exceptions and limitations.

**Article 29.** The State recognizes the right of workers to participate in the profits of the company and promotes other forms of participation.

## Chapter III

### Political rights and duties

**Article 30°.** Peruvians over eighteen years of age are citizens. Voter registration is required to exercise citizenship.

**Article 31.-** Citizens have the right to participate in public affairs through a referendum; legislative initiative; removal or revocation of authorities and demand for accountability. They also have the right to be elected and to freely elect their representatives, in accordance with the conditions and procedures determined by organic law.

It is the right and duty of the neighbors to participate in the municipal government of their jurisdiction. The law regulates and promotes the direct and indirect mechanisms of their participation.

Citizens in full civil capacity have the right to vote. To exercise this right, it is required to be registered in the corresponding registry.

The vote is personal, equal, free, secret and compulsory until the age of seventy. It is optional after that age.

The law establishes the mechanisms to guarantee state neutrality during electoral processes and citizen participation.

Any act that prohibits or limits the citizen's exercise of their rights is null and void.<sup>4</sup>

**Article 32°.** They can be submitted to a referendum:

1. The total or partial reform of the Constitution;
2. The approval of regulations with the force of law;
3. Municipal ordinances; and
4. Matters related to the decentralization process.

The suppression or diminution of the fundamental rights of the person, nor the regulations of a tax and budget nature, nor the international treaties in force, cannot be submitted to a referendum.

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**4 Article modified by Law 28480, published on March 30, 2005.**

**Before the reform, this article had the following text:**

**"Article 31°.** Citizens have the right to participate in public affairs by referendum; legislative initiative; removal or revocation of authorities and demand for accountability. They also have the right to be elected and to freely elect their representatives, in accordance with the conditions and procedures determined by organic law.

*It is the right and duty of the neighbors to participate in the municipal government of their jurisdiction. The law regulates and promotes the direct and indirect mechanisms of their participation.*

*Citizens in full civil capacity have the right to vote.*

*The vote is personal, equal, free, secret and compulsory until the age of seventy.*

*It is optional after that age.*

*Any act that prohibits or limits the citizen's exercise of their rights is null and void."*

**Article 33.** The exercise of citizenship is suspended from:

1. By judicial resolution of interdiction.
2. By sentence with custodial sentence  
late
3. By sentence with disqualification of the rights  
political boys.

**Article 34.-** Members of the Armed Forces and the National Police have the right to vote and citizen participation, regulated by law. They cannot apply for elected positions, participate in party activities or demonstrations, or carry out acts of proselytism, until they have retired, in accordance with the law.<sup>5</sup>

**Article 35.-** Citizens may exercise their rights individually or through political organizations such as parties, movements or alliances, in accordance with the law. Such organizations contribute to the formation and manifestation of the popular will. Their registration in the corresponding registry grants them legal personality.

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**5 Article modified by Law 28480, published on March 30, 2005.**

***Before the reform, this article had the following text:***

***“Article 34°. Active members of the Armed Forces and National Police cannot elect or be elected. No other disqualifications exist or can be created.”***

By law, provisions are established aimed at ensuring the democratic functioning of political organizations and transparency on the origin of their economic resources, as well as their verification, supervision, control and sanction.

The financing of political organizations can be public and private. It is governed by law in accordance with criteria of transparency and accountability. Public financing promotes the participation and strengthening of political organizations under criteria of equality and proportionality. Private financing is carried out through the financial system with the corresponding exceptions, limits and restrictions. Illegal financing generates the respective administrative, civil and criminal sanction.

The dissemination of electoral propaganda in radio and television media is only authorized through indirect public financing.<sup>6</sup>

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**6 Article modified by Law 30905, published on January 10, 2019.**

***Before the reform, this article had the following text:***

*"Article 35. Citizens may exercise their rights individually or through political organizations such as parties, movements or alliances, in accordance with the law. Such organizations contribute to the formation and manifestation of the popular will. Their registration in the corresponding registry grants them legal personality.*

*The law establishes norms aimed at ensuring the democratic functioning of political parties, and transparency regarding the origin of their economic resources and free access to state-owned social communication media in proportion to the last electoral result. general."*

**Article 36.** The State recognizes political asylum. Accepts the qualification of the asylee granted by the asylum government. In case of expulsion, the asylee is not delivered to the country whose government is persecuting him.

**Article 37°.** Extradition is only granted by the Executive Power following a report from the Supreme Court, in compliance with the law and treaties, and according to the principle of reciprocity.

Extradition is not granted if it is considered that it has been requested in order to persecute or punish for reasons of religion, nationality, opinion or race.

Excluded from extradition are those persecuted for political crimes or for acts related to them. Genocide, assassination, and terrorism are not considered such.

**Article 38°.** All Peruvians have the duty to honor Peru and to protect national interests, as well as to respect, comply with and defend the Constitution and the legal system of the Nation.

## **Chapter IV of the civil service**

**Article 39°.** All civil servants and public workers are at the service of the Nation. The President of the Republic has the highest hierarchy in the service to the Nation and, in that order, the representatives

to the Congress, Ministers of State, members of the Constitutional Court and the Council of the Judiciary, the supreme magistrates, the Prosecutor of the Nation and the Ombudsman, in the same category; and the representatives of decentralized organizations and mayors, according to law.

**Article 40°.** The law regulates admission to the administrative career, and the rights, duties and responsibilities of public servants. Officials who hold political or trust positions are not included in this career. No official or public servant may hold more than one paid public job or position, with the exception of one more for teaching.

Workers of State companies or mixed economy companies are not included in the public function.

Periodic publication in the official gazette of the income received by senior officials and other public servants established by law, due to their positions, is mandatory.

**Article 41.-** The civil servants and public servants that the law indicates or that administer or handle funds of the State or of organisms supported by it must make a sworn declaration of assets and income when taking possession of their positions, during their exercise and when they cease in office. the same. The respective publication

carried out in the official gazette in the form and conditions established by law.

When illicit enrichment is presumed, the National Prosecutor, following a complaint by third parties or ex officio, files charges before the Judiciary.

The law establishes the responsibility of public officials and servants, as well as the term of their disqualification from public function.

The statute of limitations for criminal action is doubled in the case of crimes committed against the Public Administration or State assets, both for public officials or servants and for individuals. Criminal action is imprescriptible in the most serious cases, in accordance with the principle of legality.<sup>7</sup>

**Article 42°.** The rights to unionize and strike of public servants are recognized. State officials with decision-making power and those who hold positions of trust or management, as well as members of the Armed Forces and the National Police, are not included.

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**7 Fourth paragraph of article 41 modified by Law 30650, published on August 20, 2017. Before the reform, this paragraph had the following text:**

*"The statute of limitations is doubled in the case of crimes committed against State property."*

## TITLE II OF THE STATE AND THE NATION

### Chapter I Of the State, the Nation and the territory

**Article 43.** The Republic of Peru is democratic, social, independent and sovereign.

The State is one and indivisible.

Its government is unitary, representative and decentralized, and is organized according to the principle of the separation of powers.

**Article 44°.** The primary duties of the State are: to defend national sovereignty; guarantee the full validity of human rights; protect the population from threats to their security; and promote the general well-being that is based on justice and the integral and balanced development of the Nation.

Likewise, it is the duty of the State to establish and execute border policy and promote integration, particularly in Latin America, as well as the development and cohesion of border areas, in accordance with foreign policy.

**Article 45°.** State power emanates from the people. Those who exercise it do so with the limitations and

responsibilities that the Constitution and the laws establish.

No person, organization, Armed Forces, National Police or sector of the population may assume the exercise of that power. Doing so constitutes rebellion or sedition.

**Article 46°.** No one owes obedience to a usurping government, nor to those who assume public functions in violation of the Constitution and the laws.

The civilian population has the right to insurgency in defense of the constitutional order.

The acts of those who employ public functions are null.

**Article 47°.** The defense of the interests of the State is in charge of the Public Attorneys according to law. The State is exempt from paying legal expenses.

**Article 48°.** Spanish is the official language and, in areas where it predominates, so are Que Chua, Aymara and other aboriginal languages, according to the law.

**Article 49°.** The capital of the Republic of Peru is the city of Lima. Its historical capital is the city of Cusco.

The symbols of the country are the flag with three vertical stripes with the colors red, white and red, and the coat of arms and the national anthem established by law.

**Article 50°.** Within a regime of independence and autonomy, the State recognizes the Catholic Church as an important element in the historical, cultural and moral formation of Peru, and lends its collaboration.

The State respects other confessions and can establish forms of collaboration with them.

**Article 51°.** The Constitution prevails over all legal regulations; the law, on the norms of lower hierarchy, and so on. Publicity is essential for the validity of all State regulations.

**Article 52°.** Peruvians by birth are those born in the territory of the Republic. So are those born abroad of a Peruvian father or mother, registered in the corresponding registry, in accordance with law.<sup>8</sup>

Peruvians are also those who acquire nationality by naturalization or by option, provided they have residence in Peru.

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**8 First paragraph of article 52 modified by Law 30738, published on March 14, 2018. Before the reform, this paragraph had the following text:**

*"Peruvian by birth are those born in the territory of the Republic. So are those born abroad of a Peruvian father or mother, registered in the corresponding registry during their minority."*

**Article 53°.** The law regulates the ways in which nationality is acquired or recovered.

Peruvian nationality is not lost, except by express waiver before the Peruvian authority.

**Article 54°.** The territory of the State is inalienable and inviolable. It includes the ground, the subsoil, the maritime domain, and the airspace that covers them.

The maritime domain of the State includes the sea adjacent to its coasts, as well as its bed and subsoil, up to a distance of two hundred nautical miles measured from the baselines established by law.

In its maritime domain, the State exercises sovereignty and jurisdiction, without prejudice to the freedoms of international communication, in accordance with the law and with the treaties ratified by the State.

The State exercises sovereignty and jurisdiction over the airspace that covers its territory and the adjacent sea up to the limit of two hundred miles, without prejudice to the freedoms of international communication, in accordance with the law and with the treaties ratified by the State.

## **Chapter II of treaties**

**Article 55°.** Treaties concluded by the State and in force form part of national law.

**Article 56°.** The treaties must be approved by Congress before their ratification by the President of the Republic, provided that they deal with the following matters:

1. Human Rights.
2. Sovereignty, domain or integrity of the State.
3. National Defense.
4. Financial obligations of the State.

Treaties that create, modify or suppress taxes must also be approved by Congress; those that require the modification or repeal of any law and those that require legislative measures for their execution.

**Article 57°.** The President of the Republic may celebrate or ratify treaties or adhere to them without the requirement of the prior approval of Congress in matters not contemplated in the preceding article. In all such cases, it must account to Congress.

When the treaty affects constitutional provisions, it must be approved by the same procedure that governs the reform of the Constitution, before being ratified by the President of the Republic.

The denunciation of treaties is the power of the President of the Republic, in charge of informing the Con

income. In the case of treaties subject to congressional approval, the denunciation requires prior congressional approval.

## TITLE III OF THE ECONOMIC REGIME

### Chapter I General principles

**Article 58°.** Private initiative is free. It is exercised on a social market economy. Under this regime, the State guides the development of the country, and acts mainly in the areas of employment promotion, health, education, security, public services and infrastructure.

**Article 59°.** The State stimulates the creation of wealth and guarantees freedom of work and freedom of enterprise, commerce and industry. The exercise of these freedoms must not be harmful to public morals, health or safety. The State provides opportunities for improvement to the sectors that suffer any inequality; in this sense, it promotes small businesses in all its forms.

**Article 60°.** The State recognizes economic pluralism. The national economy is sustained by the co-existence of various forms of property and business.

Only authorized by express law, the State may subsidiarily carry out business activity, directly or indirectly, for reasons of high public interest or manifest national convenience.

Business activity, public or non-public, receives the same legal treatment.

**Article 61°.** The State facilitates and monitors free competition. It combats any practice that limits it and the abuse of dominant or monopolistic positions. No law or concertation may authorize or establish monopolies.

The press, radio, television and other means of expression and social communication; and, in general, companies, goods and services related to freedom of expression and communication cannot be the object of exclusivity, monopoly or hoarding, directly or indirectly, by the State or by individuals.

