

RETURN TO COUNTRY DIRECTORY

CONSTITUTIONAL DOCUMENTS AVAILABLE for  
THE REPUBLIC OF GUATEMALA

[Comparative Notes](#)

[Constitution of the Republic of Guatemala, 1985 \(as Amended to 1993\)](#)

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POLITICAL CONSTITUTION  
of the  
REPUBLIC OF GUATEMALA

Decreed by the  
NATIONAL CONSTITUENT ASSEMBLY  
May 31, 1985

As Amended By Legislative Decree No. 18-93 of 17 November 1993

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INVOKING THE NAME OF GOD,

We, the representatives of the people of Guatemala, elected freely and democratically, meeting in the National Constituent Assembly in order to organize the State juridically and legally; affirming the primacy of the human person as the subject and purpose [*fin*] of the social order; recognizing the family as the primary and fundamental genesis of the spiritual and moral values of the society and, the State, as responsible for promoting the common good, the consolidation of the regime of legality, security, justice, equality, freedom, and peace; inspired by the ideals of our history and epitomizing our traditions and cultural legacy; decided to promote the complete implementation of Human Rights within a stable,

permanent, and popular institutional order, one where the governed and the governors act with absolute loyalty to the law;

SOLEMNLY DECREE, APPROVE, AND PROMULGATE THE FOLLOWING:

## POLITICAL CONSTITUTION OF THE REPUBLIC OF GUATEMALA

### TITLE I

The Human Person, Goals, and Duties of the State

#### CHAPTER I

##### Article 1.

Protection of the Person.

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

##### Article 2.

Duties of the State.

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

### TITLE II

Human Rights

#### CHAPTER I

Individual Rights

##### Article 3.

Right to Life.

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

##### Article 4.

Liberty and Equality.

In Guatemala, all human beings are free and equal in dignity and rights. Men and women, whatever their civil status, have equal opportunities and responsibilities. No person can be subjected to servitude or other condition that undermines his dignity. Human beings must display brotherly behavior vis-à-vis each other.

##### Article 5.

Freedom of Action.

Any person has the right to do whatever the law does not prohibit; he is not obligated to obey orders not based on the law or issued according to it. Neither can he be harassed or persecuted for his opinions or for acts that do not involve violation of same.

Article 6.  
Legal Detention.

No person may be arrested or detained except for a crime or misdemeanor and by virtue of a warrant issued according to the law by a competent judicial authority. Cases of flagrante delicto or fleeing from justice are excepted. Prisoners will have to be made available to the competent judicial authority within a time limit not exceeding six hours and cannot be subject to any other authority.

The official or agent of the authority which violates what is provided in this article will be sanctioned according to the law, and the tribunals will automatically initiate the appropriate proceedings.

Article 7.  
Notification of the Cause of Detention.

Any person detained will have to be notified immediately, orally or in writing, of the cause of his detention, the authority which ordered it, and the place where he is to be held. The same notification will have to be transmitted through the most rapid means to the person whom the prisoner designates, and the authority will be responsible for the implementation of the notification.

Article 8.  
Rights of the Prisoner.

A prisoner will have to be informed immediately of his rights in a form that will be understandable, and especially so that he may secure a defender who may be present at all police and judicial proceedings. The prisoner cannot be compelled to make a declaration except before the competent judicial authority.

Article 9.  
Questions to Those Arrested or Imprisoned.

The judicial authorities are the only ones competent to question those arrested or imprisoned. This proceeding will have to be applied within a time frame not exceeding 24 hours.

Extrajudicial questions lack the force of a probationary term.

Article 10.  
Legal Detention Center.

The persons apprehended by the authority cannot be taken to places of detention, arrest, or imprisonment different from those which are legal and publicly designated for that purpose. The centers of detention, arrest, or provisional imprisonment will be different from those where the sentences are to be served.

The authority and its agents who violate the provisions in the present article will be personally responsible.

Article 11.

Detention for Faults [*faltas*] or Misdemeanors [*infracciones*].

Persons whose identity can be established through documents, the testimony of witnesses of substance [*de persona de arraigo*] or the authority itself cannot continue to be held for faults or misdemeanors.

In said cases, under the pain of corresponding sanction, the authority will limit its duty to report the evidence to the competent judge and to inform the accused so that the latter may appear before same within the subsequent legal 48 hours. For that purpose, all the days of the year are legal as are the hours between 0800 and 1800 hours.

Whoever disobeys the summons will be sanctioned according to the law. The individual who cannot be identified according to the provisions in this article will be placed at the disposition of the nearest judicial authority within an hour following his arrest.

Article 12.

Right to Defense.

The defense of the person and his rights are inviolable. No one can be sentenced or deprived of his rights without being summoned, heard, and tried in a legal procedure before a judge or a competent and pre-established court.

No person can be tried by special or secret courts nor through proceedings that are not legally pre-established.

Article 13.

Motives for a Warrant.

A warrant cannot be filed without previous information on the perpetration of a crime and without the presentation of a sufficient rational motive to believe that the detained person has committed the crime or participated in it.

The police authorities will not be able to present routinely before the media of social communication any person who has not been previously indicted by a competent court.

Article 14.

Presumption of Innocence and Publicity of the Trial.

Any person is innocent as long as he has not been declared to be judicially responsible in a sentence duly issued.

The detained, the aggrieved [*ofendido*], the Public Ministry and the lawyers who have been designated by the interested parties in oral or written form are entitled to know personally all the actions, documents, and criminal proceedings without any reservation whatever and immediately.

Article 15.

Non-retroactivity of the Law.

The law does not have retroactive effect, except in a criminal case when it favors the defendant.

Article 16.

Self-incrimination and Evidence Against Blood Relations.

In a criminal trial, no person can be obliged to incriminate himself, his spouse, or other person with whom he is legally affiliated, nor against blood relatives within the levels of law.

Article 17.

There is No Offense nor Penalty without an Earlier Law.

Those actions or omissions that are not characterized as crimes or misdemeanors [*falta*] or sanctioned by a law preceding their perpetration are not punishable.

There is no prison for debt.

Article 18.

Death Penalty.

There will be no death penalty in the following cases:

- a. Conviction based on circumstantial evidence;
- b. Women;
- c. Senior citizens above 70 years of age;
- d. Those convicted of political and common crimes connected with political matters; and
- e. Criminals whose extradition has been granted under such conditions.

All the pertinent legal recourses, including that of cassation, are admissible in any trial involving the death sentence; appeal will always be admissible for its proceedings. The sentence will be executed after all recourses will have been exhausted.

The Congress of the Republic will be able to abolish the death sentence.

Article 19.

Penal System.

The penal system will have to try to rehabilitate socially and to re-educate the prisoners and meet the following minimum norms in the treatment of the prisoners:

- a. They must be treated as human beings; they must not be discriminated against for any reason whatsoever nor have cruel treatment, physical, moral, psychic torture, duress or harassment, be inflicted on them, nor can they be made to perform work incompatible with their physical condition, actions undermining their dignity, or be subjected to extortion or scientific experimentation.

b. They must serve their sentence in places designated for that purpose. The penal centers must be civilian and have specialized personnel; and

c. They are entitled to communicate, when they so request, with their kin, defense lawyer, religious counselor, physician, and where applicable, with the diplomatic or consular representative of their own nationality.

The infraction of any of the regulations established in this article entitles the detainee to petition the State to indemnify him for the harm caused, and the Supreme Court of Justice will order his immediate protection.

The State will have to create and promote the conditions for the precise fulfillment of what is provided in this article.

#### Article 20.

##### Minors.

Minors who violate the law are not indictable. Their treatment must be directed toward an integral education proper to childhood and adolescence.

Minors whose conduct may violate criminal law will be placed in the care of specialized institutions and personnel. For no reason can they be incarcerated in penitentiaries or detention centers intended for adults. A specific law will regulate this manner.

#### Article 21.

##### Sanctions for Officials and Public Employees.

Officials, public employees, or other persons who give or execute orders against the provisions of the two articles above, in addition to the sanctions imposed on them by law will immediately be relieved of their positions if applicable and precluded from holding any position or public employment.

The guard who uses inappropriate measures or weapons against an arrested person or prisoner will be held responsible in accordance with the Criminal Code. The crime committed in such circumstances is imprescriptible.

#### Article 22.

##### Criminal and Police Records.

Criminal and police records are not a cause for persons to be restricted in the exercise of their rights which this Constitution and the laws of the Republic guarantee them, except when they are restrained by law or in a final sentence and for the time set in same.

#### Article 23.

##### Inviolability of the Home.

The home is inviolable. No one can violate [*penetrate*] someone else's dwelling without the permission of the resident living there, except by a written order of a competent judge in which the reason of the proceeding is specified and never before 0600 nor after 1800 hours.

Such a proceeding will always be carried out in the presence of the interested party or his representative.

#### Article 24.

##### Inviolability of Correspondence, Documents, and Books.

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

The books, documents and records connected with the payment of taxes, rates, charges, and levies can be revised by the competent authority in accordance with the law. To disclose the amount of taxes paid, earnings, losses, expenses, and any other data referring to audited accounts to individual or juridical persons, with the exception of general balances, whose publication is mandated by law, is punishable.

Documents or information obtained in violation of this article are not valid nor can they be used as evidence in courts.

#### Article 25.

##### Register of Persons and Vehicles.

The register of persons and vehicles can only be drawn up by units of the security forces when a justifying cause is established for it. For that purpose, the units of the security forces will have to appear wearing appropriate uniform and belong to the same sex as the subjects requisitioned, it being necessary to retain respect for the dignity, privacy and decorum of persons.

#### Article 26.

##### Freedom of Movement.

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

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

Guatemalans can enter into or exit from their country without filling the requirement of a visa.

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

#### Article 27.

##### Right of Asylum.

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

Extradition is regulated by provisions in international treaties.

The extradition of Guatemalans will not be initiated for political crimes who in no case will be handed over to a foreign government, except for what is agreed upon in treaties and conventions regarding crimes against humanity or against international law.

A political refugee will not be expelled from Guatemalan territory to the country seeking him.

Article 28.

Right of Petition.

The inhabitants of the Republic of Guatemala are entitled to direct, individually or collectively, petitions to the authority which is obliged to implement them and resolve them according to the law.

In administrative matters, the deadline for deciding on petitions and notifying resolutions cannot exceed 30 days.

In fiscal matters, to challenge administrative decisions in the proceedings that originate in exceptions or adjustments of any tax, the taxpayer will not be requested for any prior payment of tax or any guarantee whatever.

Article 29.

Free Access to Tribunals and Dependencies of the State.

Every individual has free access to tribunals, dependencies and offices of the State in order to exercise actions and claim his rights in accordance with the law.

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

The mere fact that a decision may be adverse to their interests is not to be considered as such and in any case, the legal recourses established by the Guatemalan laws must have been exhausted.

Article 30.

Publicity of Administrative Acts.

All the acts of administration are public. The interested parties are entitled to obtain at any time reports, copies, reproductions, and certifications that they request and the display of the proceedings that they may wish to consult, except when military or diplomatic matters relating to national security or information supplied by individuals under the pledge of confidence is involved.

Article 31.

Access to Archives and State Registers.

Every person has the right to know what the archives, records, or any other form of State registers contain about him and the purpose for which such data is used as well as their correction, rectification, and bringing up to date [*actualización*]. Registers and records of political affiliation, except those pertaining to the electoral authorities and political parties are prohibited.

Article 32.  
Object of Summons.

The appearance before an authority, official, or public employee is not obligatory if in the corresponding summons the purpose of the proceeding is not expressly mentioned.

Article 33.  
Right of Assembly and Demonstration.

The right of peaceful assembly without the presence of weapons is recognized.

The right of assembly and public demonstration cannot be restricted, limited, or restrained; and the law will regulate it with the sole purpose of guaranteeing the public order.

Religious processions outside churches are permitted and regulated by law.

For the exercise of these rights, prior notice by the organizers before the competent authority will suffice.

Article 34.  
Right of Association.

The right of free association is recognized.

No one is obligated to become associated or to become a member of self-defense or similar groups or associations. The case of professional associations is excepted.

Article 35.  
Freedom of Expression.

The expression of thought through any mass medium without censorship or prior permission is free. This constitutional right cannot be restrained by law or any governmental provision. Whoever enjoying this freedom should fail to respect private lives or morals will be held responsible in accordance with the law. Whoever may feel aggrieved has the right to publish his defense, clarifications, and rectifications.

Those publications which contain denunciations, criticism, or censure against officials or public employees for actions effected in the performance of their duties do not constitute a crime or misdemeanor.

The officials and public employees will be able to request that a tribunal of honor made up in the form determined by law should declare that the publication that affects them is based on inaccurate facts or that the charges made against them are unfounded. A court decision that vindicates the offended party must be published in the same medium of communication where the offensive publication appeared.