**Article 62°.** The freedom to contract guarantees that the parties can validly agree according to the regulations in force at the time of the contract. The contractual terms cannot be modified by laws or other provisions of any kind. Conflicts arising from the contractual relationship are only resolved through arbitration or judicial proceedings, according to the protection mechanisms provided for in the contract or contemplated by law.

Through contract-laws, the State can establish guarantees and grant securities. They cannot be modified legislatively, without prejudice to the protection referred to in the preceding paragraph.

**Article 63.** National and foreign investment are subject to the same conditions. The production of goods and services and foreign trade are free. If another country or countries adopt protectionist or discriminatory measures that harm the national interest, the State may, in its defense, adopt analogous measures.

In every contract of the State and of persons of public law with domiciled foreigners, it is stated that they are subject to the laws and jurisdictional bodies of the Republic and that they waive all diplomatic claims. Contracts of a financial nature may be exempted from national jurisdiction.

The State and other persons governed by public law may submit disputes arising from a contractual relationship to courts constituted by virtue of treaties in force. They may also submit them to national or international arbitration, in the manner provided by law.

**Article 64°.** The State guarantees the free possession and disposal of foreign currency.

**Article 65°.** The State defends the interests of consumers and users. For this purpose, it guarantees the right to

information about the goods and services that are available to them in the market. It also looks after, in particular, the health and safety of the population.

## **Chapter II**

### **Of the environment and natural resources**

**Article 66.** Natural resources, renewable and non-renewable, are the patrimony of the Nation. The State is sovereign in its use.

By organic law, the conditions of its use and its granting to individuals are established. The concession grants its owner a real right, subject to said legal norm.

**Article 67°.** The State determines the national environmental policy. Promotes sustainable use of natural resources.

**Article 68.** The State is obliged to promote the conservation of biological diversity and protected natural areas.

**Article 69°.** The State promotes the sustainable development of the Amazon with adequate legislation.

## **Chapter III**

### **Of the property**

**Article 70°.** The right to property is inviolable. The State guarantees it. It is carried out in harmony with the

common good and within the limits of the law. No one may be deprived of their property except exclusively for reasons of national security or public necessity, declared by law, and prior cash payment of fair compensation that includes compensation for eventual damage. There is action before the Judiciary to challenge the value of the property that the State has indicated in the expropriation procedure.

**Article 71°.** Regarding property, foreigners, whether natural or legal persons, are in the same condition as Peruvians, without, in any case, being able to invoke an exception or diplomatic protection.

However, within fifty kilometers of the borders, foreigners may not acquire or possess, by any title, mines, land, forests, water, fuel or energy sources, directly or indirectly, individually or in partnership, under penalty of losing, to the benefit of the State, the right thus acquired. The case of public necessity expressly declared by supreme decree approved by the Council of Ministers in accordance with law is excepted.

**Article 72°.** The law may, solely for reasons of national security, temporarily establish specific restrictions and prohibitions for the acquisition, possession, exploitation and transfer of certain assets.

**Article 73°.** Public domain assets are inalienable and imprescriptible. Goods for public use

They can be granted to individuals according to law, for their economic use.

## **Chapter IV** **Of the tax and budget regime**

**Article 74.-** Taxes are created, modified or revoked, or an exemption is established, exclusively by law or legislative decree in case of delegation of powers, except for tariffs and rates, which are regulated by supreme decree.

The Regional Governments and the Local Governments can create, modify and suppress contributions and rates, or exonerate them, within their jurisdiction, and within the limits established by law. The State, when exercising tax authority, must respect the reserve principles of the law, and those of equality and respect for the fundamental rights of the person. No tribute can be confiscatory.

Budget laws and emergency decrees may not contain regulations on tax matters.

Laws relating to annual taxes are in force as of January 1 of the year following their enactment.

Tax regulations issued in violation of the provisions of this article are not effective.<sup>9</sup>

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**9 Article modified by Law 28390, published on November 17, 2004. Before the reform, this article had the following text:**

**Article 75°.** The State only guarantees the payment of the public debt contracted by constitutional governments in accordance with the Constitution and the law.

The internal and external indebtedness operations of the State are approved according to law.

Municipalities may carry out credit operations charged to their own resources and assets, without requiring legal authorization.

**Article 76°.** The works and the acquisition of supplies with the use of public funds or resources are compulsorily carried out by contract and public bidding, as well as the acquisition or disposal of goods.

The contracting of services and projects whose importance and whose amount indicates the Budget Law is

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**“Article 74°.** Taxes are created, modified or repealed, or an exemption is established, exclusively by law or legislative decree in case of delegation of powers, except for tariffs and rates, which are regulated by supreme decree.

*Local governments may create, modify and eliminate contributions and fees, or exempt them, within their jurisdiction and within the limits established by law. The State, when exercising tax authority, must respect the reserve principles of the law, and those of equality and respect for the fundamental rights of the person. No tax shall be confiscatory. Emergency decrees cannot contain tax matters. The laws relating to annual taxes are in force as of January 1 of the year following their enactment. Budget laws cannot contain regulations on tax matters.*

*Tax regulations issued in violation of the provisions of this article are not effective.”*

done by public tender. The law establishes the procedure, the exceptions and the respective responsibilities.

**Article 77.-** The economic and financial administration of the State is governed by the budget approved annually by Congress. The structure of the public sector budget contains two sections: central government and decentralized instances.

The budget equitably allocates public resources, its programming and execution respond to the efficiency criteria of basic social needs and decentralization.

According to law, the respective constituencies are responsible for receiving an adequate share of the total income and rents obtained by the State in the exploitation of natural resources in each area as canon.<sup>10</sup>

**Article 78°.** The President of the Republic sends to Congress the draft Budget Law den

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**10 Article modified by Law 26472, published on June 13, 1995.**

**Before the reform, this article had the following text:**

**"Article 77°.** The economic and financial administration of the State is governed by the budget approved annually by Congress. The structure of the public sector budget contains two sections: central government and decentralized instances.

The budget equitably allocates public resources. Its programming and execution meet the criteria of efficiency, basic social needs and decentralization.

It corresponds to the respective constituencies, according to law, to receive an adequate share of the income tax received for the exploitation of natural resources in each zone, as canon."

within a term that expires on August 30 of each year.

On the same date, it also sends the indebtedness and financial balance bills.

The budget project must be effectively balanced.

Loans from the Central Reserve Bank or the Banco de la Nación are not accounted for as tax revenue.

Permanent expenses cannot be covered by loans.

The budget cannot be approved without an item earmarked for servicing the public debt.

**Article 79°.** Representatives before Congress have no initiative to create or increase public spending, except in regard to their budget.

Congress cannot approve taxes for predetermined purposes, except at the request of the Executive Branch.

In any other case, tax laws related to benefits or exemptions require a prior report from the Ministry of Economy and Finance.

Only by express law, approved by two thirds of the congressmen, can selective and temporary be established.

generally a special tax treatment for a certain area of the country.

**Article 80.-** The Minister of Economy and Finance sustains, before the plenary session of the Congress of the Republic, the income statement. Each minister supports the expenditure specifications of his sector; Previously, they support the results and goals of the execution of the budget of the previous year and the progress in the execution of the budget of the corresponding fiscal year. The President of the Supreme Court, the Prosecutor of the Nation and the President of the National Elections Jury support the specifications corresponding

If the autograph of the Budget Law is not sent to the Executive Branch until November 30, its draft, which is promulgated by legislative decree, enters into force.

Supplementary credits, qualifications and transfers of items are processed before the Congress of the Republic as the Budget Law. During the parliamentary recess, they are processed before the Permanent Commission. To approve them, the votes of three-fifths of the legal number of its members are required.<sup>11</sup>

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**11 Article modified by Law 29401, published on September 8,**

**2009. Before the reform, this article had the following text:**

*"Article 80". The Minister of Economy and Finance supports, before the plenary session of Congress, the income statement. Each minister supports the expenditure specifications of his sector. The President of the Supreme Court, the Prosecutor of the Nation and the President of the National Elections Jury support the specifications corresponding to each institution.*

**Article 81.-** The General Account of the Republic, accompanied by the audit report of the Comptroller General of the Republic, is sent by the President of the Republic to the Congress of the Republic within a term that expires on August 15 of the following year. budget execution.

The General Account of the Republic is examined and ruled by a review commission until October fifteenth. The Congress of the Republic pronounces itself within a term that expires on October 30. If there is no pronouncement from the Congress of the Republic within the indicated period, the opinion of the review commission is submitted to the Executive Branch so that it may promulgate a legislative decree containing the General Account of the Republic.12

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*If the autograph of the Budget Law is not sent to the Executive Branch until November 30, the Draft of the latter, which is promulgated by legislative decree, becomes effective.*

*Supplementary appropriations, qualifications and transfers of items are processed before Congress as the Budget Law. During the parliamentary recess they are processed before the Permanent Commission. To approve them, the votes of three-fifths of the legal number of its members are required."*

**12 Article modified by Law 29401, published on September 8, 2009. Before the reform, this article had the following text:**

*"Article 81°. The General Account of the Republic, accompanied by the audit report of the Comptroller General's Office, is sent by the President of the Republic to Congress within a term that expires on November 15 of the year following the execution of the budget.*

*The General Account is examined and ruled by a Review Commission within ninety days following its presentation. The Congress pronounces in a term of thirty days. If there is no pronouncement from Congress within the indicated period, the opinion of the Review Commission is submitted to the Executive Branch so that it may promulgate a legislative decree containing the General Account."*

**Article 82°.** The Comptroller General of the Republic is a decentralized entity of Public Law that enjoys autonomy in accordance with its organic law.

It is the highest body of the National Control System. It supervises the legality of the execution of the State Budget, the operations of the public debt and the acts of the institutions subject to control.

The Comptroller General is appointed by Congress, at the proposal of the Executive Power, for seven years. It can be removed by Congress for serious misconduct.

## **Chapter V**

### **Of currency and banking**

**Article 83°.** The law determines the monetary system of the Republic. The issuance of banknotes and coins is the exclusive power of the State. It is exercised through the Central Reserve Bank of Peru.

**Article 84°.** The Central Bank is a legal person under public law. It has autonomy within the framework of its Organic Law.

The purpose of the Central Bank is to preserve monetary stability. Its functions are: to regulate the currency and credit of the financial system, manage the international reserves under its responsibility, and the other functions indicated in its organic law.

The Bank informs the country, accurately and periodically, about the state of national finances, under the responsibility of its Board of Directors.

The Bank is prohibited from granting financing to the treasury, except for the purchase, in the secondary market, of securities issued by the Public Treasury, within the limit established by its Organic Law.

**Article 85°.** The Bank may carry out operations and enter into credit agreements to cover temporary imbalances in the position of international reserves.

Requires authorization by law when the amount of such operations or agreements exceeds the limit set by the Public Sector Budget, with responsibility for reporting to Congress.

**Article 86°.** The Bank is governed by a seven-member Board of Directors. The Executive Branch appoints four, including the President. The Congress ratifies it and elects the remaining three, with the absolute majority of the legal number of its members.

All the directors of the Bank are appointed for the constitutional period that corresponds to the President of the Republic. It does not introduce to entity or any particular interest. Congress can remove them for serious misconduct. In case of removal, the new directors complete the corresponding constitutional period.

**Article 87.-** The State promotes and guarantees savings. The law establishes the obligations and limits of the companies that receive savings from the public, as well as the mode and scope of said guarantee.

The Superintendency of Banking, Insurance and Private Pension Fund Administrators exercises control over banking, insurance, pension fund administration companies, others that receive deposits from the public and those others that, by carrying out operations related or similar, determine the law.

The law establishes the organization and functional autonomy of the Superintendence of Banking, Insurance and Private Pension Fund Administrators.

The Executive Branch appoints the Superintendent of Banking, Insurance and Private Pension Fund Administrators for the term corresponding to its constitutional term. Congress ratifies it.<sup>13</sup>

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**13 Article modified by Law 28484, published on April 5, 2005.**

***Before the reform, this article had the following text:***

***"Article 87".*** The State encourages and guarantees savings. The law establishes the obligations and limits of the companies that receive savings from the public, as well as the mode and scope of said guarantee.