The activity of the media of communication is of public interest and in no case may the latter be expropriated. For misdemeanors or crimes regarding the freedom of expression, they cannot be closed, attached [*embargados*], interfered with, confiscated, or seized

*[decomisados]*, nor can the enterprises, plants, equipments, machinery, and gear *[enseres]* of the media of communication be interrupted in their functioning.

Access to the sources of information is free and no authority can limit this right.

The authorization, limitation or cancellation of the concessions granted by the State to persons cannot be used as elements of pressure or duress to limit the exercise of the freedom of expression.

A jury will deliberate *[conocerá]* privately over crimes and misdemeanors to which this article refers.

Everything relating to this constitutional right is regulated in the Constitutional Law of the Freedom of Expression.

The owners of the media of social communication will have to provide social and economic coverage to their reporters, through the purchase of life insurance.

Article 36.  
Freedom of Religion.

The exercise of all religions is free. Any person has the right to practice his religion or belief, both in public and in private, through education, worship, and observance, without other limits than the public order and the respect due to the dignity of the hierarchy and the faithful of other beliefs.

Article 37.  
Juridical Personality of the Churches.

The juridical personality of the Catholic Church is recognized. The other churches, faiths, entities, and associations of religious character will secure the recognition of their juridical personality in accordance with the rules of their institution, and the Government will be unable to deny it unless for reasons of public order.

The State will extend to the Catholic Church without any cost whatever titles of ownership to the real estate which it now holds peacefully for its own purposes whenever they formed part of the patrimony of the Catholic Church in the past. Property assigned to third parties nor those which the State has traditionally assigned to their services cannot be affected.

The real estate of religious entities assigned to the church, education, and social welfare enjoy exemption from taxes, assessments, and levies.

Article 38.  
Owning and Bearing of Arms.

The right to own weapons for personal use, not forbidden by law, in the person's home, is recognized. It will not be obligatory to hand them over except in cases ordered by a competent judge.

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

Article 39.  
Private Property.

Private property is guaranteed as a right inherent in the human person. Any person can freely dispose of his property according to the law.

The State guarantees the exercise of this right and will have to create those conditions that enable the owner to use and enjoy his property in such a way as to achieve individual progress and national development in the interest of all Guatemalans.

Article 40.  
Expropriation.

In specific cases, private property can be expropriated for reasons of duly proven collective utility, social benefit, or public interest. Expropriation will have to be subject to the proceedings indicated by the law, and the affected property will be appraised by experts taking its actual value into account.

Compensation will have to be made in anticipation [*ser previa*] and in legal tender, unless another form of compensation is agreed upon with the interested party.

Only in cases of war, public disaster, or serious disruption of peace can there be occupation or interference with property or expropriation without prior compensation, but the latter will have to be done immediately following the end of the emergency. The law will establish the norms to be followed with enemy property.

The form of payment of compensation for the expropriation of idle land will be determined by law. In no case will the deadline to make such payment effective exceed 10 years.

Article 41.  
Protection of the Rights of Ownership.

The right of ownership in any form cannot be restricted on account of political activity or crime. The confiscation of property and the imposition of confiscatory fines is prohibited. In no case can the fines exceed the value of the unpaid tax.

Article 42.  
The Right of the Author or Inventor.

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

Article 43.  
Freedom of Industry, Trade, and Work.

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

Article 44.  
Rights Inherent in the Human Person.

The rights and guarantees granted by the Constitution do not exclude others which, even though they are not expressly mentioned in it, inhere in the human person.

Social interest prevails over individual [*particular*] interest.

Laws and administrative directives or any other decree that reduces, restricts, or distorts the rights guaranteed by the Constitution are void ipso jure.

Article 45.  
Action Against Violators and Legitimacy of Opposition.

Action to prosecute the violators of human rights is public and can be exercised through a simple denunciation, without any guarantee or formality whatever. The opposition of the people to protect and defend the rights and guarantees granted in the Constitution is legitimate.

Article 46.  
Preeminence of International Law.

The general principle is established that in the field of human rights treaties and agreements approved and ratified by Guatemala have precedence over municipal law.

## CHAPTER II Social Rights

### SECTION ONE The Family

Article 47.  
Protection to the Family.

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

Article 48.  
De facto Unions.

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

Article 49.  
Matrimony.

The state of matrimony can be authorized by mayors, councilors, practicing notaries, and religious ministers empowered by the corresponding administrative authority.

Article 50.  
Equality among Children.

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

Article 51.  
Protection of Minors and the Elderly.

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

Article 52.  
Maternity.

Motherhood enjoys the protection of the State, over which it will watch in a special way for the strict fulfillment of the rights and obligations to be derived from it.

Article 53.  
The Disabled.

The State guarantees the protection of the disabled and of those persons who suffer from physical, psychic, or sensory limitations. Medical-social care to them as well as the promotion of policies and services that make their rehabilitation possible and their integral reincorporation in society is declared to be of national interest. The law will regulate this matter and will create the technical organisms and executors that may be necessary.

Article 54.  
Adoption.

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

Article 55.  
Obligation to Provide Food.

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

Article 56.  
Measures to Check the Causes of Family Disintegration.

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

SECTION TWO  
Culture

Article 57.  
Right to Culture.

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

Article 58.  
Cultural Identity.

The right of persons and communities to their cultural identity in keeping with their values, language, and customs is recognized.

Article 59.  
Protection and Research of the Culture.

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

Article 60.  
Cultural Heritage.

Paleontological, archeological, historical, and artistic assets and values form the cultural heritage of the Nation and are under the protection of the State. Their transfer, export, or alteration, except in cases determined by the law, are prohibited.

Article 61.  
Protection of the Cultural Heritage.

The archaeological sites, collections of monuments, and the Cultural Center of Guatemala, will receive the special attention of the State with the purpose of preserving its characteristics and defending its historic value and cultural assets. The Tikal National Park, the Archeological Park of Quirigua, and the city of Antigua Guatemala will be subject to a special conservation regime because they have been declared to be the legacy of mankind [*Patrimonio Mundial*] as well as those that receive similar recognition.

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

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

Article 63.  
Right to Creative Expression.

The State guarantees free creative expression, supports and encourages the scientist, the intellectual, and the national artist, and promotes his training and professional and financial improvement.

Article 64.  
National Heritage.

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

Article 65.  
Preservation and Promotion of Culture.

The activity of the State regarding the preservation and promotion of culture and its manifestations will be under the administration of a specific organ with its own budget.

### SECTION III Indigenous Communities

Article 66.  
Protection of Ethnic Groups.

Guatemala is made up of various ethnic groups among which are native groups of Mayan descent. The State recognizes, respects, and promotes their form of life, customs, traditions, forms of social organization, the wearing of Indian dress by men and women, their languages, and dialects.

Article 67.  
Protection of Indigenous Agricultural Lands and Cooperatives.

The lands of the cooperatives, native communities, or any other forms of communal possession or collective of agrarian ownership, as well as the family heritage and popular housing will enjoy the special protection of the State, preferential credit and technical assistance, which may guarantee their ownership and development in order to insure an improved quality of life to all inhabitants.

The indigenous communities and others which may own land that historically belongs to them and which they have traditionally administered in special form will maintain that system.

Article 68.  
Lands for Indigenous Communities.

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

Article 69.  
Transfer of Workers and their Protection.

Work operations that involve the transfer of workers outside of their communities will be the object of protection and legislation that may assure adequate conditions of health, security, and social planning preventing the payment of wages not adjusted to the law, the disintegration of those communities, and generally all discriminatory treatment.

Article 70.  
Specific Law.

A law will regulate matters relating to this section.

#### SECTION IV Education

Article 71.  
Right to Education.

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

Article 72.  
Goals of Education.

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

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

Article 73.  
Freedom of Education and State Economic Assistance.

The family is the source of education and parents are entitled to choose what is to be taught to their minor children. The State will be able to subsidize free private educational centers and the law will regulate issues relating to this matter. Private educational centers will operate under the inspection of the State. They are obligated to fill, at least, official study plans and programs. As cultural centers they will be exempted from all types of taxes and customs duties.

Religious education is optional in public schools and can be given during regular hours without any discrimination.

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

Article 74.  
Obligatory Education.

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

Education provided by the State is free.

The State will provide and promote scholarships and educational credits.

Scientific education, technology, and the humanities represent goals that the State will have to guide and develop on a permanent basis.

The State will promote special education, diversified education and education outside of school.

Article 75.  
Improved Literacy.

Improved literacy is declared to be of national urgency and it is a social obligation to contribute to it. The State will organize it and promote it with all necessary resources.

Article 76.  
Educational System and Bilingual Education.

The administration of the educational system will have to be decentralized and regionalized.

In the schools established in regions with a predominantly indigenous population, education will have to be provided preferentially in bilingual form.

Article 77.  
Obligations of Business Owners.

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

Article 78.  
Teaching Faculty.

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

The rights acquired by the national teaching faculty are minimal and cannot be renounced. The law will regulate these matters.

Article 79.  
Agricultural Education.

Agricultural education, apprenticeship, exploitation, marketing, and the industrialization of agricultural and livestock processing is declared to be of national interest. The National Central School of Agriculture is created as an autonomous decentralized entity with a juridical

personality and its own customs; it should organize, direct, and develop plans of agricultural, livestock, and forestry study of the nation at the intermediate level; and it will be regulated by its own organic law, an amount no less than five percent of the regular budget of the Ministry of Agriculture to be allocated to it.

Article 80.

Promotion of Science and Technology.

The State recognizes and promotes science and technology as fundamental bases of national development. The law will regulate the appropriate standards.

Article 81.

Titles and Diplomas.

Titles and diplomas whose issuance is the responsibility of the State will have full legal validity. The rights acquired for the exercise of the occupations accredited by said titles must be respected, and no provisions of any kind may be issued limiting or restricting these rights.

## SECTION V

### Universities

Article 82.

Autonomy of the University of San Carlos de Guatemala.

The University of San Carlos de Guatemala is an autonomous institution with juridical personality. As the only State university it alone directs, organizes, and develops the higher education and the professional university education of the State as well as the diffusion of culture in all its manifestations. It will promote by every means within its power research in every area of human knowledge and will cooperate in the study and solution of national problems.

It is guided by its Organic Law and by the bylaws and regulations it issues, which it shall observe in the structure [*conformación*] of its directive organs, the principle of representation of its titled professors, graduates and students.

Article 83.

Administration of the University of San Carlos de Guatemala.

The administration of the University of San Carlos de Guatemala corresponds to the Higher University Council consisting of the rector who chairs it; the deans of the faculties; a representative of the professional association, graduated from the University of San Carlos de Guatemala, representing each faculty; a full professor; and a student for each faculty.

Article 84.

Budgetary Allocation for University of San Carlos de Guatemala.

The University of San Carlos de Guatemala is entitled to a specific budgetary allocation representing no less than five percent of the General State Budget of Ordinary Revenues, which should generate an adequate budgetary increase sufficient to cover the growth in the student population or the improvement of the academic level.

Article 85.  
Private Universities.

The private universities which are independent institutions should organize and develop the private higher education of the Nation with the purpose of promoting professional training, scientific research, cultural diffusion, and the study and solution of national problems.

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

Article 86.  
Council of Higher Private Education.

The Council of Higher Private Education will have as its functions to see to it that the academic level in private universities is maintained without undermining their independence and to authorize the creation of new universities; it is to be made up of two delegates from the University of San Carlos de Guatemala, two delegates from the private universities, and one delegate elected by the presidents of the professional colleges and who holds no position whatever in any university.

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

Article 87.  
Recognition of Degrees, Titles, Diplomas, and Credentials.

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

The University of San Carlos de Guatemala is the only one entitled to pass on the credentials of professionals graduated from foreign universities and to set the preliminary requirements which have to be fulfilled for the purpose, as well as to recognize university-level titles and diplomas protected by international treaties. The titles granted by Central American universities will have complete validity in Guatemala when the basic centralization of study plans are met.

Legal provisions granting privileges to the detriment of those exercising a titled profession or already approved legally to exercise it cannot be passed.

Article 88.  
Tax Exemptions and Deductions.

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

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

The State can provide economic assistance to private universities for the fulfillment of its own ends.

The University of San Carlos de Guatemala and the private universities cannot be the objects of lawsuits or interfered with, except in those cases where the private universities assume obligations through civil, mercantile, or labor contracts.

Article 89.

Granting of Degrees, Titles, and Diplomas.

Only those universities that are legally authorized can grant degrees and issue titles and graduation diplomas in higher education.

Article 90.

Professional Association.

Membership in the association of university professionals is mandatory and will have as its purpose the moral, scientific, technical, and material improvement of the university professions and the control of their exercise.

The professional associations, as trade unions with a juridical character, will operate in accordance with the Law of Professional Association, and the bylaws of each association will be approved with the independence of the universities from which its members have graduated.

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

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

## SECTION VI

### Sports

Article 91.

Budgetary Allocation for Sports.