*The Superintendence of Banking and Insurance exercises control over banking and insurance companies, over others that receive deposits from the public, and over those others that, for carrying out related or similar operations, are determined by law.*

*The law establishes the organization and functional autonomy of the Superintendence of Banking and Insurance.*

*The Executive Branch appoints the Superintendent of Banking and Insurance for the term corresponding to his constitutional period. Congress ratifies it."*

## **Chapter VI**

### **Of the agrarian regime and of the peasant and native communities**

**Article 88°.** The State preferably supports agricultural development. It guarantees the right of property over the land, privately or communally or in any other associative form. The law can fix the limits and extension of the land according to the peculiarities of each area.

The abandoned lands, according to legal provisions, pass to the domain of the State for their adjudication for sale.

**Article 89°.** The Peasant and Native Communities have a legal existence and are legal entities.

They are autonomous in their organization, in communal work and in the use and free disposal of their lands, as well as in economic and administrative matters, within the framework established by law. Ownership of their land is imprescriptible, except in the case of abandonment provided for in the previous article.

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

## TITLE IV OF THE STRUCTURE OF THE STATE

### Chapter I Legislative power

**Article 90.-** The Legislative Power resides in the Congress of the Republic, which consists of a single chamber.

The number of congressmen is one hundred and thirty. The Congress of the Republic is elected for a period of five years through an electoral process organized according to law. Candidates for the Presidency of the Republic cannot be included in the lists of candidates for congress. Vice-presidential candidates may simultaneously be candidates for representation in Congress.

To be elected congressman, it is necessary to be Peruvian by birth, to have reached the age of twenty-five, and to enjoy the right to vote.<sup>14</sup>

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**14 Article modified by Law 29402, published on September 8, 2009. Before the reform, this article had the following text:**

*"Article 90". The Legislative Power resides in the Congress, which consists of a Single Chamber.*

*The number of congressmen is one hundred and twenty. The Congress is elected for a period of five years through an electoral process organized in accordance with the law. Candidates for the presidency cannot be included in the lists of candidates for congress. Candidates for vice president can simultaneously be candidates for representation in Congress.*

*To be elected congressman, it is necessary to be Peruvian by birth, to have reached the age of twenty-five and to enjoy the right to vote."*(\*)

**Article 90-A.-** Parliamentarians cannot be re-elected for a new period, immediately, in the same position.<sup>15</sup>

**Article 91°.** Members of the National Parliament cannot be elected if they have not resigned six (6) months before the election:

1. The ministers and deputy ministers of State, the Comptroller General.
2. The members of the Constitutional Court, the National Council of the Judiciary, the Judiciary, the Public Ministry, the National Electoral Jury, or the Ombudsman.
3. The President of the Central Reserve Bank, the Superintendent of Banking, Insurance and Private Pension Fund Administrators

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*(\*) In Law 29402, published on September 8, 2009, which modifies this article, the following provisions are incorporated transitory:*

**“SPECIAL TRANSITIONAL PROVISION**

**Third.** *The National Elections Jury (JNE) distributes the seats in the number of four for Lima Provinces without affecting the existing national distribution and the remaining six seats according to law.*

**TRANSITIONAL PROVISION**

**Only.** *This constitutional reform enters into force for the electoral process of the year 2011.”*

**15 Article added by Law 30906, published on January 10, 2019.**

nes and the National Superintendent of Tax Administration.

4. Active members of the Armed Forces and the National Police, and
5. The other cases that the Constitution provides.<sup>16</sup>

**Article 92°.** The function of congressman is full time; You are prohibited from holding any office or exercising any profession or trade, during the working hours of the Congress.

The mandate of the congressman is incompatible with the exercise of any other public function, except the

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**16 Article modified by Law 28607, published on October 4, 2005.**

**Before the reform, this article had the following text:**

**"Article 91°.** Congressmen cannot be elected if they have not left office six months before the election:

1. The ministers and deputy ministers of State, the Comptroller General, and the regional authorities.
2. The members of the Constitutional Court, the National Council of the Judiciary, the Judiciary, the Public Ministry, the National Elections Board, or the Ombudsman.
3. The President of the Central Reserve Bank, the Superintendent of Banking, Insurance and Private Pension Fund Administrators and the National Superintendent of Tax Administration. AND(\*)

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**(\*) Numeral modified by Law 28484, published on April 5, 2005. Before the reform, this numeral had the following text:**

'3. The President of the Central Reserve Bank, the Superintendent of Banking and Insurance, the Superintendent of Tax Administration, the National Superintendent of Customs and the Superintendent of Private Pension Fund Administrators. AND'

- 
4. Members of the Armed Forces and the National Police in exercise."

of Minister of State, and the performance, prior authorization of the Congress, of extraordinary international commissions.

The function of congressman is, likewise, incompatible with the condition of manager, agent, representative, agent, lawyer, majority shareholder or member of the Board of Directors of companies that have works, supply or supply contracts with the State, or that they manage public revenues or provide public services.

The function of congressman is incompatible with similar positions in companies that, during the congressman's mandate, obtain concessions from the State, as well as in companies of the financial credit system supervised by the Superintendence of Banking, Insurance and Private Pension Fund Administrators. 17

**Article 93°.** The congressmen represent the Nation. They are not subject to an imperative mandate or interpellation.

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**17 Last paragraph of article 92, modified by Law 28484, published on April 5, 2005. Before the reform, this paragraph had the following text:**

*"The function of congressman is incompatible with similar positions in companies that, during the congressman's mandate, obtain concessions from the State, as well as in companies of the financial credit system supervised by the Superintendence of Banking and Insurance."*

They are not responsible before any authority or jurisdictional body for the opinions and votes they issue in the exercise of their functions.

They cannot be prosecuted or imprisoned without prior authorization from Congress or the Permanent Commission, from the time they are elected until one month after they have ceased to function, except for flagrant crime, in which case they are placed at the disposal of Congress. or of the Permanent Commission within twenty-four hours, in order to authorize or not the deprivation of liberty and prosecution.

**Article 94°.** Congress prepares and approves its Regulations, which have the force of law; it elects its representatives in the Permanent Commission and in the other commissions; establishes the organization and attributions of the parliamentary groups; it governs its economy; sanction your budget; appoints and removes its officials and employees, and grants them the benefits that correspond to them according to law.

**Article 95°.** The legislative mandate is inalienable.

The disciplinary sanctions that Congress imposes on the representatives and that imply suspension of functions cannot exceed one hundred and twenty days of legislature.

**Article 96.-** Any representative to Congress can ask the Ministers of State, the National Jury

Commission of Elections, the Comptroller General, the Central Reserve Bank, the Superintendence of Banking, Insurance and Private Pension Fund Administrators, the Regional and Local Governments and the institutions established by law, the reports deemed necessary.<sup>18</sup>

The request is made in writing and in accordance with the Regulations of Congress. The lack of response gives rise to the responsibilities of law.

**Article 97°.** Congress can initiate investigations on any matter of public interest. It is mandatory to appear, by request, before the commissions in charge of such investigations, under the same constraints that are observed in the judicial procedure.

For the fulfillment of their purposes, said commissions can access any information, which may imply the lifting of banking secrecy and that of the tax reserve; except the information that affects personal privacy. Its conclusions are not binding on the courts.

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**18 First paragraph of article 96, modified by Law 28484, published on April 5, 2005. Before the reform, this paragraph had the following text:**

*“Any representative to Congress can ask the Ministers of State, the National Elections Board, the Comptroller General, the Central Reserve Bank, the Superintendence of Banking and Insurance, local governments and the institutions established by law, the reports it deems necessary.”*

**Article 98°.** The President of the Republic is obliged to place at the disposal of the Congress the members of the Armed Forces and the National Police that the President of the Congress demands.

The Armed Forces and the National Police may not enter the Congress premises except with the authorization of their own President.

**Article 99°.** It corresponds to the Permanent Commission to accuse before Congress: the President of the Republic; to the representatives to Congress; to the Ministers of State; to the members of the Constitutional Court; to the members of the National Council of the Judiciary; to the members of the Supreme Court; to the supreme prosecutors; to the Ombudsman and the Comptroller General for infractions of the Constitution and for any crime committed in the exercise of their functions and up to five years after they have ceased in these.

**Article 100°.** It is up to the Congress, without the participation of the Permanent Commission, to suspend or not the accused official or to disqualify him from the exercise of the public function for up to ten years, or to remove him from his function without prejudice to any other responsibility.

The accused has the right, in this procedure, to defend himself and with the assistance of a lawyer before the Permanent Commission and before the Plenary Session of Congress.

In the event of an accusatory resolution of criminal content, the National Prosecutor files a complaint with the Supreme Court within a period of five days. The Supreme Criminal Vocal opens the corresponding instruction.

The acquittal sentence of the Supreme Court returns the defendant his political rights.

The terms of the prosecutor's complaint and the order to open an investigation cannot exceed or reduce the terms of the accusation of Congress.

**Article 101°.** The members of the Permanent Commission of Congress are elected by it. Their number tends to be proportional to that of the representatives of each parliamentary group and does not exceed twenty-five percent of the total number of congressmen.

The attributions of the Permanent Commission are:

1. Appoint the Comptroller General, at the proposal of the President of the Republic.
2. Ratify the appointment of the President of the Central Reserve Bank and the Superintendent of Banking, Insurance and Private Pension Fund Administrators.19

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**19 Paragraph modified by Law 28484, published on April 5, 2005.**

***Before the reform, this numeral had the following text:***

*"two. Ratify the appointment of the President of the Central Reserve Bank and the Superintendent of Banking and Insurance."*

3. Approve the supplementary appropriations and the transfers and qualifications of the Budget, during the parliamentary recess.
4. Exercise the delegation of legislative powers granted by Congress.

Matters related to constitutional reform, nor to the approval of international treaties, organic laws, the Budget Law and the Law of the General Account of the Republic cannot be delegated to the Permanent Commission.

5. The others assigned by the Constitution and those indicated by the Regulations of Congress.

**Article 102°.** The powers of Congress are:

1. Enact laws and legislative resolutions, as well as interpret, modify or repeal existing ones.
2. Ensure respect for the Constitution and the laws, and provide what is convenient to enforce the responsibility of offenders.
3. Approve treaties, in accordance with the Constitution.
4. Approve the Budget and the General Account.
5. Authorize loans, in accordance with the Constitution.

6. Exercise the right to amnesty.
7. Approve the territorial demarcation proposed by the Executive Power.
8. Provide consent for the entry of foreign troops into the territory of the Republic, provided that it does not affect, in any way, national sovereignty.
9. Authorize the President of the Republic to leave the country.
10. Exercise the other powers indicated by the Constitution and those that are specific to the legislative function.

## **Chapter II**

### **Of the legislative function**

**Article 103.-** Special laws can be issued because the nature of things requires it, but not because of the differences between people. The law, from its entry into force, applies to the consequences of existing legal relationships and situations and has no force or retroactive effect; except, in both cases, in criminal matters when it favors the accused. The law was repealed only by another law. It is also rendered ineffective by a ruling that declares its unconstitutionality.

The Constitution does not protect the abuse of the right.<sup>20</sup>

**Article 104°.** Congress may delegate to the Executive Power the power to legislate, by means of legislative decrees, on the specific matter and for the determined term established in the authoritative law.

Matters that cannot be delegated to the Standing Committee cannot be delegated.

Legislative decrees are subject, in terms of their enactment, publication, validity and effects, to the same rules that govern the law.

The President of the Republic informs Congress or the Permanent Commission of each legislative decree.

**Article 105°.** No project of law can be sanctioned without having been previously approved by the respective ruling Commission, except for the exception indicated in the Regulations of the Congress. The projects sent by the Executive Branch as a matter of urgency have preference in Congress.

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**20 Article replaced by Law 28389, published on November 17,**

**2004. Before the reform, this article had the following text:**

**"Article 103°.** Special laws can be enacted because the nature of things so requires, but not because of differences in people.

No law has retroactive force or effect, except in criminal matters, when it favors the accused.

The law was repealed only by another law. It is also rendered ineffective by a ruling that declares its unconstitutionality.

The Constitution does not protect the abuse of the right."

**Article 106°.** Organic laws regulate the structure and functioning of the State entities provided for in the Constitution, as well as other matters whose regulation by organic law is established in the Constitution.

Organic law projects are processed like any other law. For its approval or modification, the vote of more than half of the legal number of members of Congress is required.

### **Chapter III**

#### **Of the formation and promulgation of laws**

**Article 107.-** The President of the Republic and the Congressmen have the right to initiative in the formation of laws.