It is the duty of the State to encourage and promote physical education and sports. For that purpose a specific allocation no smaller than three percent of the State's General Ordinary Revenues Budget will be set. Of this amount, 50 percent will be earmarked to the federated sports sector through its administrative organs in the form established by law; 25 percent to physical education, leisure, and school sports; and 25 percent to unfederated sports.

Article 92.

Sports Autonomy.

The autonomy of federated sports is recognized and guaranteed through its administrative organs, the Autonomous Sports Confederation of Guatemala and the Guatemalan Olympic

Committee, which have a juridical character and their own heritage, being exempt from all types of taxes and assessments.

## SECTION VII Health, Security, and Social Assistance

### Article 93. Right to Health.

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

### Article 94. Obligation of the State Regarding Health and Social Assistance.

The State will see to the health and social assistance of all its inhabitants. It will develop through its institutions preventive measures, promotion, recuperation, rehabilitation, coordination, and appropriate auxiliary measures in order to procure for them the most complete physical, mental, and social well-being.

### Article 95. Health, a Public Asset.

The health of the inhabitants of the Nation is a public asset. All persons and institutions are obliged to see to its conservation and restoration.

### Article 96. Quality Control of Products.

The State will control the quality of food products, pharmaceuticals, chemicals, and of everything that can affect the health and well-being of its inhabitants. It will see to the establishment and programming of priorities to health and the improvement of the conditions of the basic environmental guarantee of the communities that are least protected.

### Article 97. Environment and Ecological Balance.

The State, the municipalities, and the inhabitants of the national territory are obliged to promote social, economic, and technological development that would prevent the contamination of the environment and maintain the ecological balance. It will issue all the necessary regulations to guarantee that the use of the fauna, flora, land, and water may be realized rationally, obviating their depredation.

### Article 98. Community Participation in Health Programs.

The communities are entitled and have the obligation to actively participate in the planning, execution, and evaluation of health programs.

### Article 99. Feeding and Nutrition.

The State will see to it that the food and nutrition of the population meet the minimum health requirements. The specialized institutions of the State will have to coordinate their actions among themselves or with international organizations dedicated to public health to achieve an effective national food delivery system.

Article 100.  
Social Security.

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

The State, the employers, and the workers covered by the system, with the sole exception of what is provided in Article 88 of this Constitution, have the obligation to help finance said system and the right to participate in its management, achieving its progressive improvement.

The application of the system of social security is the responsibility of the Guatemalan Social Security Institute, which is an autonomous entity with a juridical character, patrimony, and its own functions; it enjoys a total exemption from taxes, levies and assessments, whether established or to be established. The Guatemalan Social Security Institute must cooperate with the public health institutions in coordinated manner.

The Executive Organism will allocate annually in the Budget of Revenues and Expenditures of the State a specific portion to cover the share that pertains to the State as such and as an employer, which cannot be transferred or canceled during the fiscal year and will be set in accordance with the technical actuarial studies of the Institute.

Against the resolutions decreed in this respect, administrative and contentious-administrative recourse in accordance with the law are in effect. When services that the system must provide are involved, the labor and social insurance tribunals will be competent.

## SECTION VIII Work

Article 101.  
Right to Work.

Work is a right and a social obligation of the individual. The labor system of the country must be organized in accordance with the principles of social justice.

Article 102.  
Minimal Social Rights of Labor Legislation.

Minimal social rights form the basis of work and the activity of courts and authorities:

- a. Right to the free choice of work and satisfactory economic conditions guaranteeing a dignified existence to the worker and his family;
- b. All work will be fairly remunerated, except when the law determines otherwise;

- c. Equal wages for equal work performed under equal conditions, productivity, and seniority;
- d. Obligations to pay the worker in legal tender. However, an agricultural worker can receive according to his choice food products up to 30 percent of his wages. In this case the employer will provide these in-kind products at a price no higher than their cost;
- e. Freedom from lien on wages in cases determined by law. Personal work implements cannot be subject to a lien for any reason. However, for the protection of the worker's family and by judicial order, it will be possible to retain and pay part of the wages to the claimant;
- f. Periodic fixing of the minimal wage in accordance with the law;
- g. The ordinary applicable workday cannot exceed eight hours of work a day or forty-four hours a week, equivalent to forty-eight hours for the exclusive purpose of the payment of wages. The ordinary applicable workday on the night shift cannot exceed six hours a day or thirty-six hours a week. The applicable mixed-shift workday cannot exceed seven hours a day or forty-two hours a week. Any work actually performed outside ordinary working hours constitutes overtime work and must be remunerated as such. The law will determine the very restricted emergency situations where the provisions relative to workdays are not applicable.

Whoever by provision of the law, custom, or agreement with employers works less than forty-four hours a week, thirty-six hours in night work, or forty-two hours in mixed-schedule workdays will be entitled to collect an integral weekly wage.

Effective work means the entire time that the worker remains under the orders or at the disposal of his employer;

- h. Right of the worker to a day of paid rest for each ordinary work week or for any six consecutive workdays. Holidays recognized by law will also be remunerated;
- i. Right of the worker to fifteen working days of paid vacation after each year of continuous service, with the exception of agricultural enterprise workers who will have the right to ten working days of vacation. Vacations will have to be effective and the employer cannot compensate such right in a different form, except when the employee is separated from his job;
- j. Obligation of the employer to grant every year a Christmas bonus representing no less than an entire month's pay or whatever is determined should the bonus be larger to those workers who may have worked for an uninterrupted year prior to the date of the payment. The law will regulate the form of pay. Those workers with less than one year's service will receive such Christmas bonus prorated to the time they have worked;
- k. Protection of the working woman and regulation of the conditions under which she must work.

There should be no distinctions made between married and single women in terms of work. The law will regulate the protection of the working woman's maternity rights and from whom no work should be demanded that may require an effort putting her pregnancy into jeopardy. The working mother will enjoy a rest period paid on the basis of 100 percent of her salary during the thirty days prior to delivery and the subsequent forty-five days. During the time she

is nursing her infant she will be entitled to two periods of special rest during her workday. Prenatal and postnatal rest periods will be expanded according to a woman's physical condition on the basis of a medical prescription;

l. Minors under fourteen years of age cannot be employed in any type of work, with the exceptions established by the law. It is forbidden to employ minors in work incompatible with their physical capacity or that endanger their moral formation.

Workers older than sixty years of age will be the object of treatment adequate to their age;

m. Protection and promotion of work for the blind, the disabled, and individuals with physical, psychic, or nervous handicaps.

n. Preference to Guatemalan workers over foreigners in similar conditions and in the percentages determined by law. In comparable circumstances, no Guatemalan worker can earn a lesser wage than a foreigner, be subjected to inferior conditions of employment, or obtain lesser economic benefits or other services;

ñ. Fixing of the standards of mandatory performance for employers and employees in individual and collective labor contracts. Employers and employees will strive for the economic development of their enterprise for their common benefit;

o. Obligation of the employer to pay indemnity of a month's wage for each year of continuous service when he lays off without justification or indirectly a worker as long as the law does not establish another more convenient system that would provide the worker with better compensation.

For the purpose of computing continuous service the date when the work relation will have been established, whatever the latter may be, will be taken into account;

p. It is the obligation of the employer to provide to the spouse or partner, the minor children, or disabled relatives of a worker who may die while in his service payment equivalent to a month's wage for each year worked. This compensation will be made in monthly payments and its amount will not be less than the latest wage received by the worker.

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

q. Right of free trade unionization of the workers. This right can be exercised without any discrimination and without being subject to previous authorization whatever, it being merely necessary to fulfill the requirements established by the law. The workers cannot be dismissed for participating in the establishment of a trade union since they enjoy such a right from the time that they notify the General Inspectorate of Labor.

Only Guatemalans by birth can become involved in the organization, management, and advising of trade unions. The cases of technical assistance by the government and what is provided in international treaties or intersyndical conventions authorized by the Executive Organism are excepted;

r. The establishment of economic institutions and social provisions which, benefitting the workers, provide services of all types, especially for disability, retirement, and survivors' benefits;

s. If the employer should not be able to prove a reasonable cause for the dismissal, he must pay the worker to compensate for damage and inconvenience a month's wage if the case should be settled in a court of first instance, two months' wages if the sentence is appealed, and if the legal process should last longer than two months the employer will have to pay fifty percent of the worker's wage for each month beyond that deadline, up to a maximum of six months in this case; and

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

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

#### Article 103.

##### Protection of the Labor Laws.

The laws which regulate the relations between employers and workers are conciliatory, protective for the workers, and will involve all the pertinent economic and social factors. For agricultural work, the law will especially take into account their needs and the areas where the work is performed.

All disputes relative to work are the subject of specific [*privativa*] jurisdiction. The law will establish the norms corresponding to that jurisdiction and the organs charged with putting them into practice.

#### Article 104.

##### Right of Strike and to Work Stoppage.

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

#### Article 105.

##### Workers' Housing.

Through specific entities, the State will support the planning and construction of housing projects, establishing adequate systems of financing that would make it possible to involve the different programs so that the workers may opt for adequate housing and meet health requirements.

The proprietors of enterprises are obliged to make available to their workers in cases established by law the housing units that meet the above-mentioned requirements.

#### Article 106.

##### Irrenunciability of Labor Rights.

The rights assigned in this section are irrenunciabile for the workers but can be improved through individual or collective bargaining and in the form set by the law. For this purpose the State will encourage and protect collective bargaining. Provisions that call for the renunciation, reduction, distortion, or limitation of rights recognized for the workers in the Constitution, in the law, in international treaties ratified by Guatemala, in regulations or other provisions relating to work will be void ipso jure and will not obligate the workers even though they may be included in a collective or individual labor contract or other document.

In case of doubt on the interpretation or scope of legal provisions, regulations, or contracts in labor matters, the provisions will be interpreted in the manner most favorable for the workers.

## SECTION IX Workers of the State

Article 107.  
Workers of the State.

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

Article 108.  
Regime of State Workers.

The relations of the State or its decentralized or autonomous entities with its workers are regulated by the Law of the Civil Service, with the exception of those regulated by the laws or provisions of said entities themselves.

The workers of the State or of its decentralized or autonomous entities which by law or custom receive budgetary appropriations exceeding those established in the Law of the Civil Service will retain that preferential treatment.

Article 109.  
Payroll Workers.

The workers of the State and their decentralized or autonomous entities remunerated from payroll will receive comparable wages, services, and rights to the other workers of the State.

Article 110.  
Indemnification.

When workers of the State are dismissed without reasonable cause they will receive the equivalent of a month's wage for each year of continuous service. In no case will this right exceed ten months' wages.

Article 111.  
Regime of Decentralized Entities.

The decentralized entities of the State, which perform economic functions similar to private enterprises, will be regulated in their working relations with the personnel at their service by the ordinary labor laws as long as other acquired rights are not diminished.

Article 112.

Prohibition of Holding More Than One Public Position.

No individual may hold more than one position or remunerated public employment, with the exception of those who provide services in educational centers or social welfare institutions and as long as the schedules are compatible.

Article 113.

Right to Opt for Public Position or Employment.

Guatemalans have the right to opt for public employment or jobs, and for securing them only capability, fitness, and honesty will be taken into account.

Article 114.

Revision of Retirement Benefits.

When a worker of the State benefitting from retirement returns to public employment, said retirement will halt immediately. However, on ending the new work relationship he has the right to opt for the revision of the procedure relating to the benefit consequent on the time served and the final wage received during the period of renewed employment.

Depending on the possibilities of the State, and the amounts allocated to retirement, pensions, and widows' and orphans' funds can be revised periodically.

Article 115.

Free Coverage by the Guatemalan Social Security Institute to Retirees.

Individuals who enjoy retirement, pension, or widows' and orphans' payments of the State or autonomous and decentralized entities are entitled to receive free of charge complete coverage of medical services by the Guatemalan Social Security Institute.

Article 116.

Regulation of the Strike for Workers of the State.

The associations, groupings, and trade unions formed by the workers of the State and its decentralized and autonomous entities cannot participate in partisan political activities.

The right of the workers of the State or its decentralized and autonomous entities to strike is recognized. This right can be exercised exclusively in the form provided by the law in the matter and in no case can it affect the quality of essential public services.

Article 117.

Option to the Regime of Pensioners.

The workers of the decentralized or autonomous entities who are not subject to deductions for the pensioners' fund nor enjoy the corresponding benefits will be able to resort to this regime, and in such a case the respective agency will have to accept the solicitude of the interested party and order the one responsible to make the corresponding deductions.

SECTION X  
Economic and Social Regime

Article 118.  
Principles of the Economic and Social Regime.

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

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

Should it be necessary, the State will act by complementing private initiative and activity for the achievement of the stated purposes.

Article 119.  
Obligations of the State.

The following are basic obligations of the State:

- a. To promote the economic development of the Nation, stimulating initiative in agricultural, livestock, industrial, tourist, and other types of activity.
- b. To promote systematically administrative economic decentralization to achieve the adequate regional development of the country;
- c. To adopt the means that may be necessary for the conservation, development and exploitation of natural resources in efficient form;
- d. To see to the raising of the standard of living of all of the inhabitants of the country, securing the well-being of the family;
- e. To promote and protect the creation and operation of cooperatives, giving them the necessary technical and financial aid;
- f. To grant incentives according to the law to industrial enterprises that may be established in the interior of the Republic and which contribute to decentralization;
- g. To promote on a priority basis the construction of popular housing through systems of financing so that a larger number of Guatemalan families can benefit from the property [*disfruten en propiedad*]. When resulting or cooperatively-held housing is involved, the system of land tenure may be different;
- h. To prevent the functioning of excessive practices leading to the concentration of assets and means of production at the expense [*en detrimento*] of the collectivity;
- i. The protection of consumers and users when it comes to protecting the quality of domestic and export consumer products to guarantee their health, security, and legitimate economic interests;

- j. To actively promote programs of rural development that tend to increase and diversify national production based on private property and the protection of family property. The peasant and artisan are entitled to receive technical and economic assistance;
- k. To protect the formation of capital, savings and investment;
- l. To promote the ordered and efficient development of the domestic and foreign trade of the country, fomenting markets for national products;
- m. To maintain within the framework of economic policy an appropriate relationship between public spending and national production; and
- n. To create conditions adequate to promote the investment of national and foreign capital.

#### Article 120.

##### Role of Enterprises that Provide Public Services.

In case of force majeure and for the strictly necessary time period, the State may intervene in enterprises that provide essential public services for the community should their operations be obstructed.

#### Article 121.

##### Assets of the State.

The following are assets of the State:

- a. Public land;
- b. The waters of the maritime zone that border the shores of its territory, the lakes, navigable rivers and their banks, secondary rivers, springs, and streams that delimit the international borders of the Republic, the waterfalls and headwaters to generate hydroelectric power, underground waters and others that are susceptible to regulation by law, and the waters not used by private parties to the extent and limit set by law.
- c. Those which constitute the resources of the State, including those of the city and of the decentralized or autonomous entities;
- d. The land maritime zone, the continental shelf and air space in the extension and form determined by the laws or international treaties ratified by Guatemala;
- e. The subsoil, hydrocarbon and mineral deposits, as well as any other organic or inorganic substances of the subsoil;
- f. Archeological monuments and relics;
- g. Fiscal and municipal revenues as well as those of a private character which the laws assign to the decentralized and autonomous entities; and
- h. Radio [*radioeléctricas*] frequencies.

Article 122.

Territorial Reserves of the State.

The State reserves for itself jurisdiction over a strip of land three kilometers in width along the ocean fronts, computed from the tidal, high-water mark; of 200 meters width around the shores of lakes; of 100 meters on each bank of navigable rivers; and of 50 meters around sources and springs supplying water to populated places.

The following are excepted from the stated reserves:

- a. Real estate located in urban areas; and
- b. Assets over which certain claims attach as noted in the Land Registry prior to March 1, 1956.

Foreigners will need authorization from the Executive to acquire by way of property real estate included in the exception of the two categories mentioned above. When what are involved are properties declared as national monuments or when they are located among a set of monuments, the State will enjoy preferential right in any transfer of property.

Article 123.

Limitations in the Border Strips.

Only Guatemalans of origin, or communities whose members possess the same quality will be able to own and possess real estate in a strip 15 kilometers wide along the borders, measured from the dividing line. Urban property and property whose title was registered prior to March 1, 1956, are excepted.

Article 124.

Transfer of National Property.

National property can only be transferred in the form determined by law, which will fix the limitations and formalities to which the operation and its fiscal purposes must be subjected.

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

Article 125.

Exploitation of Natural Non-renewable Resources.

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

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

Article 126.

Reforestation.

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

The forest and vegetation on the banks of rivers and lakes and in the vicinity of water fountains will enjoy special protection.

Article 127.  
Water Regime.

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

Article 128.  
Exploitation of Waters, Lakes, and Rivers.

The exploitation of the waters of lakes and rivers for agricultural, livestock, tourism, or any other purpose contributing to the development of the national economy is at the service of the community rather than of any specific individual, but the users are obliged to reforest the banks and corresponding trenches as well as to facilitate access roads.

Article 129.  
Electrification.

The electrification of the country based on plans formulated by the State and the municipalities and in which the private sector can participate is declared to be a matter of national urgency.

Article 130.  
Prohibition of Monopolies.

Monopolies and privileges are prohibited. The State will limit the operation of enterprises that absorb or tend to absorb, at the expense of the national economy, production in one or another industrial branch or of an entire commercial or agricultural-livestock activity. The laws will determine that which is relative to this matter. The State will protect the market economy and prevent those associations which tend to restrict market freedom or to cause prejudice to consumers.

Article 131.  
Commercial Service Transportation.

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

The land, air, and commercial port terminals are considered to be property of common public use and, like the transportation services, continue to be exclusively subject to the jurisdiction of the civilian authorities. The use of vessels, vehicles, and terminals, property of government agencies or of the National Force, for commercial purposes is prohibited. This provision is not applicable to those decentralized State entities that provide transportation services.

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

#### Article 132. Currency.

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

The Monetary Board is composed of the following members.

- a. The President, who will also be the president of the Bank of Guatemala and who is appointed by the President of the Republic for a period established by law;
- b. The Ministers of Public Finance, Economy and Agriculture, Livestock and Food;
- c. A member elected by the Congress of the Republic;
- d. A member elected by the business, industrial, and agricultural associations;
- e. A member elected by the chairmen of the boards of directors or executive boards of the private national banks; and
- f. A member elected by the Higher Council of the University of San Carlos de Guatemala.

These last three members will hold their positions for a year.

All the members of the Monetary Board will have alternates, except the President, who will be replaced by the Vice President and the Ministers of State, who will in turn be replaced by their own respective deputy ministers.

The Vice President of the Monetary Board and the Bank of Guatemala, who will also be appointed by the President of the Republic, will be able to attend the meetings of the Monetary Board together with the President, to participate in discussions but without a vote, except when he replaces the President in his functions, in which case he will be entitled to vote.

The President, Vice President and those appointed by the Higher University Council and the Congress of the Republic will have to be individuals of recognized integrity and notable background and competence in economic and financial matters.

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

Article 133.  
Monetary Board.

The Monetary Board will be responsible for determining the monetary, exchange and credit policy of the country and will see to the liquidity and solvency of the national banking system, insuring the stability and strengthening of the national savings.

To the end of guaranteeing the monetary, exchange and credit stability of the country, the Monetary Board shall not be able to authorize direct or indirect financing, guarantee or guarantor's signature by the Bank of Guatemala for the State, its decentralized or autonomous entities, nor the private entities that are not involved in banking. To this same end, the Bank of Guatemala cannot acquire the values issued or negotiated in the primary market by these entities. The financing that can be conceded in cases of catastrophes or public disasters is exempt from these prohibitions, given that this is approved by two-thirds of the total number of deputies that make up the Congress upon the request of the President of the Republic.

The Office of the Superintendent of the Banks, organized according to law, is the organ that will supervise and inspect banks, credit institutions, financial enterprises, financing and insurance entities, and the others provided by law.

Article 134.  
Decentralization and Autonomy.

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

Autonomy, outside of the special cases contemplated in the Constitution of the Republic, will be granted exclusively when it is deemed indispensable for the greater efficiency of the entity and the most effective accomplishment of its goals. In order to create decentralized and autonomous entities, the favorable vote of two-thirds of the Congress of the Republic will be necessary.

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

- a. To coordinate its policy with the general policy of the State and, where appropriate, with the special policy of the appropriate department;
- b. To maintain close coordination with the planning organ of the State;
- c. To transmit to the Executive Organism and to the Congress of the Republic for information purposes its detailed ordinary and special budgets with the expression of programs, projects, activities, revenues, and expenditures. The University of San Carlos de Guatemala is excepted.

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

d. To transmit to the same organs the minutes relating to its actions and the specific reports requested of them, the confidential nature of the operations of the particulars in banks and financial institutions in general being protected;

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

f. In all activities of an international nature, to be subjected to the policy outlined by the Executive Organism.

When the functioning of a decentralized entity will be considered inapplicable, it will be eliminated by the favorable vote of two-thirds of Congress of the Republic.

### CHAPTER III Civic and Political Duties and Rights

#### Article 135. Civic Duties and Rights.

Besides those rights and duties assigned to other provisions of the Constitution and laws of the Republic, the following are rights and duties of the Guatemalan citizens:

- a. To serve and defend the homeland;
- b. To fulfill their obligations and see to the implementation of the Constitution of the Republic;
- c. To strive for the civic, cultural, moral, economic, and social development of Guatemalans;
- d. To contribute to public expenditures in the form prescribed by law;
- e. To obey laws;
- f. To maintain appropriate respect for the authorities; and
- g. To perform military and social service in accordance with the law.

#### Article 136. Political Duties and Rights.

The following are rights and duties of the citizens:

- a. To be included in the Register of Citizens;
- b. To vote and be elected;
- c. To see to the freedom and effectiveness of the vote and the integrity of the electoral process;

- d. To select public employment;
- e. To participate in political activities; and
- f. To defend the principle of the alternation in office rather than the re-election of the President of the Republic.

Article 137.

Right of Petition in Political Matters.

The right of petition in political matters belongs exclusively to Guatemalans.

Any petition in this matter will have to be resolved and the party notified within a period not exceeding eight days. If the authority should not act within that deadline, the petition will be considered to have been denied and the interested party will then have the right to resort to the courts.

#### CHAPTER IV

##### Limitation of Constitutional Rights

Article 138.

Limitation of Constitutional Rights.

It is the obligation of the State and the authorities to insure to the inhabitants of the Nation the complete enjoyment of their rights guaranteed by the Constitution. However, in case of invasion of the territory, serious disturbance of the peace, activities against the security of the State, or public calamity, the State can suspend the full applicability of the rights referred to in Articles 5, 6, 9, 26, 33, paragraph 1 of Article 35, paragraph 2 of Article 38 and paragraph 2 of Article 116.

On determining the existence of any of the situations indicated in the paragraph above, the President of the Republic will make the appropriate declaration by means of a decree dictated by the Council of Ministers and the provisions of the Law of Public Order will apply. In a state of prevention [*estado de prevención*], such a formality will not be necessary.

The decree will specify:

- a. The causes that justify it;
- b. The rights that cannot be fully upheld;
- c. The territory affected; and
- d. The time of its applicability.

Furthermore, the decree itself will summon the Congress so that, within three days, it may take cognizance of the document, ratify it, amend it, or disapprove it.

Should the Congress be in session, it should take cognizance of it immediately. The effects of the decree cannot exceed thirty days on each occasion. If before the expiration of this deadline

the causes motivating the decree should no longer apply, its effects will be terminated for this reason and any citizen will have the right to seek its amendment. Should the 30-day deadline be reached, the full restoration of rights will automatically occur unless a new decree in the same sense is ordered. Should Guatemala face an actual state of war, the decree will not be subject to the time limits mentioned in the previous paragraph.

Once the causes that motivated the decree referred to in this article should no longer apply, any individual will have the right to infer the legal responsibilities consequent on the situation on account of the unnecessary acts and measures unauthorized by the Law of Public Order.

Article 139.

Law of Public Order and States of Emergency.

All matters relative to this subject are regulated in the Constitutional Law of Public Order.

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

The Law of Public Order will establish the means and rights consequent on it in accordance with the following order:

- a. State of prevention;
- b. State of alarm;
- c. State of public disaster;
- d. State of siege; and
- e. State of war.

### TITLE III

#### The State

#### CHAPTER I

Article 140.

State of Guatemala.

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

Article 141.

Sovereignty.

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

Article 142.  
Concerning Sovereignty and Territory.

The State exercises full sovereignty over the following:

- a. The national territory made up of its soil, subsoil, internal waters, and territorial sea to the extent fixed by law and the airspace over the same;
- b. The zone contiguous to the sea adjacent to the territorial sea for the exercise of specific activities recognized by international law; and
- c. The natural and living resources of the seabed and ocean subsoil and those existing in the waters adjacent to the coast outside of the territorial sea and which constitute the exclusive economic zone to the extent fixed by law, in accordance with international practice.

Article 143.  
Official Language.

The official language of Guatemala is Spanish. Vernaculars form part of the cultural heritage of the Nation.

## CHAPTER II Nationality and Citizenship

Article 144.  
Nationality of Origin.

Those born in the territory of the Republic of Guatemala, Guatemalan vessels, and aircraft, and the children of a Guatemalan father or mother born abroad are considered native Guatemalans. The offspring of diplomatic officials and of those who perform legally comparable duties are excepted. No native Guatemalan may be deprived of his citizenship.

Article 145.  
Citizenship of Central Americans.