The other powers of the State, the autonomous public institutions, the Regional Governments, the Local Governments and the professional associations also have the same right in matters pertaining to them. Likewise, citizens who exercise the right of initiative according to law have it.<sup>21</sup>

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**21 Article modified by Law 28390, published on November 17, 2004. Before the reform, this article had the following text:**

*“Article 107°. The President of the Republic and the Congressmen have the right of initiative in the formation of laws.*

*The other powers of the State, autonomous public institutions, municipalities and professional associations also have the same right in matters pertaining to them. Likewise, citizens who exercise the right of initiative according to law have it.”*

**Article 108°.** The law approved as provided by the Constitution, is sent to the President of the Republic for promulgation within a period of fifteen days. In case of non-promulgation by the President of the Republic, it is promulgated by the President of Congress, or the President of the Permanent Commission, as appropriate.

If the President of the Republic has observations to make on all or part of the law approved in Congress, he presents them to it within the aforementioned term of fifteen days.

The law being reconsidered by Congress, its President promulgates it, with the vote of more than half the legal number of members of Congress.

**Article 109°.** The law is mandatory from the day following its publication in the official gazette, except as otherwise provided by the same law that postpones its validity in whole or in part.

## **Chapter IV** **Executive power**

**Article 110°.** The President of the Republic is the Head of State and personifies the Nation.

To be elected President of the Republic, it is required to be Peruvian by birth, to be over thirty-five years of age at the time of the nomination, and to enjoy the right to vote.

**Article 111°.** The President of the Republic is elected by direct suffrage. The candidate who obtains more than half of the votes is elected. The vicious votes or in white cant be counted.

If none of the candidates obtains an absolute majority, a second election is held, within thirty days following the proclamation of the official count, among the candidates who have obtained the two highest relative majorities.

Along with the President of the Republic, two Vice Presidents are elected in the same way, with the same requirements and for the same term.

**Article 112.-** The presidential mandate is five years, there is no immediate re-election. After at least one other constitutional period, the former president can reapply, subject to the same conditions.<sup>22</sup>

**Article 113°.** The Presidency of the Republic vacates for:

1. Death of the President of the Republic.

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**22 Article modified by Law 27365, published on November 5, 2000. Before the reform, this article had the following text:**  
*“Article 112°. The presidential term is five years. The President may be immediately re-elected for one additional term. After another constitutional period, at least, the former president can reapply, subject to the same conditions.”*

2. His permanent moral or physical incapacity, declared by Congress.
3. Acceptance of his resignation by Congress.
4. Leaving the national territory without permission from Congress or not returning to it within the established period.

AND

5. Dismissal, after having been sanctioned for any of the infractions mentioned in article 117 of the Constitution.

**Article 114°.** The exercise of the Presidency of the Republic is suspended by:

1. Temporary incapacity of the President, declared by Congress, or
2. Being found subject to judicial process, in accordance with article 117 of the Constitution.

**Article 115°.** Due to temporary or permanent impediment of the President of the Republic, the First Vice President assumes his functions. Failing this, the Second Vice President. By impediment of both, the President of the Congress. If the impediment is permanent, the President of Congress immediately calls for elections.

When the President of the Republic leaves the national territory, the First Vice President is in charge of the

office. Failing this, the Second Vice President does so.

**Article 116°.** The President of the Republic takes the oath of law and assumes office, before Congress, on July 28 of the year in which the election is held.

**Article 117°.** The President of the Republic can only be accused, during his term, of treason against the country; for preventing presidential, parliamentary, regional or municipal elections; for dissolving Congress, except in the cases provided for in article 134 of the Constitution, and for preventing its meeting or operation, or those of the National Elections Jury and other electoral system bodies.

**Article 118°.** Corresponds to the President of the Republic:

1. Comply with and enforce the Constitution and treaties, laws and other legal provisions.
2. Represent the State, inside and outside the Republic.
3. Direct the general policy of the Government.
4. Ensure internal order and external security of the Republic.
5. Call for elections for President of the Republic and for representatives to Congress,

as well as for mayors and aldermen and other officials indicated by law.

6. Summon the Congress to an extraordinary legislature; and sign, in that case, the summons decree.
7. Address messages to Congress at any time and compulsorily, in person and in writing, when the first annual ordinary legislature is installed. The annual messages contain a detailed account of the situation in the Republic and the improvements and reforms that the President deems necessary and convenient for consideration by Congress. The messages of the President of the Republic, except for the first of them, are approved by the Council of Ministers.
8. Exercise the power to regulate the laws without transgressing or distorting them; and, within such limits, issue decrees and resolutions.
9. Comply with and enforce the sentences and resolutions of the jurisdictional bodies.
10. Comply with and enforce the resolutions of the National Elections Jury.
11. Direct foreign policy and international relations; and conclude and ratify treaties.

12. Appoint ambassadors and plenipotentiary ministers, with the approval of the Council of Ministers, in charge of reporting to Congress.
13. Receive foreign diplomatic agents, and authorize the consuls to exercise their functions.
14. Preside over the National Defense System; and organize, distribute and provide for the employment of the Armed Forces and the National Police.
15. Adopt the necessary measures for the defense of the Republic, the integrity of the territory and the sovereignty of the State.
16. Declare war and sign peace, with the authorization of Congress.
17. Manage public finances.
18. Negotiate loans.
19. Dictate extraordinary measures, by means of emergency decrees with the force of law, in economic and financial matters, when the national interest so requires and in charge of reporting to Congress. Congress may modify or request the aforementioned emergency decrees.
20. Regulate tariff rates.

21. Grant pardons and commute sentences. Exercise the right of grace for the benefit of the defendants in cases in which the investigation stage has exceeded twice its term plus its extension.
  
22. Confer decorations on behalf of the Nation, with the agreement of the Council of Ministers.
  
23. Authorize Peruvians to serve in a foreign army.  
AND
  
24. To exercise the other functions of government and administration that the Constitution and the laws entrust to it.

## **Chapter V**

### **From the Council of Ministers**

**Article 119°.** The direction and management of public services are entrusted to the Council of Ministers; and to each minister in the matters that correspond to the portfolio in his charge.

**Article 120°.** The acts of the President of the Republic that lack ministerial endorsement are null.

**Article 121°.** The ministers, meeting, form the Council of Ministers. The law determines its organization and functions.

The Council of Ministers has its President. It is the responsibility of the President of the Republic to preside over the Council of Ministers when he convenes it or when he attends its sessions.

**Article 122°.** The President of the Republic appoints and removes the President of the Council. He appoints and removes the other ministers, at the proposal and agreement, respectively, of the President of the Council.

**Article 123°.** The President of the Council of Ministers, who can be a minister without portfolio, is responsible for:

1. To be, after the President of the Republic, the authorized spokesman for the government.
2. Coordinate the functions of the other ministers.
3. Endorse legislative decrees, emergency decrees and other decrees and resolutions indicated by the Constitution and the law.

**Article 124°.** To be a Minister of State, it is required to be Peruvian by birth, a citizen in good standing, and to have reached the age of twenty-five. Members of the Armed Forces and the National Police can be ministers.

**Article 125°.** The powers of the Council of Ministers are:

1. Approve the bills that the President of the Republic submits to Congress.
2. Approve legislative decrees and emergency decrees issued by the President of the Republic, as well as bills and decrees and resolutions provided by law.
3. Deliberate on matters of public interest. AND
4. The others granted by the Constitution and the law.

**Article 126°.** Any agreement of the Council of Ministers requires the approval vote of the majority of its members, and is recorded in the minutes.

The ministers cannot exercise any other public function, except the legislative one.

The ministers cannot be managers of their own interests or those of third parties, nor carry out a lucrative activity, nor intervene in the direction or management of companies or private associations.

**Article 127°.** There are no interim ministers. The President of the Republic may entrust a minister who, while retaining his portfolio, is in charge of another due to the impediment of the one serving it, without this assignment being able to be prolonged for more than thirty days or transmitted to other ministers.

**Article 128°.** Ministers are individually responsible for their own acts and for the presidential acts they countersign.

All ministers are jointly and severally liable for criminal acts or violations of the Constitution or the laws incurred by the President of the Republic or that are agreed upon in Council, even if they save their vote, unless they resign immediately.

**Article 129°.** The full Council of Ministers or the ministers separately may attend the sessions of Congress and participate in its debates with the same prerogatives as parliamentarians, except for voting if they are not congressmen.

They also attend when they are invited to inform. The President of the Council or at least one of the ministers periodically attends the plenary sessions of the Congress for the question station.

## **Chapter VI**

### **Relations with the Legislative Power**

**Article 130°.** Within thirty days of having assumed his functions, the President of the Council attends Congress, in the company of the other ministers, to present and debate the general policy of the government and the main measures required by his management. It raises the issue of trust.

If Congress is not in session, the President of the Republic convenes an extraordinary legislature.

**Article 131°.** The attendance of the Council of Ministers, or of any of the ministers, is mandatory when the Congress calls them to question them.

The interpellation is formulated in writing. It must be presented by no less than fifteen percent of the legal number of congressmen. For its admission, the vote of a third of the number of qualified representatives is required; the voting takes place unfailingly in the following session.

The Congress sets a date and time for the ministers to answer the question. This can not be done or voted before the third day of admission or after the tenth.

**Article 132°.** The Congress makes effective the political responsibility of the Council of Ministers, or of the ministers separately, by means of a vote of no confidence or the rejection of the question of confidence. The latter is only raised by ministerial initiative.

Any motion of censure against the Council of Ministers, or against any of the ministers, must be presented by no less than twenty-five percent of the legal number of congressmen. It is debated and voted on between the fourth and the tenth calendar day after its presentation. Its approval requires the vote of

more than half the legal number of members of Congress.

The Council of Ministers, or the censured minister, must resign.

The President of the Republic accepts the resignation within the following seventy-two hours.

The disapproval of a ministerial initiative does not oblige the minister to resign, unless he has made a matter of confidence in the approval.

**Article 133°.** The President of the Council of Ministers may raise a matter of confidence before Congress on behalf of the Council. If confidence is refused, or if he is censured, or if he resigns or is removed by the President of the Republic, the total crisis of the cabinet occurs.

**Article 134°.** The President of the Republic is empowered to dissolve Congress if it has censured or denied confidence in two Councils of Ministers.

The dissolution decree contains the call for elections for a new Congress. Said elections are held within four months of the date of dissolution, without the pre-existing electoral system being altered.

Congress cannot be dissolved in the last year of its mandate. Dissolved Congress, remains in

functions the Permanent Commission, which cannot be dissolved.

There are no other forms of revocation of the parliamentary mandate.

Under a state of siege, Congress cannot be dissolved.

**Article 135°.** Once the new Congress meets, it can censure the Council of Ministers, or deny it the question of confidence, after the President of the Council has exposed before Congress the acts of the Executive Power during the parliamentary interregnum.

In this interregnum, the Executive Power legislates through emergency decrees, which it reports to the Permanent Commission so that it can examine them and submit them to Congress, once it is installed.

**Article 136°.** If the elections are not held within the indicated period, the dissolved Congress meets with full rights, recovers its powers, and dismisses the Council of Ministers. None of its members can be reappointed minister during the remainder of the presidential term.

The extraordinarily elected Congress replaces the previous one, including the Permanent Commission, and completes the constitutional term of the dissolved Congress.

## Chapter VII

### Exception regime

**Article 137°.** The President of the Republic, with the agreement of the Council of Ministers, may decree, for a determined period of time, throughout the national territory, or in part of it, and informing the Congress or the Permanent Commission, the states of emergency that in this article are contemplated:

1. State of emergency, in case of disturbance of peace or internal order, catastrophe or serious circumstances that affect the life of the Nation. In this eventuality, the exercise of the constitutional rights related to personal freedom and security, the inviolability of the home, and the freedom of assembly and transit in the territory included in subsections 9, 11 and 12 of the Constitution may be restricted or suspended. article 2 and subsection 24, section f of the same article. Under no circumstances can anyone be banished.

The term of the state of emergency does not exceed sixty days. His extension requires a new decree. In a state of emergency, the Armed Forces assume control of internal order if so ordered by the President of the Republic.

2. State of siege, in case of invasion, foreign war, civil war, or imminent danger that

occur, mentioning the fundamental rights whose exercise is not restricted or suspended. The corresponding period does not exceed forty-five days. When the state of siege is decreed, the Congress meets with full rights. The extension requires congressional approval.