Also to be considered native Guatemalans are born nationals of the republics making up the Central American Federation if they establish their domicile in Guatemala and declare before the competent authorities their wish to become Guatemalan citizens. In such a case they can retain their citizenship of origin without prejudice to what is established in Central American treaties or agreements.

Article 146.  
Naturalization.

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

Naturalized Guatemalans have the same rights as native Guatemalans, except for the limitations established in this Constitution.

Article 147.  
Citizenship.

Guatemalans above 18 years of age are Guatemalan citizens. Citizens will not have more limitations imposed on them than those established by this Constitution and the law.

Article 148.  
Suspension, Loss, and Retrieval of Citizenship.

Citizenship may be suspended, lost, and retrieved in accordance with the provisions of the law.

CHAPTER III  
International Relations of the State

Article 149.  
Concerning International Relations.

Guatemala will regulate its relations with other States in accordance with the international principles, rules, and practices with the purpose of contributing to the maintenance of peace and freedom with respect to and in defense of human rights, the strengthening of the democratic processes and international institutions that may guarantee the mutual and equitable interest between the States.

Article 150.  
Concerning the Central American Community.

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

Article 151.  
Relations with Allied States.

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

TITLE IV  
Public Power

CHAPTER I  
Exercise of Public Power

Article 152.  
Public Power.

Power emanates from the people. Its exercise is subject to the limitations noted by this Constitution and the law.

No person, sector of the public, armed or political force may arrogate its exercise.

Article 153.  
The Rule of Law.

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

Article 154.  
Public Function; Subjection to the Law.

Officials are depositories of authority, legally responsible for their official conduct, subject to the law and never above it.

Officials and public employees are at the service of the State rather than of a political party.

The public function cannot be delegated, except in the cases noted by law, and it cannot be exercised without a previous oath to uphold the Constitution.

Article 155.  
Responsibility for Violating the Law.

When a dignitary, official, or worker of the State, in the exercise of his duties, violates the law at the expense of individuals [*particulares*], the State or the State institution which he serves will jointly be responsible for the damage or prejudice that may have been caused.

The civil responsibility of officials and public employees can be deducted while prescription, whose term is 20 years, is not consummated.

Criminal responsibility terminates in this case after the passage of twice the duration noted by the law for the prescription of the penalty.

Neither Guatemalans nor foreigners can claim from the State indemnification for the damage or prejudice caused by the movement of armed forces or civilian disturbance.

Article 156.  
Lack of Force of Illegal Orders.

No official or public employee, civilian or military, is obliged to perform manifestly illegal orders or those which involve the commission of an offense.

CHAPTER II  
The Legislative Organism

SECTION I  
The Congress

Article 157.

Legislative Power and the Composition of the Congress of the Republic.

Legislative power belongs to the Congress of the Republic made up of deputies elected directly by the people in universal and secret suffrage through the national list and electoral district system for a period of four years, allowing for reelection.

Each one of the Departments of the Republic constitutes an electoral district. The Municipality of Guatemala forms the central district and the other Municipalities of the department of Guatemala constitute the district of Guatemala. Each electoral district shall elect itself a minimum of one deputy. The law establishes the number of deputies that correspond to each district according to its population. A number equivalent to twenty-five percent of the district deputies shall be directly elected as deputies by national list.

In case of the definitive fault [*falta*] of a deputy the post shall be declared vacant. Vacancies shall be filled, according to the case, by calling the postulate that appears in the respective district list of candidates or national list immediately after the last post awarded.

Article 158.

Sessions of Congress.

The annual period of sessions of the Congress is initiated the fourteenth of January of each year without necessity of convocation. The Congress meets in ordinary sessions of the fourteenth of January to the fifteenth of May and of the first of August to the thirteenth of November of each year. It meets in extraordinary sessions when it is convoked by the Permanent Commission or by the Executive Organism to take cognizance of the matters [*assuntos*] that motivated the convocation. It shall take cognizance of other matters [*matieras*] with the favorable vote of the absolute majority of the total of the Deputies which compose it. Twenty-five percent of the Deputies or more have the right to demand [*depedir*] to the Permanent Commission the convocation of the Congress for sufficient reasons of necessity or public convenience. If it is solicited by at least half plus one of the total of Deputies, the Permanent Commission shall proceed immediately to the convocation.

Article 159.

Majority for Resolutions.

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

Article 160.

Authorization to Deputies to Perform Other Duties.

A deputy can hold the position of minister or official of the State or any other decentralized or autonomous entity. In these cases permission must be granted to him for the period that his executive responsibilities last. During his temporary absence, one shall proceed in conformity with the last paragraph of Article 157.

Article 161.

Prerogatives of Deputies.

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

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

b. They cannot be held responsible for their opinions, initiative, and the manner of handling public business in the performance of their work [*cargo*]. All the dependencies of the State have the obligation to show deputies the consideration attaching to their high position. These prerogatives do not authorize arbitrariness, excess of personal initiative, or any type of action tending to undermine the principle of no reelection for the exercise of the Presidency of the Republic. Only the Congress will be competent to judge and determine if there has been arbitrariness or excess and to impose the appropriate disciplinary sanctions.

Considering the declaration to which paragraph (a) in this article refers, those accused are subject to the jurisdiction of the competent judge. If he should decree provisional imprisonment for them, they shall be suspended from their functions as long as the incarceration decree is not revoked. In the case of firm condemnatory sentence, it shall remain vacant.

Article 162.

Qualifications for the Position of Deputy.

To be elected deputy the candidate has to be a native Guatemalan and enjoy the use of his citizen rights.

Article 163.

Directorate and Permanent Committee.

Each year the Congress will elect its Directorate [*Junta Directiva*]. Before closing its period of ordinary sessions the Congress will elect its Permanent Committee, presided over by the President of the Congress, that will function while the Congress is not in session.

The composition and attributions of the Directorate and Permanent Committee will be established in the Law of the Internal Regime.

Article 164.

Prohibitions and Compatibilities.

The following cannot be deputies.

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

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

b. Contractors of public works or enterprises funded by the State or the municipality, their sponsors and those who, because of such projects or enterprises, have outstanding claims of their own;

c. Relatives of the President of the Republic and of the Vice President up to the fourth level of consanguinity or second level of affinity;

d. Those who, having been sentenced to a firm prison term, have not settled their responsibilities;

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

f. Military personnel in active service.

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

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

## SECTION II

### Powers [*Atribuciones*] of the Congress

Article 165.

Powers.

The Congress will have the power to do the following:

a. To open and close its sessions;

b. To receive the oath of office from the President and Vice President of the Republic, the President of the Judicial Organism, and present [*darles posesión*] their responsibilities to them;

c. Accept or not the resignation of the President and Vice President of the Republic. The Congress will confirm the authenticity of the respective resignation;

d. To present the Presidency of the Republic to the Vice President in case of the definitive or temporary absence of the President;

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

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

g. To refuse to recognize the President of the Republic if, his constitutional term having expired, he continues in the exercise of his office. In such a case, the Army will automatically fall under the authority [*dependier*] of the Congress.

h. To declare whether it is appropriate or not to draw up a bill of particulars against the President or Vice President of the Republic, the President or Judges of the Supreme Court of Justice; the Supreme Electoral Tribunal and the Court of Constitutionality, Ministers or Vice Ministers of State when these are charged with an office [*encargados del despacho*], the Secretary of the Presidency, or the Undersecretary replacing him, the Procurator of Human Rights, Attorney General [*Fiscal General*] and Procurator General of the Nation.

Any resolution in this respect must be taken through a vote of two-thirds of the total number of deputies that make up Congress;

i. To declare, through the vote of two-thirds of the total number of deputies who make up the Congress, the physical or mental incapacity of the President of the Republic for the exercise of his duties. The declaration must be based on the opinion before hand of a committee of five physicians appointed by the Directive Board of the Association following the request of Congress;

j. To interpellate ministers of State;

j.<sup>bis</sup> Bestow honors proper to the Congress of the Republic to Guatemalans and foreigners; and

k. All the other powers assigned to it by the Constitution and other laws.

Article 166.

Interpellation of Ministers.

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

The basic questions must be addressed to the minister or ministers interpellated with forty-eight hours' notice. Neither the full Congress, nor any authority, will be able to limit the deputies to the Congress in their right to interpellate, qualify the questions, or restrict them.

Any deputy can address additional questions that he deems pertinent and related to the matter or matters underlying the interpellation and it is from the latter that a vote of no confidence may originate, which must be petitioned by four deputies, at least, and carried out without delay, in the same session or in one of the two immediately subsequent ones.

Article 167.

Effects of the Interpellation.

When an interpellation is made to a minister, the latter cannot absent himself from the country nor decline to answer in any form.

If a vote of no confidence in a minister is taken, approved by no less than an absolute majority of the total number of deputies in Congress, the minister will immediately present his resignation. The President of the Republic can accept it, however, if he considers in the Council of Ministers that the censored act or acts are consistent with the national interest and policy of the government, the interpellated [party] will be able to appeal to Congress within eight days following the date of the vote of no confidence. Should he not do it, he will be considered to be dismissed from his position and disqualified from exercising the duty of Minister of State for a period of no less than six months.

If the minister affected should appeal to the Congress after hearing the explanations presented and the matter discussed and following elaboration of the interpellation, a vote will be taken on the ratification of no confidence, whose approval will call for the affirmative vote of two-thirds of the total number of Deputies in Congress. Should the no confidence vote be ratified, the minister will be considered to be dismissed from his position immediately.

When the vote of no confidence is passed against several ministers but not exceeding four in each case, the procedure will be the same.

Article 168.

Assistance of Ministers, Officials, and Employees of the Congress.

Ministers of State are required to attend the sessions of Congress, Commissions and Legislative Blocks when they are invited for this purpose. Notwithstanding, they can attend in any case and participate with voice in all discussions concerning matters of their competence. They can have themselves represented by their Vice Ministers.

All the officials and public employees are obliged to appear and report to the Congress, when the latter, its commissions or legislative blocks consider it necessary.

Article 169.

Call for Elections by the Congress.

It is the obligation of the Congress, or failing that of its Permanent Commission, to call for general elections without delay if, by the date indicated by law, the Supreme Electoral Tribunal has not done it.

Article 170.

Specific Powers [*Atribuciones*].

The specific powers of the Congress are as follows:

- a. To qualify the credentials that the Supreme Electoral Tribunal will extend to the elected deputies;
- b. To appoint and remove its administrative personnel. The relations of the Legislative Organism with its administrative, technical, and service personnel, will be regulated by a specific law, which will establish the regime of classification, pay, discipline, and dismissals;

The labor benefits of the personnel of the Legislative Organism that may be obtained by law, internal accord, resolution, or custom, cannot be diminished or distorted [*tergiversadas*];

- c. To accept or not the resignations that its members may present;
- d. To call the alternate deputies in case of death, resignation, nullification of the election, provisional approval, or impossibility of assisting, of the owner [*los propietarios*]; and
- e. To elaborate and approve its budget for inclusion in that of the State.

Article 171.

Other Powers [*Atribuciones*] of the Congress.

It is also among the powers of the Congress to do the following:

- a. To decree, amend [*reformular*], and repeal the laws;
- b. To approve, amend [*modificar*] or disapprove, at the latest 30 days prior to its entering into effect, the Budget of Revenues and Expenditures of the State. The Executive will have to send the budget bill to the Congress with 120 days notice prior to the start of the fiscal year. If by the time the fiscal year begins, the budget has not been approved by the Congress, the budget in effect in the previous fiscal year will again be applicable, subject to amendment or adjustment by the Congress;
- c. To decree ordinary and extraordinary taxes in accordance with the needs of the State and determine the bases of their collection;
- d. To approve or disapprove annually, entirely or in part, the previous report of the Office of the Comptroller of Accounts, the detail and base [*justificación*] of all revenues and expenditures of the public finances that the Executive should present it over the previous fiscal year;
- e. To decree public honors for major services lent to the Nation. In no case can be the President or the Vice President of the Republic or any other official holding a position be granted same during the time of their tenure;
- f. To declare war and approve or disapprove peace treaties;
- g. To decree amnesty for political and related common crimes when public convenience demands it;
- h. To determine the value of the currency, following the opinion of the Monetary Board;
- i. To contract, convert, consolidate, or effect other operations relative to the internal or external public debt. In all cases, the opinions of the Executive and of the Monetary Board will have to be previously heard;

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

j. To approve or disapprove bills of law relating to claims against the State, on account of unrecognized credits, to be submitted to its cognizance by the Executive and to report special allowances for their settlement or amortization. To see to it that credits owed by the State and its institutions consequent on court judgments be duly paid;

k. To decree at the request of the Executive Organism reparations or indemnifications in case of international claim when there has been no recourse to arbitration or international judgment;

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

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

2. They affect the power of the Nation, establish the economic or political union of Central America, whether partial or total, or attribute or transfer competences to organs, institutions, or mechanisms created for an ordained juridical community to realize regional and common objectives in the Central American area;

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

4. They constitute a pledge [*compromiso*] to submit any matter to international judicial or arbitral decision;

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

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

Article 172.