## **Chapter VIII**

### **Power of attorney**

**Article 138°.** The power to administer justice emanates from the people and is exercised by the Judicial Power through its hierarchical organs in accordance with the Constitution and the laws.

In any process, if there is incompatibility between a constitutional norm and a legal norm, the judges prefer the former. Likewise, they prefer the legal norm over any other norm of a lower rank.

**Article 139°.** The principles and rights of the jurisdictional function are:

1. The unity and exclusivity of the judicial function.

No independent jurisdiction exists or can be established, with the exception of military and arbitration. There is no judicial process by commission or delegation.

2. Independence in the exercise of the jurisdictional function.

No authority may plead cases pending before the jurisdictional body or interfere in the exercise of its functions.

Nor can it annul resolutions that have passed in res judicata authority, nor cut procedures in process, nor modify sentences nor delay their execution.

These provisions do not affect the right of grace or the investigative power of Congress, the exercise of which must not, however, interfere with the jurisdictional procedure or have any jurisdictional effect.

3. Observance of due process and guardianship jurisdictional.

No person may be diverted from the jurisdiction predetermined by law, or subjected to procedures other than those previously established, or tried by exceptional jurisdictional bodies or by special commissions created for that purpose, whatever their name.

4. Advertising in the processes, unless otherwise contrary to the law.

Judicial proceedings for the responsibility of public officials, and for crimes committed

made through the press and those that refer to fundamental rights guaranteed by the Constitution, are always public.

5. The written motivation of the judicial resolutions in all instances, except those of mere procedure, with express mention of the applicable law and the factual foundations on which they are based.
6. The plurality of the instance.
7. Compensation, in the manner determined by law, for judicial errors in criminal proceedings and for arbitrary arrests, without prejudice to the responsibility that may arise.
8. The principle of not failing to administer justice due to a vacuum or deficiency in the law.

In such a case, general principles of law and customary law should apply.

9. The principle of inapplicability by analogy of criminal law and the rules that restrict rights.
10. The principle of not being punished without trial dicial.

11. The application of the most favorable law to the accused in case of doubt or conflict between criminal laws.
12. The principle of not being convicted in absentia.
13. The prohibition to revive closed processes with an enforceable resolution. Amnesty, pardon, definitive dismissal and prescription produce the effects of *res judicata*.
14. The principle of not being deprived of the right to defense at any stage of the process. All persons shall be informed immediately and in writing of the cause or reasons for their detention. You have the right to communicate personally with a defender of your choice and to be advised by him as soon as you are summoned or detained by any authority.
15. The principle that every person must be informed, immediately and in writing, of the causes or reasons for their detention.
16. The principle of free administration of justice and free defense for people with limited resources; and, for all, in the cases that the law indicates.
17. Popular participation in the appointment and removal of magistrates, in accordance with law.

18. The obligation of the Executive Power to provide the collaboration that is required in the processes.
19. The prohibition of exercising judicial functions by those who have not been appointed in the manner provided for by the Constitution or the law. The jurisdictional bodies cannot give him possession of the position, under responsibility.
20. The principle of the right of every person to formulate analysis and criticism of judicial resolutions and sentences, with the limitations of law.
21. The right of inmates and sentenced to occupy adequate establishments.
22. The principle that the penitentiary regime has as its objective the reeducation, rehabilitation and reintegration of the prisoner into society.

**Article 140°.** The death penalty can only be applied for the crime of treason against the fatherland in the case of war, and terrorism, in accordance with the laws and treaties to which Peru is an obligated party.

**Article 141°.** It corresponds to the Supreme Court to rule on appeal, or ultimately, when the action is initiated in a Superior Court or before the Supreme Court itself according to law. Also meet at home

tion the resolutions of the Military Jurisdiction, with the limitations established in article 173°.

**Article 142°.** The resolutions of the National Elections Jury in electoral matters, nor those of the National Council of the Judiciary in matters of evaluation and ratification of judges, are not reviewable in court.

**Article 143°.** The Judicial Power is made up of jurisdictional bodies that administer justice on behalf of the Nation, and by bodies that exercise its government and administration.

The jurisdictional bodies are: the Supreme Court of Justice and the other courts and tribunals determined by its Organic Law.

**Article 144°.** The President of the Supreme Court is also the President of the Judiciary. The Plenary Chamber of the Supreme Court is the highest deliberative body of the Judicial Power.

**Article 145°.** The Judicial Power presents its budget project to the Executive Power and sustains it before Congress.

**Article 146°.** The jurisdictional function is incompatible with any other public or private activity, with the exception of university teaching outside working hours.

Judges only receive the remuneration assigned to them by the Budget and those from teaching or other tasks expressly provided for by law.

The State guarantees judicial magistrates:

1. Your independence. They are only subject to the Constitution and the law.
2. Immovability in their positions. They can not be transferred without your consent.
3. Their permanence in the service, while they observe the conduct and suitability of their function. AND
4. A remuneration that ensures a standard of living worthy of their mission and hierarchy.

**Article 147°.** To be a Magistrate of the Supreme Court it is required:

1. Being Peruvian by birth.
2. Being a practicing citizen.
3. Be older than forty-five years.
4. Have been a magistrate of the Superior Court or Superior Prosecutor for ten years, or have practiced law or a university chair in legal matters for fifteen years.

**Article 148°.** Administrative resolutions that cause status are subject to challenge through contentious-administrative action.

**Article 149°.** The authorities of the Peasant and Native Communities, with the support of the Rondas Peasants, may exercise jurisdictional functions within their territorial scope in accordance with customary law, provided that they do not violate the fundamental rights of the person. The law establishes the forms of coordination of said special jurisdiction with the Peace Courts and with the other instances of the Judicial Power.

## **Chapter IX**

### **From the National Council of the Judiciary<sup>23</sup>**

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**23 In Law 30904, published on January 10, 2019, which modifies the articles 154, 155 and 156 of Chapter IX, the following are incorporated transitory and final supplementary provisions:**

#### **“TRANSITORY SUPPLEMENTARY PROVISION**

**FIRST.** *The selection of the members of the National Board of Justice is carried out within a period not exceeding ninety (90) calendar days after the entry into force of the modification of its organic law.*

**SECOND.** *The National Board of Justice is hereby authorized to review the appointments, ratifications, evaluations and disciplinary procedures carried out by the directors removed by the Congress of the Republic within a period not exceeding eighteen (18) months, in accordance with Resolution Legislative Decree of Congress No. 016-2017-2018-CR, in cases where there are indications of serious irregularities.*

#### **FINAL SUPPLEMENTARY PROVISION**

**ONLY.** *Change of name of the National Council of the Judiciary In all the corresponding provisions of the national legal system, the name 'National Council of the Judiciary' is changed to 'National Board of Justice'."*

**Article 150°.** The National Council of the Judiciary is responsible for the selection and appointment of judges and prosecutors, except when they come from popular election.

The National Council of the Judiciary is independent and is governed by its Organic Law.

**Article 151°.** The Academy of the Judiciary, which is part of the Judiciary, is in charge of educating and training judges and prosecutors at all levels, for the purposes of their selection.

Approval of the special studies required by said Academy is a requirement for promotion.

**Article 152°.** Justices of the Peace come from popular election.

Said election, its requirements, jurisdictional performance, training and duration in office are regulated by law.

The law can establish the election of the judges of first instance and determine the pertinent mechanisms.

**Article 153°.** Judges and prosecutors are prohibited from participating in politics, from organizing unions and from going on strike.

**Article 154.-** The functions of the National Board of Justice are:

1. Appoint judges and prosecutors at all levels, following a public contest on merits and personal evaluation. Said appointments require the public and motivated vote of two thirds of the legal number of its members.
2. Ratify, with a public and motivated vote, the judges and prosecutors at all levels every seven years; and carry out, jointly with the Academy of the Judiciary, the partial evaluation of the performance of judges and prosecutors at all levels every three years and six months. Those not ratified or dismissed cannot re-enter the Judiciary or the Public Ministry.
3. Apply the sanction of dismissal to judges of the Supreme Court and supreme prosecutors; and, ex officio or at the request of the Supreme Court or the Board of Supreme Prosecutors, respectively, to the judges and prosecutors of all instances. In the case of supreme judges and supreme prosecutors, the application of a reprimand or suspension of up to one hundred and twenty (120) calendar days will also be possible, applying criteria of reasonableness and proportionality. The final resolution must be motivated and with a prior hearing of the interested party. It is unassailable in nature.

4. Register, guard, keep updated and publish the Registry of Disciplinary Sanctions of Judges and Prosecutors.
5. Extend to judges and prosecutors the official title that accredits them.
6. Submit an annual report to the Plenary Session of Congress.<sup>24</sup>

**Article 155.-** The National Board of Justice is made up of seven regular members selected through a public contest on merit, for a period of five years. Reelection is prohibited. Substitutes are summoned in strict order of merit obtained in the contest.

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**24 Article modified by Law 30904, published on January 10, 2019.**

**Before the reform, this article had the following text:**

**“Article 154°.** The functions of the National Council of the Judiciary are:

1. Appoint judges and prosecutors at all levels, following a public contest on merits and personal evaluation. Said appointments require the affirmative vote of two thirds of the legal number of its members.
- <sup>two.</sup> Ratify judges and prosecutors at all levels every seven years. Those not ratified cannot re-enter the Judiciary or the Public Ministry. The ratification process is independent of disciplinary measures.
3. Apply the sanction of dismissal to the members of the Supreme Court and Supreme Prosecutors and, at the request of the Supreme Court or the Board of Supreme Prosecutors, respectively, to the judges and prosecutors of all instances. The final resolution, motivated and with prior hearing of the interested party, is unappealable.
4. Extend to judges and prosecutors the official title that accredits them.”

The public contest of merits is in charge of a Special Commission, made up of:

- 1) The Ombudsman, who chairs it;
- 2) The President of the Judiciary;
- 3) The Public Prosecutor;
- 4) The President of the Constitutional Court;
- 5) The Comptroller General of the Republic;
- 6) A rector elected in a vote by the rectors of licensed public universities with more than fifty years of seniority; and,
- 7) A rector elected in a vote by the rectors of licensed private universities with more than fifty years of seniority.

The Special Commission must be installed, at the call of the Ombudsman, six months before the expiration of the mandate of the members of the National Board of Justice and ceases with the swearing-in of the elected members.

The selection of the members is carried out through a procedure in accordance with the law, for which the Special Commission has the support of a Specialized Technical Secretariat. The procedure provides

the guarantees of probity, impartiality, publicity and transparency.<sup>25</sup>

**Article 156.-** To be a member of the National Board of Justice, the following is required:

1. Being Peruvian by birth.
2. Being a practicing citizen.
3. Be older than forty-five (45) years old, and younger than seventy-five (75) years old.
4. Being a lawyer:

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**25 Article modified by Law 30904, published on January 10, 2019.**

**Before the reform, this article had the following text:**

**"Article 155°.** They are members of the National Council of the Judiciary, in accordance with the law of the matter:

1. One elected by the Supreme Court, in a secret ballot in Sala Plena.
2. One elected by secret ballot, by the Board of Supreme Prosecutors mos.
3. One elected by the members of the Bar Associations of the country, in secret ballot.
4. Two elected, by secret ballot, by the members of the other Professional Associations in the country, in accordance with the law.
5. One elected, in a secret ballot, by the rectors of the national universities.
6. One elected, in a secret ballot, by the rectors of the private universities.

*The number of members of the National Council of the Judiciary may be increased by it to nine, with two additional members elected by secret ballot by the Council itself, from among lists proposed by the representative institutions of the labor and business sectors.*

*The titular members of the National Council of the Judiciary are elected, together with the substitutes, for a period of five years."*

- to. With professional experience of not less than twenty-five (25) years; or,
  - b. Have held the university chair for no less than twenty-five (25) years; or,
  - c. Have worked as a researcher in legal matters for at least fifteen (15) years.
5. Not have a firm conviction for a malicious crime.
6. Have a recognized professional career and solvency and moral suitability.

The members of the National Board of Justice enjoy the same benefits and rights and are subject to the same obligations and incompatibilities as the supreme judges. Their function must not incur a conflict of interest and is incompatible with any other public or private activity outside of working hours.