Qualified Majority.

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

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

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

Article 173.

Referendum Procedure.

Political decisions of special significance will have to be submitted to the referendum procedure involving all citizens.

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

The Constitutional Electoral Law shall regulate what is relative to this institution.

### SECTION III

#### Formation and Sanction of the Law

Article 174.  
Initiative of Law.

Deputies to the Congress, the Executive Organism, the Supreme Court of Justice, the University of San Carlos de Guatemala, and the Supreme Electoral Tribunal have the initiative of law.

Article 175.  
Constitutional Hierarchy.

No law can run counter to the provisions of the Constitution. The laws that violate or distort the constitutional mandates are null ipso jure.

The laws qualified as constitutional require, for their amendment, the vote of two-thirds of the total number of deputies who make up Congress, following the favorable ruling of the Court of Constitutionality.

Article 176.  
Presentation and Discussion.

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

Article 177.  
Approval, Sanction, and Promulgation.

Once a bill is approved, the Directive Board of the Congress of the Republic shall send it to the Executive for its sanction, promulgation and publication in a period not to exceed ten days.

Article 178.  
Veto.

Within 15 days of receiving the decree and the prior approval of the Council of Ministers, the President of the Republic will be able to send it to the Congress with the comments that he deems pertinent, in his exercise of his right of veto. Laws cannot be vetoed in part.

Should the Executive not return the decree within 15 days from the date of its reception, it will be considered to have been approved and will have to be promulgated as law within the subsequent eight days. Should the Congress close its sessions before expiration of the deadline within which the veto can be exercised, the Executive will have to return the decree within the first eight days of the ordinary sessions of the subsequent period.

Article 179.  
Legislative Primacy.

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

Article 180.  
Entering into Force

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

Article 181.  
Regulations [*Disposiciones*] of the Congress.

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

CHAPTER III  
The Executive Organism

SECTION I  
President of the Republic

Article 182.  
The Presidency of the Republic and the Composition of the Executive Organism.

The President of the Republic is the Head of State of Guatemala and exercises the functions of the Executive Organism through the mandate of the people.

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

The President of the Republic, Vice President, Ministers, Deputy Ministers and other dependent functionaries form the Executive Organism and are prohibited from favoring any political party.

Article 183.

Functions of the President of the Republic.

The following are functions of the President of the Republic:

- a. To execute and cause the execution of the Constitution and the laws;
- b. To provide for the defense and security of the Nation as well as the defense of the public order;
- c. To exercise the command of the armed forces of the Nation with all the related functions and powers [*atribuciones*];
- d. To exercise the command of the entire public force;
- e. To approve, promulgate, execute, and cause the execution of the laws, to dictate decrees authorized by the Constitution, as well as the agreements, regulations, and orders for the strict execution of the laws, without altering their spirit;
- f. To dictate the provisions that may be necessary in cases of grave emergency or public catastrophe, it being his responsibility to give account to the Congress in its immediate sessions;
- g. To present initiatives of law to the Congress of the Republic;
- h. To exercise the right of veto concerning the laws issued by Congress, except in those cases where the approval of the Executive may not be necessary in accordance with the Constitution;
- i. To introduce annually in the Congress of the Republic, at the start of its sessions, a written report on the general situation of the Republic and the actions [*negocios*] of his administration completed [*realizados*] during the previous year;
- j. To submit annually to the Congress for its approval with no less than 20 days' notice from the start of the fiscal year through the respective ministry the budget bill detailing the revenues and expenditures of the State. Should the Congress not be in session, it will have to hold extraordinary sessions to deal with the budget bill;
- k. To submit to the consideration of the Congress for its approval and prior to its ratification, the treaties and agreements [*convenios*] of international character and the contracts and concessions concerning public services;
- l. To call the Legislative Organism into extraordinary sessions when the interests of the Republic demand it;
- m. To coordinate, in the Council of Ministers, the policy of development of the Nation;
- n. To preside over the Council of Ministers and exercise the position of hierarchical superior of the officials [*funcionarios*] and employees of the Executive Organism;

- ñ. To maintain the territorial integrity and dignity of the Nation;
- o. To direct foreign policy and international relations, accept [*celebrar*], ratify, and denounce treaties and agreements in accordance with the Constitution;
- p. To receive diplomatic representatives as well as to issue and withdraw the recognition of consuls;
- q. To administer public finance in accordance with the law;
- r. To relieve from fines and surtaxes those taxpayers who may have incurred them for not settling their taxes within the legal deadlines or for acts or omissions in the administrative field [*orden*];
- s. To appoint and remove the Ministers of State, Vice Ministers, Secretaries and Undersecretaries of the Presidency, ambassadors and other officials which correspond to him in accordance with the law.
- t. To approve [*conceder*] retirement benefits, pensions, and widows' and orphans' assistance in accordance with the law;
- u. To confer [*conceder*] decorations on Guatemalans and foreigners;
- v. To inform the Congress of the Republic of the intention of any trip he may have completed outside of national territory and of its result within fifteen days of its completion;
- w. To submit every four months to the Congress of the Republic, for its knowledge and control, through the respective ministry, an analytical report on budgetary performance; and
- x. All the other functions assigned to him by this Constitution or the law.

#### Article 184.

Election of the President and Vice President of the Republic.

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

If none of the candidates should secure an absolute majority, a second election will be held within a period no longer than 60 nor less than 45 days, counting from the first Sunday, between the candidates who have won the two highest relative number of votes.

#### Article 185.

Requirements to Run for the Positions of President and Vice President of the Republic.

Guatemalans of origin who are citizens in good standing and are above 40 years of age can run for President or Vice President of the Republic.

#### Article 186.

Prohibitions Against Running for the Positions of President or Vice President of the Republic.

The following cannot run for the positions of President or Vice President of the Republic:

- a. The leader or the chiefs of a coup d'état, armed revolution or similar movement, who have altered the constitutional order, or those who as a consequence of such events have assumed the leadership of the government;
- b. The person exercising the position of President or Vice President of the Republic when elections are held for said position or who had exercised same for any duration within the presidential term when the elections are held;
- c. Relatives to the fourth degree of consanguinity and second degree of affinity of the President or Vice President of the Republic, when the latter exercises the office of the President, and those of persons referred to in the first paragraph of this article;
- d. He who may have been Minister of State for any period during the six months prior to the election;
- e. Members of the Armed Forces, unless they have resigned or retired for at least five years before the date of the call for elections;
- f. The ministers of any religion or cult; and
- g. The judges of the Supreme Electoral Tribunal.

Article 187.

Prohibition of Re-Election.

The person who has held for any time the position of President of the Republic through a popular election, or who has replaced the President for more than two years, is in no case eligible to hold the position.

The re-election or extension of the presidential term by any means can be punished in accordance with the law. The mandate that he pretends to exercise will be null.

Article 188.

Call for Elections and the Assumption of Duties.

The call for elections and the assumption of their duties [*toma de posesión*] by the President and Vice President of the Republic will be regulated by the provisions established in the Electoral Law and the Law on Political Parties.

Article 189.

Temporary or Absolute Incapacity [*Falta*] of the President of the Republic.

In case of the temporary or definitive incapacity of the President of the Republic, he will be replaced by the Vice President. If the incapacity is definitive, the Vice President will assume the functions of the Presidency until the termination of the constitutional term, and in case of the definitive incapacity of both, the person appointed by the Congress of the Republic will complete the said term following the favorable vote of two-thirds of the total number of deputies.

## SECTION II

### Vice President of the Republic

#### Article 190.

##### Vice President of the Republic.

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

He will be elected on the same ballot as the President of the Republic and in identical form and for the same term.

The Vice President will have to have the same qualifications as the President of the Republic, will enjoy similar immunities, and will hold in the hierarchical order of the State the level immediately below the President [*dicho funcionario*].

#### Article 191.

##### Functions of the Vice President.

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

- a. To participate in the deliberations of the Council of Ministers with voice and vote;
- b. Upon appointment of the President of the Republic, to represent him with all the privileges that correspond to him, in official and protocol functions [*actos*] or in other functions;
- c. To assist the President of the Republic with the implementation of the general policy of the government;
- d. To participate, jointly with the President of the Republic, in the formulation of foreign policy and international relations, as well as to undertake diplomatic or other missions abroad;
- e. To preside over the Council of Ministers in the absence of the President of the Republic;
- f. To preside over the organs of assistance [*asesoría*] of the Executive established by the laws;
- g. To coordinate the work of the Ministers of State; and
- h. To exercise the other powers [*atribuciones*] established [*señalen*] by the Constitution and the laws;

#### Article 192.

##### Incapacity [*falta*] of the Vice President.

In case of the definitive impediment of the Vice President of the Republic or the resignation of same, he will be replaced by the person designated by the Congress of the Republic, selecting him from a list of three proposed by the President of the Republic; in such cases, the replacement will function until the end of the term with equal functions and privileges.

### SECTION III Ministers of State

#### Article 193. Ministries.

For expediting the business of the Executive Organism, ministries will be established by the law, with the powers [*atribuciones*] and competence established [*señalen*] by the latter.

#### Article 194. Functions of the Minister.

Each ministry is headed [*estará a cargo*] by a Minister of State who will have the following functions:

- a. To exercise jurisdiction over all the dependencies of his ministry;
- b. To appoint and remove the officials and employees of his department, when it is appropriate for him to do so in accordance with the law;
- c. To countersign the decrees, agreements, and regulations issued by the President of the Republic, when these relate to his office in order to validate them;
- d. To present to the President of the Republic the working plan of his department and an annual report of the work completed;
- e. To present annually to the President of the Republic, at the appropriate time, the budget bill of his ministry;
- f. To direct, regulate, resolve, and inspect all the business related to his ministry;
- g. To participate in the deliberations of the Council of Ministers and to countersign the decrees and agreements that he himself issues;
- h. [Repealed]
- i. To see to the strict compliance with the laws; administrative integrity, and the appropriate investment of public funds in the business entrusted to his care.

#### Article 195. Council of Ministers and its Responsibility.

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

The Ministers are responsible for their acts, in accordance with this Constitution and the laws, even in the case where they perform duties by express order of the President. The Ministers who approve them will be jointly responsible for the decisions of the Council of Ministers, but not those who oppose these in their vote.

Article 196.

Requirements to be Minister of State.

The following are the requirements to be Minister of State:

- a. To be Guatemalan;
- b. Enjoyment of citizenship rights; and
- c. Age above 30 years.

Article 197.

Prohibitions for Ministers of State.

Ministers of State cannot be:

- a. The relatives of the President or Vice President of the Republic, as well as those of other Ministers of State, up to the fourth level of consanguinity and second level of affinity;
- b. Those who, having been sentenced for debt, have not settled their responsibilities;
- c. Contractors of projects or enterprises paid out of funds of the State, its decentralized, autonomous, or semi-autonomous, or municipal entities, its sponsors and whoever has claims pending for said business;
- d. Whoever represents or defends the interests of individual or juridical persons using public services; and
- e. The ministers of any religion or cult.

In no case can the Ministers act as the attorneys of individual or juridical persons, or oversee the business of individuals [*particulares*] in any form whatsoever.

Article 198.

Reports of Activities of Ministries.

The Ministers are obligated to present to Congress annually, in the first ten days of February of each year, a report of the activities of their respective departments that will additionally have to contain the budgetary implementation of their ministry.

Article 199.

Mandatory Need to Answer Interpellations.

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

Article 200.

Vice Ministers of State. In each Ministry of State there will be a Vice Minister.

The same qualifications as for minister are required of a Vice Minister.

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

Article 201.

Responsibility of the Ministers and Vice Ministers.

The Ministers and Vice Ministers of State are responsible for their acts, in accordance with what is specified in Article 195 of this Constitution and the provisions of the Law of Responsibilities.

Article 202.

Secretaries of the Presidency.

The President of the Republic will have the Secretaries that are necessary. The functions [*atribuciones*] of these will be determined by law.

The General and Private Secretaries of the President of the Republic will have to meet the same requirements as those required for a Minister and will enjoy the same prerogatives and immunities.

## CHAPTER IV

### The Judicial Organism

#### SECTION I

##### General Provisions

Article 203.

Independence of the Judicial Organism and Power to Judge.

Justice is administered in accordance with the Constitution and the laws of the Republic. Corresponding to the tribunals of justice [is] the power to judge and to promote the execution of its judgment. The other organisms of State must give to the tribunals the assistance they require for the implementation of their resolutions.

The magistrates and judges are independent in the exercise of their functions and are subject solely to the Constitution of the Republic and the laws. Whoever attempts to undermine the independence of the Judicial Organism, in addition to the penalties set by the Penal Code, would be barred from exercising any public office.

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

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

Article 204.

Conditions Essential for the Administration of Justice.

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

Article 205.

Guarantees of the Judicial Organism.