Except for university teaching.<sup>26</sup>

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**26 Article modified by Law 30904, published on January 10, 2019.**

**Before the reform, this article had the following text:**

*“Article 156”. To be a member of the National Council of the Judiciary, the same requirements are required as to be a Member of the Supreme Court, except as provided in subsection 4 of article 147°. The member of the National Council of the Judiciary enjoys the same benefits and rights and is subject to the same obligations and incompatibilities.”*

**Article 157°.** The members of the National Council of the Judiciary can be removed for serious reasons by means of an agreement of the Congress adopted with the affirmative vote of two thirds of the legal number of members.

## **Chapter X** **From the Public Ministry**

**Article 158°.** The Public Ministry is autonomous.

The Attorney of the Nation presides over it. He is elected by the Board of Supreme Prosecutors. The position of Prosecutor of the Nation lasts three years, and can be extended, by re-election, for only another two. The members of the Public Ministry have the same rights and prerogatives and are subject to the same obligations as those of the Judiciary in the respective category. They are affected by the same incompatibilities. Their appointment is subject to requirements and procedures identical to those of the members of the Judiciary in their respective category.

**Article 159°.** Corresponds to the Public Ministry:

1. Promote ex officio, or at the request of a party, legal action in defense of legality and public interests protected by law.
  
2. Ensure the independence of the jurisdictional bodies and the proper administration of justice.

3. Represent the person in legal proceedings.  
society.
4. Conduct the crime investigation from the start. For this purpose,  
the National Police is obliged to comply with the mandates  
of the Public Ministry in the scope of its function.
5. Exercise criminal action ex officio or at the request of a party.
6. Issue an opinion prior to judicial resolutions in the cases  
contemplated by law.
7. Exercise initiative in the formation of laws; and report to  
Congress, or to the President of the Republic, any gaps or  
defects in the legislation.

**Article 160°.** The draft budget of the Public Ministry is approved by the Board of Supreme Prosecutors. It is presented before the Executive Branch and is supported by that instance and by Congress.

## **Chapter XI From the Ombudsman**

**Article 161°.** The Ombudsman's Office is autonomous.  
Public bodies are required to collaborate with the Ombudsman's Office when required.

Its structure, at the national level, is established by organic law.

The Ombudsman is elected and removed by Congress with the vote of two-thirds of its legal number. He enjoys the same immunity and the same prerogatives as congressmen.

To be elected Ombudsman, it is required to have reached thirty-five years of age and to be a lawyer.

The position lasts five years and is not subject to mandatory mandate. It has the same incompatibilities as the supreme vowels.

**Article 162°.** The Ombudsman's Office is responsible for defending the constitutional and fundamental rights of the person and the community; and supervise compliance with the duties of the state administration and the provision of public services to citizens.

The Ombudsman submits a report to Congress once a year, and whenever the latter requests it. It has initiative in the formation of laws. You can propose the measures that facilitate the best performance of your duties.

The draft budget of the Ombudsman's Office is presented to the Executive Power and supported by its head in that instance and in Congress.

## Chapter XII

### Security and National Defense

**Article 163°.** The State guarantees the security of the Nation through the National Defense System.

National Defense is integral and permanent. It develops in the internal and external spheres. Every person, natural or legal, is obliged to participate in the National Defense, in accordance with the law.

**Article 164°.** The direction, preparation and exercise of National Defense are carried out through a system whose organization and whose functions are determined by law. The President of the Republic directs the National Defense System.

The law determines the scope and procedures of the mobilization for the purposes of national defense.

**Article 165°.** The Armed Forces are made up of the Army, the Navy and the Air Force. Their primary purpose is to guarantee the independence, sovereignty and territorial integrity of the Republic. They assume control of internal order in accordance with article 137 of the Constitution.

**Article 166°.** The fundamental purpose of the National Police is to guarantee, maintain and restore internal order. It protects and helps people and the community. Guarantees compliance with the laws

yes and the security of public and private assets.  
Prevent, investigate and combat crime. It monitors and controls the borders.

**Article 167°.** The President of the Republic is the Supreme Chief of the Armed Forces and the National Police.

**Article 168°.** The respective laws and regulations determine the organization, functions, specialties, preparation and employment; and regulate the discipline of the Armed Forces and the National Police.

The Armed Forces organize their reserves and dispose of them according to the needs of the National Defense, in accordance with the law.

**Article 169°.** The Armed Forces and the National Police are not deliberative. They are subordinate to constitutional power.

**Article 170°.** The law allocates the funds destined to satisfy the logistical requirements of the Armed Forces and the National Police. Such funds must be dedicated exclusively to institutional purposes, under the control of the authority indicated by law.

**Article 171°.** The Armed Forces and the National Police participate in the economic and social development of the country, and in civil defense in accordance with the law.

**Article 172°.** The number of members of the Armed Forces and the National Police is set annually by the Executive Power. The corresponding resources are approved in the Budget Law.

Upgrades are granted in accordance with the law. The President of the Republic grants promotions to the generals and admirals of the Armed Forces and to the generals of the National Police, according to the proposal of the corresponding institute.

**Article 173°.** In the case of a crime of function, the members of the Armed Forces and the National Police are subject to the respective jurisdiction and the Code of Military Justice. Its provisions are not applicable to civilians, except in the case of the crimes of treason and terrorism that the law determines. The cassation referred to in article 141° is only applicable when the death penalty is imposed.

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

**Article 174°.** The ranks and honors, the salaries and pensions inherent to the hierarchy of officers of the Armed Forces and the National Police are equivalent. The law establishes the equivalents corresponding to career military or police personnel who do not have the rank or hierarchy of officer.

In both cases, the indicated rights can only be withdrawn from their owners by court order.

**Article 175°.** Only the Armed Forces and the National Police may possess and use weapons of war. All those that exist, as well as those that are manufactured or introduced in the country, become the property of the State without process or compensation.

The manufacture of weapons of war by private industry is excepted in the cases indicated by law.

The law regulates the manufacture, trade, possession and use, by individuals, of weapons other than those of war.

### **Chapter XIII** **Of the electoral system**

**Article 176°.** The purpose of the electoral system is to ensure that voting results in the authentic, free and spontaneous expression of citizens; and that the scrutiny be an exact and timely reflection of the voter's will expressed at the polls by direct voting.

Its basic functions are the planning, organization and execution of electoral or referendum processes or other popular consultations; the maintenance and custody of a unique registry of identification of people; and the registry of the acts that modify the marital status.

**Article 177°.** The electoral system is made up of the National Elections Jury; the National Office of Electoral Processes; and the National Registry of Identification and Civil Status. They act autonomously and maintain coordination relationships with each other, in accordance with their attributions.

**Article 178°.** The National Elections Jury is responsible for:

1. Supervise the legality of the exercise of suffrage and the conduct of electoral processes, the referendum and other popular consultations, as well as the preparation of electoral rolls.
2. Maintain and safeguard the registry of political organizations.
3. Ensure compliance with the rules on political organizations and other provisions related to electoral matters.
4. Administer justice in electoral matters.
5. Proclaim the elected candidates; the result of the referendum or that of other types of popular consultation and issue the corresponding credentials.
6. The others that the law indicates.

In electoral matters, the National Elections Jury has initiative in the formation of laws.

Submits to the Executive Power the draft Budget of the Electoral System that includes separately the items proposed by each entity of the system. He supports it in that instance and before Congress.

**Article 179°.** The highest authority of the National Elections Jury is a Plenary made up of five members:

1. One elected by secret ballot by the Supreme Court from among its retired or active magistrates. In this second case, we grant licence to the chosen. The representative of the Supreme Court presides over the National Elections Jury.
2. One elected by secret ballot by the Board of Supreme Prosecutors, from among retired or active Supreme Prosecutors. In this second case, we grant licence to the chosen.
3. One elected by secret ballot by the Lima Bar Association, among its members.
4. One elected in secret ballot by the deans of the Faculties of Law of the public universities, among their former deans.

5. One elected by secret ballot by the deans of the Faculties of Law of the private universities, among their former deans.

**Article 180°.** The members of the Plenary of the National Elections Jury cannot be under forty-five years of age or over seventy. They are elected for a period of four years. They can be reelected. The law establishes the form of renewal alternated every two years.

The charge is paid and full time. It is incompatible with any other public function, except part-time teaching.

Candidates for popularly elected positions cannot be members of the Jury Plenary, nor can citizens who hold managerial positions with a national character in political organizations, or who have held them in the four years prior to their application.

**Article 181°.** The Plenary of the National Elections Jury appraises the facts with criteria of conscience. Resolves in accordance with the law and the general principles of law. In electoral matters, referendums or other types of popular consultations, their resolutions are issued in the final, definitive instance, and are not reviewable. There is no recourse against them.

**Article 182°.** The Head of the National Office of Electoral Processes is appointed by the National Council of the Judiciary for a renewable period of four

years. It can be removed by the Council itself for serious misconduct. It is subject to the same incompatibilities provided for the members of the Plenary of the National Elections Jury.

It is responsible for organizing all the electoral, referendum and other types of popular consultation processes, including its budget, as well as the preparation and design of the ballot paper. It is also responsible for the delivery of minutes and other material necessary for the scrutiny and the dissemination of its results. Provides permanent information on the calculation from the beginning of the scrutiny in the voting tables.

It exercises the other functions that the law indicates.

**Article 183°.** The Head of the National Registry of Identification and Civil Status is appointed by the National Council of the Judiciary for a renewable period of four years. He can be removed by said Council for serious misconduct. It is subject to the same incompatibilities provided for the members of the Plenary of the National Elections Jury.

The National Registry of Identification and Civil Status is in charge of registering births, marriages, divorces, deaths, and other acts that modify civil status. Issues the corresponding certificates. Prepares and maintains the electoral roll. It provides the National Elections Jury and the National Office of Electoral Processes with the necessary information for the fulfillment of their duties.

functions. It maintains the citizen identification registry and issues the documents that prove their identity.

It performs the other functions that the law indicates.

**Article 184°.** The National Elections Jury declares the nullity of an electoral process, a referendum or another type of popular consultation when the null or blank votes, added or separately, exceed two thirds of the number of votes cast.

The law may establish different proportions for municipal elections.

**Article 185°.** The scrutiny of the votes in all kinds of elections, referendums or other types of popular consultation is carried out in a public and uninterrupted act on the voting table. It is only reviewable in cases of material error or challenge, which are resolved in accordance with law.

**Article 186°.** The National Office of Electoral Processes issues the necessary instructions and provisions for the maintenance of order and the protection of personal freedom during the elections. These provisions are mandatory for the Armed Forces and the National Police.

**Article 187°.** In multiperson elections there is proportional representation, in accordance with the system established by law.

The law contains special provisions to facilitate the vote of Peruvians residing abroad.

## Chapter XIV Of decentralization<sup>27</sup>

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**27 Chapter modified by Law 27680, published on March 7, 2002.**

**Before the reform, Chapter XIV had the following text:**

### **"Chapter Fourteen**

#### **Of decentralization, regions and municipalities**

**Article 188°.** Decentralization is a permanent process whose objective is the integral development of the country.

**Article 189°.** The territory of the Republic is divided into regions, departments, provinces and districts, in whose constituencies unitary government is exercised in a decentralized and deconcentrated manner.

**Article 190°.** The Regions are constituted by initiative and mandate of the populations belonging to one or more adjoining departments. Contiguous provinces and districts can also join or change constituencies.

*In both cases, the referendum proceeds, in accordance with the law.*

**Article 191°.** The provincial and district municipalities, and those delegated according to law, are the local government bodies. They have political, economic and administrative autonomy in the matters of their competence.

*The Council has regulatory and supervisory functions; and to the mayor's office, the executive functions.*

*The mayors and aldermen are elected by direct suffrage, for a period of five years. They can be reelected. His mandate is revocable but irrevocable. They enjoy the prerogatives established by law.*

**Article 192°.** The municipalities are competent to: 1. Approve its internal organization and its budget.

2. Manage your assets and income.

3. Create, modify and delete contributions, rates, excise taxes, licenses and municipal rights.

Four Organize, regulate and manage the local public services under its responsibility.