The following are established as guarantees of the Judicial Organism:

- a. Functional independence;
- b. Financial independence;
- c. Irremovability of the magistrates and judges of the first instance, except in cases established by the law; and
- d. The selection of personnel.

Article 206.

Right of Preliminary Hearing [*antejuicio*] for Magistrates and Judges.

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

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

Article 207.

Requirements for a Magistrate or Judge.

Magistrates and judges must be Guatemalans of origin, of recognized integrity, enjoy their rights of citizenship, be lawyers belonging to the bar, with the exceptions established by law regarding the latter requirement in connection with specific judges of private jurisdiction and lower-level judges [*jueces menores*].

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

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

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

Article 208.

Term of Magistrates and Judges.

Magistrates, whatever their category, and judges of first instance, will hold their positions for five years, with the possibility of the former being re-elected and the latter reappointed.

During that term they cannot be removed or suspended, except in the cases and with the formalities provided [*disponga*] by law.

Article 209.

Appointment of Judges and Auxiliary Personnel.

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

The judicial career is established. Entries, promotions and advancements are by means of competition [*oposición*]. A law will regulate this matter.

Article 210.

The Law of the Civil Service of the Judicial Organism.

The work relations of the officials and employees of the Judicial Organism will be regulated [*normarán*] by its Civil Service Law.

Judges and magistrates cannot be dismissed, suspended, transferred, or retired, except for any of the causes and with the guarantees provided [*prevista*] in the law.

Article 211.

Appeals in All Proceedings.

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

No tribunal or authority can take cognizance of adjudicated actions, except in cases and forms of review determined by law.

Article 212.

Specific Jurisdiction of the Tribunals.

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

Article 213.

Budget of the Judicial Organism.

It is in the power of the Supreme Court of Justice to draw up the budget of the Department; for that purpose, an amount no less than two percent of the Budget of Ordinary Revenues of the State is allocated to it, to be transferred to the Treasury of the Judicial Organ every month, proportionately, and in anticipation by the corresponding organ.

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

## SECTION II

### The Supreme Court of Justice

#### Article 214.

##### Composition of the Supreme Court of Justice.

The Supreme Court of Justice is made up of thirteen magistrates including its president, and will organize itself into the chambers [*cámaras*] it determines. Each chamber shall have its president.

The President of the Judicial Organism is also that of the Supreme Court of Justice and his authority extends over the tribunals of all the Republic.

In the case of the temporary incapacity [*falta*] of the President of the Judicial Organism or when in accordance with the law he is unable to act or take cognizance of specified cases, the other judges of the Supreme Court of Justice will replace him, in the order of their designation.

#### Article 215.

##### Election of the Supreme Court of Justice.

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

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

In the elections [*votaciones*], to make up the Postulation Commission as well as to make up the panel of candidates, no representation whatever will be accepted.

The magistrates of the Supreme Court of Justice elect from their members, with the favorable vote of two-thirds, the president of the same, who will remain in his functions one year and cannot be reelected during this term of the Court.

#### Article 216.

##### Requirements to be a Magistrate of the Supreme Court of Justice.

In order to be elected magistrate of the Supreme Court of Justice, besides the requirements mentioned in Article 207 of this Constitution, it is necessary that the candidate be over 40 years of age and that he will have completed one full term as judge in the Court of Appeals or other collegiate tribunal with similar characteristics, or that he will have exercised the profession of lawyer for more than ten years.

## SECTION III

### Court of Appeals and Other Tribunals

#### Article 217.

##### Magistrates.

To be a magistrate in the Court of Appeals, of collegiate courts, and of others that will be created in the same category, besides the requirements mentioned in Article 207, it is necessary that the candidate be over 35 years of age, that he will have been judge of the first instance or that he will have exercised the profession of lawyer for more than five years.

The titled magistrates to whom this article refers shall be elected by the Congress of the Republic from a panel of candidates with double the number to be elected, proposed by a postulation commission composed of one representative of the Rectors of the Universities of the country, who shall preside, the Deans of the Law or Juridical and Social Sciences Departments of each University of the country, an equivalent number of members elected by the General Assembly of the Association of Lawyers and Notaries of Guatemala and by an equal number of representatives elected by the judges of the Supreme Court of Justice.

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

In elections [*votaciones*] to make up the Postulation Commission as well as make up the panel of candidates no representation whatever will be accepted.

#### Article 218.

##### Composition of the Court of Appeals.

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

#### Article 219.

##### Military Tribunals.

Military courts will take cognizance of crimes or misdemeanors [*faltas*] committed by the members of the Army of Guatemala.

No civilian can be judged by military tribunals.

#### Article 220.

##### Tribunals of Accounts.

The judicial function in matters of accounts will be exercised by the judges of first instance and by the Court of Second Instance of Accounts.

Against the sentences and final decisions [*autos definitivos*] of accounts putting an end to the process in cases involving major amounts, [one] may proceed with the recourse of cassation. Such recourse is inadmissible in economic-coactive [*económico-coactivos*] proceedings.

Article 221.

The Contentious-Administrative Tribunal.

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

With this occurring in this Tribunal, no prior payment or deposit whatsoever will be necessary. However, the law can establish specific situations where the petitioner will have to pay interest at the going rate on taxes that he has challenged or contested and whose payment to the tax authorities was delayed because of the appeal.

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

Article 222.

Alternate Magistrates.

The Magistrates of the Supreme Court of Justice shall be substituted by the magistrates of the tribunals referred to in Article 217 of this Constitution, in conformity with that established by the Law of Judicial Organism, provided that they meet the same requirements.

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

The substitute magistrates shall be elected with the same opportunities and in the same form as titulars and from the same panel of candidates.

## TITLE V

Structure and Organization of the State

### CHAPTER I

Electoral Political Regime

Article 223.

Freedom in the Formation and Functioning of Political Organizations.

The State guarantees the free formation and functioning of political organizations, and these will be limited only insofar as the Constitution and the law determine.

Everything relative to the exercise of suffrage, political rights, political organizations, electoral authorities and organs, and the electoral process will be regulated by the constitutional law in the matter.

Once the convocation to elections is has taken place, the President of the Republic, officials of the Executive Organism, the mayors and municipal officials are prohibited from creating propaganda on the works and activities realized.

## CHAPTER II Administrative Regime

### Article 224. Administrative Division.

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

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

However, when this is convenient to the interests of the Nation, the Congress will be able to modify the administrative division of the country, establishing a regime of regions, departments, and municipalities, or any other system, without undermining the municipal authority.

### Article 225. National Council of Urban and Rural Development.

For the organization and coordination of the public administration, the National Council of Urban and Rural Development is created, coordinated by the President of the Republic and structured [*integrado*] in the form that the law establishes.

This Council will have as its duty the formulation of urban and rural development policies, as well as that of territorial ordering.

### Article 226. Regional Council of Urban and Rural Development.

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

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

### Article 227. Governors.

The government of the departments shall be headed by a governor appointed by the President of the Republic who will have to possess the same qualifications as a Minister of State, and enjoy the same immunities as the latter. To qualify for appointment, he will have to have been domiciled for the five years prior to his appointment in the department.

### Article 228. Departmental Council.

In each department there will be a Departmental Council to be presided over by the governor. It will be made up by the mayors of all the municipalities and representatives of the organized public and private sectors, with the purpose of promoting the department's development.

Article 229.

Financial Contribution of the Central Government to the Departments.

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

Article 230.

General Registry of Property.

The General Registry of Property will have to be organized so that in each department or region determined specifically by the law, a specific registry of property and the respective fiscal register [*catastro*] may be established.

Article 231.

Metropolitan Region.

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

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

### CHAPTER III

Regime of Control and Supervision [*Fiscalización*]

Article 232.

Office of the Comptroller General of Accounts.

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

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

Its organization, functioning, and powers [*atribuciones*] will be determined by the law.

Article 233.

Election of the Comptroller General of Accounts.

The head of the Office of the Comptroller General of Accounts will be elected for a term of four years by the Congress of the Republic, by an absolute majority of the total number of deputies that make up this Organism. He can only be removed by the Congress of the Republic in cases of negligence, crime, or mental incompetence [*falta de idoneidad*]. He will

make a report of his management to the Congress of the Republic, whenever requested to do so and officially [*de oficio*] twice a year. He will enjoy equal immunities as the magistrates of the Court of Appeals. In no case can the Comptroller General of Accounts be re-elected.

The Congress of the Republic shall carry out the election to which this article refers from a panel of six candidates proposed by a commission of postulation integrated by a representative of the Rectors of the Universities of the country, who shall preside, the Deans of Departments that include the career of Public Accounting and Auditing of each University of the country and an equivalent number of representatives elected by the General Assembly of the Association of Economists, Public Accountants and Auditors and Business Administrators.

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

In elections [*votaciones*] to make up the Postulation Commission as well as make up the panel of candidates no representation whatever will be accepted.

Article 234.

Qualifications of the Comptroller General of Accounts.

The Comptroller General of Accounts shall be the Head of the Office of the Comptroller General of Accounts and shall be over 40 years of age, Guatemalan, a public accountant and auditor, of recognized integrity and professional prestige, that he enjoy his citizenship rights, that he not be involved in a lawsuit pertaining to financial matters, and that he has previously exercised his profession for at least ten years.

Article 235.

Powers [*facultades*] of the Comptroller General of Accounts.

The Comptroller General of Accounts has the power [*facultade*] to appoint and remove officials and employees of the various agencies of the Office of the Comptroller General of Accounts and to appoint auditors in matters of his competence, all of this in accordance with the Law of Civil Service.

Article 236.

Legal Recourses.

Against the acts and resolutions of the Office of the Comptroller General of Accounts, the judicial and administrative recourses provided by law may be used.

## CHAPTER IV

### Financial Regime

Article 237.

General State Budget of Revenues and Expenditures.

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

A unified budget is obligatory and its structure is programmatic. All the revenues of the State constitute a common indivisible fund designated [*destinado*] exclusively to cover its expenditures.

The Organisms, and the decentralized and autonomous entities can have budgets and private funds when the law so provides, their budgets will obligatorily be sent annually to the Executive Organism and to the Congress of the Republic, for their information and inclusion into the general budget and will additionally be subject to the control and supervision of the corresponding organs of the State. The Law will be able to establish other cases in which the funds of dependencies of the Executive will be administered in private form to ensure their efficiency. The breach of the present disposition is punishable and the officials under whose direction the dependencies function shall be held personally responsible.

Confidential expenditures, any expenditure that cannot be verified or that is not subject to inspection cannot be included in the General Budget of Revenues and Expenditures of the State. This disposition is applicable to the budgets of any organism, institution, business or autonomous or decentralized entity.

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

The Organisms or State entities that have private funds are obliged to annually publish in detail their origin and application, properly audited by the Office of the Comptroller General of Accounts. The aforesaid publication shall be made in the Official Gazette within the six months following the close of each fiscal year.

Article 238.

Organic Law of the Budget.

The Organic Law of the Budget regulates:

- a. The formulation, execution, and liquidation of the General Budget of Revenues and Expenditures of the State and the norms which this Constitution uses for discussion and approval;
- b. In those cases where funds may be transferred within the total allocated for each organism, dependency, decentralized or autonomous entity, the transfer of items will have to be reported immediately to the Congress of the Republic and the Office of the Comptroller General of Accounts;

Funds of programs of investment may not be transferred to programs of the functioning or payment of the public debt.

- c. The use of savings and the investment of any possible surplus and revenues;

- d. The standards and regulations to which all matters relative to the domestic and foreign public debt, their amortization and settlement, is subjected;
- e. The measures of control and supervision over entities that have exclusive funds, as regards the approval and execution of their budget;
- f. The form and quantity of remuneration of all officials and public employees, including those of the decentralized and autonomous entities.

It will regulate specifically those cases where some officials, exceptionally and for the sake of the public service, collect representation expenses.

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

- g. The manner of verifying public expenditure; and
- h. Forms of collecting public revenues.

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

Article 239.  
Principle of Legality.

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

- a. The circumstances of the taxable relationship;
- b. The exemptions;
- c. The taxpayer and unified responsibility;
- d. The taxable base and the type of taxation;
- e. The deductions, credits, reductions, and surtaxes; and
- f. The violations and tax sanctions.

The provisions, hierarchically inferior to the law, which contradict or distort the legal norms regulating the bases of tax collection, are null ipso jure. The regulatory provisions cannot modify said bases and will regulate matters relative to the administrative collection of taxes and to establish the procedures facilitating their collection.

Article 240.  
Source of Investments and Expenditures of the State.

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

If the investment or the expense is not included and identified in the General Budget of Revenues and Expenditures of the State approved for the respective fiscal year, the Budget cannot be amplified by the Congress of the Republic without the favorable opinion of the Executive Organism.

If the opinion of the Executive Organism should be unfavorable, the Congress of the Republic shall only be able to approve amplification with a veto of at least two-thirds of the total number of deputies that integrate it.