5. Plan the urban and rural development of their constituencies, and execute the corresponding plans and programs.

6. Participate in the management of the activities and services inherent to the State, in accordance with the law. AND

7. The rest determined by the Law.

## Article 188.- Decentralization is a form of democratic organization and constitutes a policy

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**Article 193°.** *They are assets and income of the municipalities:*

1. *Own assets and income.*
2. *The taxes created by law in your favor.*
3. *The contributions, fees, excise taxes, licenses and rights of your company. competition, created by its Council.*
4. *The allocated resources of the Municipal Compensation Fund that It is created by law according to municipal taxes.*
5. *Budget transfers from the Central Government.*
6. *The resources that correspond to them by way of canon.*
7. *Other resources determined by law.*

**Article 194°.** *Municipalities may associate or enter into cooperative agreements among themselves for the execution of works and the provision of common services.*

**Article 195°.** *The law regulates the cooperation of the National Police with the municipalities in matters of citizen security.*

**Article 196°.** *The capital of the Republic, the capitals of provinces with a metropolitan rank, and the capitals of border departments have a special regime in the Organic Law of Municipalities.*

*The same treatment applies to the Constitutional Province of Callao and the border provinces.*

**Article 197°.** *The Regions have political, economic and administrative autonomy in matters within their competence.*

*They are responsible, within their jurisdiction, for the coordination and execution of regional socio-economic plans and programs, as well as the management of activities and services inherent to the State, in accordance with the law. Their own assets and income are established by law.*

*The Regions support local governments. They do not replace them or duplicate their action or their competence.*

**Article 198°.** *The organized structure of the Regions and their specific functions are established by organic law.*

*The highest authorities of the Region are the President and the Regional Coordination Council.*

*The President of the Region is elected by direct suffrage for a period of five years. He can be reelected. His mandate is revocable, but irrevocable. It enjoys the prerogatives established by law.*

*The Regional Coordination Council is made up of the number of members established by law. The provincial mayors or their representatives are, by right, members of said Council.*

**Article 199°.** *The Regions and municipalities account for the execution of their budget to the Office of the Comptroller General of the Republic. They are supervised according to the Law."*

State permanent, mandatory, whose fundamental objective is the comprehensive development of the country. The decentralization process is carried out in stages, in a progressive and orderly manner, in accordance with criteria that allow an adequate allocation of powers and transfer of resources from the national government to regional and local governments.

The Powers of the State and the Autonomous Organisms as well as the Budget of the Republic are decentralized according to law.

**Article 189.-** The territory of the Republic is made up of regions, departments, provinces and districts, in whose districts the government is constituted and organized at the national, regional and local levels, in the terms established by the Constitution and the law. , preserving the unity and integrity of the State and the Nation.

The scope of the regional level of government is the regions and departments. The scope of the local level of government are the provinces, districts and population centers.

**Article 190.-** The regions are created on the basis of contiguous areas integrated historically, culturally, administratively and economically, forming sustainable geoeconomic units.

The regionalization process begins by electing governments in the current departments and the province

Constitution of Callao. These governments are regional governments.

By means of a referendum, two or more contiguous departmental constituencies may be integrated to constitute a region, in accordance with the law. The same procedure is followed by the contiguous provinces and districts to change their regional constituency.

The law determines the additional competencies and faculties, as well as special incentives, of the regions thus integrated.

While the integration process lasts, two or more regional governments may create coordination mechanisms among themselves. The law will determine those mechanisms.

**Article 191.-** The regional governments have political, economic and administrative autonomy in the matters of their competence. They coordinate with the municipalities without interfering with their functions and powers.

The basic organic structure of these governments is made up of the Regional Council as a regulatory and supervisory body, the Regional Governor as an executive body, and the Regional Coordination Council made up of the provincial mayors and representatives of civil society, as a consultative body. and coordination with the municipalities, with the functions and attributions indicated by law.

The Regional Council will have a minimum of seven (7) members and a maximum of twenty-five (25), there must be a minimum of one (1) per province and the rest, according to law, following a criterion of electoral population.

The Regional Governor is elected jointly with a Regional Deputy Governor, by direct suffrage for a period of four (4) years. The mandate of said authorities is revocable, in accordance with law. There is no immediate reelection. After at least one other period, former Regional Governors or former Regional Vice Governors may reapply, subject to the same conditions. The members of the Regional Council are elected in the same way and for the same period. The mandate of these authorities is inalienable, with the exception of the cases provided for in the Constitution.

To apply for President of the Republic, Vice President, Congressman or Mayor; Regional Governors and Vice Governors must resign six (6) months before the respective election.

The law establishes minimum percentages to make accessible the representation of gender, peasant and native communities, and original peoples in the Regional Councils. The same treatment applies to the Municipal Councils.

The Regional Governors are obliged to attend the Congress of the Republic when it is requested.

according to the law and the Regulations of the Congress of the Republic, and under responsibility.28

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**28 Article modified by Law 30305, published on March 10, 2015.**

**Before the reform, this article had the following text:**

*“Article 191.- The regional governments have political, economic and administrative autonomy in the matters of their competence. They coordinate with the municipalities without interfering with their functions and powers.*

*The basic organic structure of these governments is made up of the Regional Council as a regulatory and supervisory body, the President as an executive body, and the Regional Coordination Council made up of the provincial mayors and representatives of civil society, as a consultative and coordination body. with the municipalities, with the functions and attributions indicated by law.*

*The Regional Council will have a minimum of seven (7) members and a maximum of twenty-five (25), there must be a minimum of one (1) per province and the rest, according to law, following a criterion of electoral population.*

*The President is elected jointly with a Vice President, by direct suffrage for a period of four (4) years, and may be reelected. The members of the Regional Council are elected in the same way and for the same period. The mandate of said authorities is revocable, in accordance with law, and inalienable, with the exception of the cases provided for in the Constitution.*

*To apply for President of the Republic, Vice President, member of the National Parliament or Mayor; the Presidents of the Regional Governments must resign six (6) months before the respective election.*

*The law establishes minimum percentages to make accessible the representation of gender, peasant and native communities, and original peoples in the Regional Councils. The same treatment applies to Municipal Councils.”(\*)*

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**(\*) Article modified by Law 28607, published on October 4 of 2005. Before the reform, this article had the following text:**

*“Article 191.- The regional governments have political, economic and administrative autonomy in the matters of their competence. They coordinate with the municipalities without interfering with their functions and powers.*

*The basic organic structure of these governments is made up of the Regional Council as the regulatory and supervisory body, the President as the executive body, and the Regional Coordination Council made up of the provincial mayors and representatives of civil society, as a consultative and advisory body. coordination with the municipalities, with the functions and powers indicated by law.*

*The Regional Council will have a minimum of seven (7) members and a maximum of twenty-five (25), and there must be a minimum of one (1)*

**Article 192.-** The regional governments promote development and the regional economy, promote investments, activities and public services under their responsibility, in harmony with national and local development policies and plans.

They are competent to:

1. Approve your internal organization and your budget.
2. Formulate and approve the regional development plan agreed upon with the municipalities and civil society.
3. Manage your assets and income.
4. Regulate and grant the authorizations, licenses and rights over the services for which they are responsible.
5. Promote regional socioeconomic development and execute the corresponding plans and programs.

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*by province and the rest, according to law, following a criterion of electoral population.*

*The President is elected jointly with a Vice President, by direct suffrage for a period of four (4) years, and may be reelected. The members of the Regional Council are elected in the same way and for the same period. The mandate of said authorities is revocable and inalienable, in accordance with the law.*

*The law establishes minimum percentages to make accessible the representation of gender, native communities and original peoples in the Regional Councils. The same treatment applies to Municipal Councils."*

6. Dictate the rules inherent to the management regional.
7. Promote and regulate activities and/or services in agriculture, fishery, industry, agribusiness, commerce, tourism, energy, mining, roads, communications, education, health and the environment, in accordance with law.
8. Promote competitiveness, investments and financing for the execution of infrastructure projects and works of regional scope and impact.
9. Submit legislative initiatives on matters and matters within its competence.
10. Exercise the other powers inherent to its function, according to law.

**Article 193.-** The assets and income of the regional governments are:

1. The movable and immovable property of your property piety.
2. The specific transfers assigned to them by the Annual Budget Law.
3. The taxes created by law in your favor.

4. The economic rights generated by the privatizations, concessions and services that they grant, in accordance with the law.
5. The resources allocated from the Regional Compensation Fund, which has a redistributive nature, in accordance with the law.
6. The resources allocated for ca  
no N.
7. The resources from their financial operations, including those carried out with the guarantee of the State, in accordance with the law.
8. Others determined by law.

**Article 194.-** The provincial and district municipalities are the local government bodies. They have political, economic and administrative autonomy in the matters of their competence. The municipalities of the populated centers are created according to law.

The organic structure of the local government is made up of the Municipal Council as a regulatory and auditing body and the Mayor's Office as an executive body, with the functions and powers indicated by law.

The mayors and aldermen are elected by direct suffrage, for a period of four (4) years. There is no immediate reelection for mayors. elapsed

another period, at least, they can apply again, subject to the same conditions. His mandate is revocable, in accordance with law. The mandate of mayors and aldermen is inalienable, with the exception of the cases provided for in the Constitution.

To apply for President of the Republic, Vice President, Congressman, Governor or Vice Governor of the Regional Government; Mayors must resign six (6) months before the respective election.<sup>29</sup>

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**29 Article modified by Law 30305, published on March 10, 2015.**

**Before the reform, this article had the following text:**

*“Article 194.- The provincial and district municipalities are the local government bodies. They have political, economic and administrative autonomy in matters within their competence. The municipalities of the populated centers are created according to law.*

*The organic structure of the local government is made up of the Municipal Council as a regulatory and supervisory body and the Mayor's Office as an executive body, with the functions and powers indicated by law.*

*The mayors and aldermen are elected by direct suffrage, for a period of four (4) years. They can be reelected. His mandate is revocable, in accordance with law, and inalienable, with the exception of the cases provided for in the Constitution.*

*To apply for President of the Republic, Vice President, member of the National Parliament or President of the Regional Government; Mayors must resign six (6) months before the respective election.”(\*)*

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**(\*) Article modified by Law 28607, published on October 4 of 2005. Before the reform, this article had the following text:**

*“Article 194.- The provincial and district municipalities are the local government bodies. They have political, economic and administrative autonomy in the matters of their competence. The municipalities of the populated centers are created according to law.*

*The organic structure of the local government is made up of the Municipal Council as a regulatory and supervisory body and the Mayor's Office as an executive body, with the functions and powers indicated by law.*

*The mayors and aldermen are elected by direct suffrage, for a period of four (4) years. They can be reelected. His mandate is revocable and inalienable, according to law.”*

**Article 195.-** Local governments promote development and the local economy, and the provision of public services for which they are responsible, in harmony with national and regional development policies and plans.

They are competent to:

1. Approve your internal organization and budget  
Market Stall.
2. Approve the local development plan agreed with civil society.
3. Manage your assets and income.
4. Create, modify and suppress contributions, rates, excise taxes, licenses and municipal rights, in accordance with the law.
5. Organize, regulate and manage the local public services under their responsibility.
6. Plan the urban and rural development of their constituencies, including zoning, urbanism and territorial conditioning.
7. Promote competitiveness, investments and financing for the execution of local infrastructure projects and works.

8. Develop and regulate activities and/or services in education, health, housing, sanitation, environment, sustainability of natural resources, collective transportation, circulation and traffic, tourism, conservation of archaeological and historical monuments, culture, recreation and sports, according to law.
9. Submit legislative initiatives on matters and matters within its competence.
10. Exercise the other powers inherent to its function, according to law.

**Article 196.-** The assets and income of the municipalities are:

1. The movable and immovable property of your property.
2. The taxes created by law in your favor.
3. Contributions, fees, excise taxes, licenses and rights created by Municipal Ordinances, in accordance with law.
4. The economic rights generated by the privatizations, concessions and services that they grant, in accordance with the law.
5. The resources allocated from the Municipal Compensation Fund, which has a redistributive nature, in accordance with the law.

6. The specific transfers assigned to them by the Annual Budget Law.
7. The resources assigned by concept of canon.
8. The resources from its financial operations, including those that require the guarantee of the State, according to law.
9. Others determined by law.

**Article 197.-** Municipalities promote, support and regulate neighborhood participation in local development. They also provide citizen security services, with the cooperation of the National Police of Peru, in accordance with the law.

**Article 198.-** The Capital of the Republic does not integrate any region. It has a special regime in the decentralization laws and in the Organic Law of Municipalities. The Metropolitan Municipality of Lima exercises its powers within the scope of the province of Lima.

Border municipalities also have a special regime in the Organic Law of Municipalities.

**Article 199.-** The regional and local governments are controlled by their own control bodies and by the bodies that have such attribution by constitutional or legal mandate, and are subject to the control and

supervision of the Comptroller General of the Republic, which organizes a decentralized and permanent control system. The aforementioned governments formulate their budgets with the participation of the population and account for their execution, annually, under responsibility, in accordance with the law.

## **TITLE V**

# **CONSTITUTIONAL GUARANTEES**

**Article 200°.** They are constitutional guarantees:

1. The Habeas Corpus Action, which proceeds before the fact or omission, by any authority, official or person, that violates or threatens individual freedom or related constitutional rights.
  
2. The Amparo Action, which proceeds against the fact or omission, by any authority, official or person, that violates or threatens the other rights recognized by the Constitution, with the exception of those indicated in the following paragraph. It does not proceed against legal norms or against Judicial Resolutions emanating from regular procedure.<sup>30</sup>

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***30 Paragraph modified by Law 26470, published on June 12, 1995.  
Before the reform, this section had the following text:***

3. The Habeas Data Action, which proceeds against the fact or omission, by any authority, official or person, that violates or threatens the rights referred to in article 2, subsections 5 and 6 of the Constitution.<sup>31</sup>
  
4. The Action of Unconstitutionality, which proceeds against the norms that have the rank of law: laws, legislative decrees, emergency decrees, treaties, regulations of Congress, general regional norms and municipal ordinances that contravene the Constitution in the form or in the background.
  
5. The Popular Action, which proceeds, for infraction of the Constitution and the law, against the regulations, administrative norms and resolutions and decrees of a general nature, regardless of the authority from which they emanate.
  
6. The Compliance Action, which proceeds against any authority or official who is reluctant to abide by a legal norm or an administrative act

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*"two. The Amparo Action, which proceeds against the fact or omission, by any authority, official or person, that violates or threatens the other rights recognized by the Constitution. It does not proceed against legal norms or against judicial resolutions emanating from regular procedure."*

**31 Paragraph modified by Law 26470, published on June 12, 1995.**

***Before the reform, this section had the following text:***

*"3. The Habeas Data Action, which proceeds against the fact or omission, by any authority, official or person, that violates or threatens the rights referred to in article 2, subsections 5, 6 and 7 of the Constitution. "*

tive, without prejudice to legal responsibilities.

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

The exercise of habeas corpus and amparo actions is not suspended during the validity of the exception regimes referred to in article 137 of the Constitution. When actions of this nature are brought in relation to restricted or suspended rights, the competent court examines the reasonableness and proportionality of the restrictive act. It is not up to the judge to question the declaration of a state of emergency or a state of siege.

**Article 201°.** The Constitutional Court is the control body of the Constitution. He is autonomous and independent. Is composed of seven members elected for five years.

To be a member of the Constitutional Court, the same requirements are required as to be a member of the Supreme Court. The members of the Constitutional Court enjoy the same immunity and the same prerogatives as congressmen. They reach the same incompatibilities. There is no immediate reelection.

The members of the Constitutional Court are elected by the Congress of the Republic with the favorable vote of two thirds of the legal number of its members. Judges or prosecutors who have not left office one year in advance cannot be elected magistrates of the Constitutional Court.

**Article 202°.** It corresponds to the Constitutional Court:

1. Know, in a single instance, the action of unconstitutionality.
2. Know, in the last and definitive instance, the resolutions denying habeas corpus, amparo, habeas data, and compliance action.
3. Know the conflicts of competence, or of powers assigned by the Constitution, according to law.

**Article 203.-** They are empowered to file an action of unconstitutionality:

1. The President of the Republic.
2. The Prosecutor of the Nation.
3. The President of the Judiciary, with the agreement of the Plenary Chamber of the Supreme Court of Justice.

4. The Ombudsman.
5. Twenty-five percent of the legal number of congressmen.
6. Five thousand citizens with signatures verified by the National Elections Jury. If the norm is a municipal ordinance, one percent of the citizens of the respective territorial area is empowered to challenge it, provided that this percentage does not exceed the number of signatures indicated above.
7. The Regional Governors with the agreement of the Regional Council, or the provincial mayors with the agreement of their Council, in matters of their competence.
8. Professional associations, in matters of their specialty.<sup>32</sup>

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**32 Article modified by Law 30651, published on August 20, 2017.**

**Before the reform, this article had the following text:**

**"Article 203".** The following are empowered to file an action of unconstitutionality:

1. The President of the Republic.
2. The Prosecutor of the Nation.
3. The Ombudsman.
4. Twenty-five percent of the legal number of congressmen.
5. Five thousand citizens with signatures verified by the National Elections Jury. If the norm is a municipal ordinance, one percent of the citizens of the respective territorial area is empowered to challenge it, provided that this percentage does not exceed the number of signatures indicated above.
6. The Regional Governors with the agreement of the Regional Council, or the provincial mayors with the agreement of their Council, in matters of their competence. (\*)

**Article 204°.** The judgment of the Court that declares the unconstitutionality of a norm is published in the official gazette. The day after publication, said rule is without effect.

The judgment of the Court that declares unconstitutional, in whole or in part, a legal norm does not have retroactive effect.

**Article 205°.** Once the domestic jurisdiction has been exhausted, whoever considers himself or herself injured in the rights that the Constitution recognizes may appeal to the courts or international organizations constituted according to treaties or agreements to which Peru is a party.

## **TITLE VI OF THE REFORM OF THE CONSTITUTION**

**Article 206°.** Any constitutional reform must be approved by Congress with an absolute majority of the legal number of its members, and ratified by referendum. The referendum can be omitted when the agreement of Congress is obtained in two legislatures

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*7. Professional associations, in matters of their specialty."*

**(\* Paragraph modified by Law 30305, published on March 10, 2015. Before the reform, this section had the following text:**

*"6. The presidents of the Region with the agreement of the Regional Coordination Council, or the provincial mayors with the agreement of their Council, in matters of their competence."*

successive ordinary meetings with a favorable vote, in each case, greater than two thirds of the legal number of congressmen. The constitutional reform law cannot be observed by the President of the Republic.

The constitutional reform initiative corresponds to the President of the Republic, with the approval of the Council of Ministers; to congressmen; and to a number of citizens equivalent to zero point three percent (0.3%) of the electoral population, with signatures verified by the electoral authority.

## **Final and transitory provisions**

**First.** The pension regime of Decree Law 20530 is declared definitively closed. Consequently, as of the entry into force of this Constitutional Reform:

1. New incorporations or reincorporations to the pension regime of Decree Law 20530 are not allowed.
2. Workers who, belonging to said regime, have not complied with the requirements to obtain the corresponding pension, must choose between the National Pension System or the Private System of Pension Fund Administrators.

For reasons of social interest, the new pension rules established by law will be applied immediately to workers and pensioners of the pension schemes in charge of the State, as appropriate. The leveling of pensions with remunerations, nor the reduction of the amount of pensions that are less than a Tax Unit, cannot be foreseen in them.

The law will provide for the progressive application of caps on pensions that exceed a Tax Tax Unit.

The budget savings that come from the application of new pension rules will be used to increase the lowest pensions, in accordance with the law. The modifications that are introduced in the current pension regimes, as well as the new pension regimes that are established in the future, must be governed by the criteria of financial sustainability and non-levelling.

Authorize the competent entity of the National Government to initiate the corresponding legal actions to declare the nullity of the pensions obtained illegally, except in cases defined by judgments of a *res judicata* nature that have been expressly pronounced on the merits of the matter. or that the respective actions had prescribed.<sup>33</sup>

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**33** *First Final and Transitory Provision replaced by Law 28389, published on November 17, 2004. Before the reform, this provision had the following wording:*

**Second.** The State guarantees the opportune payment and the periodic readjustment of the pensions that it administers, in accordance with the budget forecasts that it allocates for such purposes, and the possibilities of the national economy.

**Third.** As long as there are differentiated work regimes between private and public activity, in no case and for no reason can services provided under both regimes be accumulated. Any act or resolution to the contrary is null.

**Quarter.** The norms related to the rights and freedoms that the Constitution recognizes are interpreted in accordance with the Universal Declaration of Human Rights and with international treaties and agreements on the same matters ratified by Peru.

**Fifth.** The municipal elections alternate with the general ones so that the former are held in the middle of the presidential term, in accordance with the law. For this purpose, the mandate of the mayors and aldermen who are elected in the next two municipal elections will last three and four years, respectively.

**Sixth.** The mayors and aldermen elected in the electoral process of 1993 and their complementary elections conclude their mandate on December 31, 1995.

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*"First. The new mandatory social regimens, which are established on the matter of pensions for public workers, do not affect the legally obtained rights, in particular that corresponding to the regimens of decree laws 19990 and 20530 and their amendments."*

**Seventh.** The first general election process to be carried out after the effective date of this Constitution, while the decentralization process is being carried out, is carried out by a single district.

**Eighth.** The provisions of the Constitution that require it are the subject of constitutional development laws.

They have priority:

1. The rules of decentralization and, among them, those that allow having new elected authorities no later than 1995. And
2. Those related to the mechanisms and the process to progressively eliminate the legal monopolies granted in the concessions and licenses of public services.

**Ninth.** The renewal of the members of the National Elections Jury, installed in accordance with this Constitution, begins with those elected by the Lima Bar Association and by the Faculties of Law of public universities.

**Tenth.** The law establishes the way in which the offices, officials and servers of the Civil Registry of local governments and those of the Electoral Registry are integrated into the National Registry of Identification and Civil Status.

**Eleventh.** The provisions of the Constitution that require new or increased public spending are applied progressively.

**Twelfth.** The departmental political organization of the Republic comprises the following departments: Amazonas, Ancash, Apurímac, Arequipa, Ayacucho, Cajamarca, Cusco, Huancavelica, Huánuco, Ica, Junín, La Libertad, Lambayeque, Lima, Loreto, Madre de Dios, Moquegua, Pasco, Piura, Puno, San Martín, Tacna, Tumbes, Ucayali; and the Constitutional Province of Callao.

**Thirteenth.** While the Regions are not constituted and until their presidents are elected in accordance with this Constitution, the Executive Branch determines the jurisdiction of the Transitory Councils of Regional Administration currently in office, according to the area of each of the departments established in the country.

**Fourteenth.** This Constitution, once approved by the Democratic Constituent Congress, enters into force, according to the result of the referendum regulated by constitutional law.

**Fifteenth.** The provisions contained in this Constitution, referring to the number of congressmen, the duration of the legislative mandate, and the Permanent Commission, do not apply to the Democratic Constituent Congress.

**Sixteenth.** Once this Constitution is promulgated, it replaces that of 1979.

### **Special Temporary Provisions<sup>34</sup>**

**First.** The President and Vice Presidents of the Republic elected in the General Elections of 2000, will conclude their mandate on July 28, 2001.

Congressmen elected in the same electoral process will culminate their representation on July 26, 2001. The deadlines established in articles 90 and 112 of the Political Constitution do not apply to them, by exception.

**Second.** For purposes of the electoral process to be carried out in 2001, the term established in the first paragraph of article 91 of the Constitution will be four months.

**Third.** The National Elections Jury (JNE) distributes the seats in the number of four for Lima Provinces without affecting the existing national distribution and the remaining six seats according to law.<sup>35</sup>

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<sup>34</sup> *First and Second Special Temporary Provisions incorporated by Law 27365, published on November 5, 2000.*

<sup>35</sup> *Third Special Temporary Provision incorporated by Law 29402, published on September 8, 2009.*

## STATEMENT

### The Democratic Constituent Congress

**DECLARES** that Peru, a country in the southern hemisphere, linked to Antarctica by coasts that project towards it, as well as by ecological factors and historical background, and in accordance with the rights and obligations that it has as a consultative party to the Antarctic Treaty, favors the conservation of Antarctica as a Zone of Peace dedicated to scientific research, and the validity of an international regime that, without prejudice to the rights that correspond to the Nation, promotes for the benefit of all humanity the rational and equitable exploitation of the resources of Antarctica, and ensure the protection and conservation of the ecosystem of said Continent.

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