Article 241.

Rendering of Accounts of the State.

The Executive Organism will annually present to the Congress of the Republic the rendering of accounts of the State.

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

In case of disapproval, the Congress of the Republic will have to request the appropriate reports or explications and if punishable cause is found, the major one would be certified to the Public Ministry.

Once the statement of account of the budget is approved, a summary of the financial situation of the State will be published in the Official Gazette.

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

Article 242.

Guarantee Fund.

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

Article 243.

Principle of Ability to Pay.

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

Confiscatory taxes and double or multiple domestic taxation are prohibited. There is double or multiple taxation when the same taxable event impacting on the same taxpayer burdens him two or more times, is levied by one or more taxing authorities, or for the same contingency or tax period.

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

## CHAPTER V

### The Army

#### Article 244.

Integration, Organization, and Goals of the Army.

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

It is unique and indivisible, essentially professional, apolitical, loyal, and not deliberative.

It is composed of ground, air and naval forces.

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

#### Article 245.

Prohibitions of Illegal Armed Groups.

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

#### Article 246.

Duties and Powers [*Atribuciones*] of the President over the Army.

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

In that capacity he has the powers [*atribuciones*] mentioned in the law and especially the following:

- a. To decree mobilization and demobilization; and
- b. To approve the promotions of officers in the Army of Guatemala in time of peace and war as well as to confer military decorations and honors in the cases and forms established by the Constitutive Law of the Army and other laws and military regulations. He may, likewise, approve extraordinary pensions.

#### Article 247.

Requirements to be an Officer in the Army.

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

Article 248.  
Prohibitions.

The members of the Army on active duty cannot exercise their right of suffrage nor the right of petition in political matters. Neither can they exercise the right of petition in collective form.

Article 249.  
Cooperation of the Army.

The Army will lend their cooperation in emergency situations or public disasters.

Article 250.  
Legal Regime of the Armed Forces.

The Army of Guatemala are managed according to the provisions of the Constitution, their Constituent Law, and other laws and military regulations.

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

Article 251.  
The Public Ministry.

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

The Head of the Public Ministry shall be the General Prosecutor [*Fiscal General*] of the Republic and the exercise of public penal action corresponds to him. He shall be a lawyer, member of the professional association of lawyers, and have the same qualities as the judges of the Supreme Court of Justice and he shall be appointed by the President of the Republic from a panel of six candidates proposed by a postulation commission, integrated by the President of the Supreme Court of Justice, who shall preside, the Deans of the Departments of Law and Social and Juridical Sciences of the Universities of the country, the President of the Directive Board of the Association of Lawyers and Notaries of Guatemala and the President of the Tribunal of Honor of the aforesaid association.

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

In elections [*votaciones*] to integrate the Postulation Commission as well as integrate the panel of candidates no representation will be accepted.

The General Prosecutor of the Nation serves four years in the exercise of his functions and shall have the same privileges and immunities as the judges of the Supreme Court of Justice.

The President of the Republic shall be able to remove him for a duly established justified cause.

Article 252.

The Procurator General of the Nation.

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

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

The Procurator General of the Nation serves four years in the exercise of his functions and shall have the same privileges and immunities as the magistrates of the Supreme Court of Justice.

## CHAPTER VII Municipal Regime

Article 253.

Municipal Autonomy.

The municipalities of the Republic of Guatemala are autonomous institutions.

Among other functions it corresponds to them to:

- a. Elect their own authorities;
- b. Obtain and dispose of their resources; and
- c. Provide local public services, the territorial division of their jurisdiction, and the fulfillment of their own goals.

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

Article 254.

Municipal Government.

The municipal government shall be administered by a council, which is to be made up of the mayor, representatives, and councilmen, all of them elected directly by universal and secret suffrage for a period of four years, with the possibility of reelection.

Article 255.

Economic Resources of the Municipality.

Municipal corporations will have to procure the economic strengthening of their respective municipalities in order to be able to realize the projects and lend those services that may be necessary for them.

The collection of resources will have to be adjusted to the principle established in Article 239 of this Constitution, to the law and the needs of the municipalities.

Article 256.

[Repealed].

Article 257.

Appropriation for the Municipalities.

The Executive Organism shall annually include in the General Budget of Ordinary Revenues of the State, ten percent of this same budget for the municipalities of the country. This percentage shall be distributed in the form that the law determines and at least ninety percent shall be designated for educational, preventative health, infrastructure and public services programs and projects that improve the quality of life of the inhabitants. The ten remaining percent shall be used to finance costs of the functioning.

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

Article 258.

Right of Mayors to Preliminary Hearing.

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

Article 259.

Municipal Affairs Court.

For the execution of their ordinances and the fulfillment of their decisions, municipalities will be able to create, in accordance with the law, their Municipal Affairs Court and their Police Corps in accordance with their resources and needs, which will function under the direct orders of the mayor.

Article 260.

Privileges and Guarantees of Municipal Assets.

Assets, revenues, assessments, and taxes are the exclusive property of the municipality and will enjoy the same guarantees and privileges as property of the State.

Article 261.

Prohibitions Against Exemption from Taxes or Municipal Assessments.

No organism of the State has the faculty to exempt from taxes or municipal assessments natural or juridical persons, except the municipalities themselves and this according to the provisions of this Constitution.

Article 262.  
Law of Municipal Service.

The relations of the officials and employees of the municipalities will be regulated by the Law of Municipal Service.

TITLE VI  
Constitutional Guarantees and Defense of the Constitutional Order

CHAPTER I  
Habeas Corpus [*Exhición personal*]

Article 263.  
Right to Habeas Corpus.

Whoever finds himself illegally imprisoned, detained, or restrained in any other way in the enjoyment of his individual freedom, who is threatened with the loss of same, or suffers ill-treatment, even when his imprisonment or detention is based on the law, has the right to petition for an immediate hearing before the tribunals of justice for the purpose of retrieving his liberty, guaranteeing him his release, bringing his ill-treatment to an end, or terminating the constraint to which he has been subjected.

Should the tribunal decree the freeing of the person illegally confined, the latter will be released at the same hearing and place.

When it is so petitioned or the judge or tribunal deems it pertinent, the requested habeas corpus will occur at the location where the detained person is being held, without previous warning [*avis*] or notification.

The habeas corpus of the detainee in whose favor it may have been requested is unavoidable [*es ineludible*].

Article 264.  
Responsibilities of the Violators.

The authorities which order the concealment of the prisoner or which refuse to present him at the respective tribunal or which in any form evade this guarantee, as well as the executive agents, will be guilty of the offense of abduction and will be sanctioned in accordance with the law.

If as a result of the proceedings pursued the person benefitting from habeas corpus cannot be located, the tribunal ex officio will order immediately an investigation of the case until it is totally cleared up.

CHAPTER II  
Amparo

Article 265.  
Proceeding of Amparo.

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

### CHAPTER III Unconstitutionality of the Laws

Article 266.  
Unconstitutionality of the Laws in Concrete Cases.

In concrete cases, in every process of whatever competence or jurisdiction, in any instance, and in cassation and even before sentence is decreed, the parties will be able to press as an action, exception, or incident the total or partial unconstitutionality of a law. The court will have to make a determination in that respect.

Article 267.  
Unconstitutionality of the Laws of General Character.

Actions against the laws, regulations or provisions of a general character which contain a partial or total absence of constitutionality will be heard directly by the Tribunal or Court of Constitutionality.

### CHAPTER IV The Court of Constitutionality

Article 268.  
Essential Function of the Court of Constitutionality.

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

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

Article 269.  
Organization of the Court of Constitutionality.

The Court of Constitutionality consists of five titled magistrates each of whom will have his respective alternate. When it is seized with matters of unconstitutionality against the Supreme Court of Justice, the Congress of the Republic, or the President or Vice President of the Republic, the number of its members will be raised to seven, the other two magistrates being selected by lot from among the alternates.

The magistrates serve in their functions five years and shall be appointed in the following manner:

- a. One magistrate by the plenary of the Supreme Court of Justice;
- b. One magistrate by the plenary of the Congress of the Republic;
- c. One magistrate by the President of the Republic in the Council of Ministers;
- d. One magistrate by the Higher University Council of the University of San Carlos de Guatemala; and
- e. One magistrate by the Assembly of the Bar Association.

Simultaneously with the appointment of the magistrate, that of the respective alternate will occur before the Congress of the Republic.

The installation of the Court of Constitutionality will become effective 90 days after that of the Congress of the Republic.

Article 270.

Requirements of the Magistrates of the Court of Constitutionality.

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

- a. Be a Guatemalan of origin;
- b. Be a lawyer belonging to the Bar Association;
- c. Be of recognized integrity; and
- d. Have at least 15 years of professional experience.

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

Article 271.

Presidency of the Court of Constitutionality.

The Presidency of the Court of Constitutionality will be filled by the same titled magistrates on a rotating basis changing every year, beginning with the eldest member, and following in descending order of age.

Article 272.

Functions of the Court of Constitutionality.

The Court of Constitutionality has the following functions:

- a. To take cognizance in sole *[unique]* instance of the charges brought against the laws or provisions of a general character, challenges of partial or total unconstitutionality;
- b. To take cognizance in sole instance in its status of Extraordinary Tribunal of Amparo, in amparo actions brought against the Congress of the Republic, the Supreme Court of Justice, the President or Vice President of the Republic;
- c. To take cognizance on appeal of all the amparos brought before any of the tribunals of justice. If the appeal were against an amparo decision of the Supreme Court of Justice, the Court of Constitutionality shall be expanded by two members *[vocales]* in the form anticipated in Article 268;
- d. To take cognizance on appeal of all the challenges against the laws charged with being unconstitutional in specific cases, in any trial, in cassation, or in the cases contemplated by the law in the matter;
- e. To issue an opinion on the constitutionality of treaties, agreements, and bills of law at the request of any of the organisms of the State;
- f. To take cognizance and resolve issues relating to any conflict of jurisdiction in matters of constitutionality;
- g. To compile the doctrine and constitutional principles that have been invoked with the purpose of resolving them through amparo and of unconstitutionality of the laws, keeping up to date the jurisprudential journal or gazette;
- h. To issue an opinion on the unconstitutionality of laws vetoed by the Executive alleging unconstitutionality; and
- i. To act, render opinions *[opinar]*, dictate, or take cognizance of those matters under its competence established in the Constitution of the Republic.

## CHAPTER V

### Commission and Procurator of Human Rights

#### Article 273.

Human Rights Commission and Procurator of the Commission.

The Congress of the Republic will appoint a Commission of Human Rights made up of a deputy for each political party represented in the corresponding period. This Commission will propose to the Congress three candidates for the election of a Procurator who will have to meet the requirements of a magistrate of the Supreme Court of Justice and will enjoy the same immunities and privileges as the deputies to Congress. The law will regulate the powers of the Commission of Human Rights and of the Procurator as they pertain to this article.

#### Article 274.

Procurator of Human Rights.

The Procurator of Human Rights is a commissioner of the Congress of the Republic for the defense of Human Rights guaranteed by the Constitution. He will have the powers

*[facultades]* to supervise the administration; will have a term of five years, and will make an annual report to the plenary of the Congress with which he will have dealings through the Commission of Human Rights.

Article 275.

Powers *[Atribuciones]* of the Procurator of Human Rights

. The Procurator of Human Rights has the following powers *[atribuciones]*:

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

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

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

d. To recommend privately or publicly to officials modification of administrative department which has been objected to;

e. To issue public censure for acts or behavior counter to Constitutional rights;

f. To promote actions or resources, judicial or administrative, in those cases which demand it; and

g. The other functions and powers assigned to him by law.

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

## CHAPTER VI

Law of Amparo, Habeas Corpus and Constitutionality

Article 276.

Constitutional Law in the Matter.

A constitutional law will develop matters of relative to amparo, habeas corpus, and the constitutionality of the laws.

## TITLE VII

Amendments to the Constitution

### SINGLE CHAPTER

Amendments to the Constitution

Article 277.

Initiative.

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

- a. The President of the Republic in the Council of Ministers;
- b. Ten or more deputies to the Congress of the Republic;
- c. The Court of Constitutionality; and
- d. The people through a petition addressed to the Congress of the Republic by no fewer than 5,000 citizens duly listed in the Register of Citizens.

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

Article 278.

National Constituent Assembly.

In order to amend this or any article contained in Chapter I of Title II of this Constitution, it is indispensable that the Congress of the Republic, with the affirmative vote of two-thirds of the members composing it, should call a National Constituent Assembly. In the decree of convocation, the article or articles to be amended shall be specified and shall be communicated to the Supreme Electoral Tribunal so that it may determine the date when the elections would be held within the maximum deadline of 120 days, proceeding in other respects in accordance with the Constitutional Electoral Law.

Article 279.

Deputies to the National Constituent Assembly.

The National Constituent Assembly and the Congress of the Republic will be able to function simultaneously. The characteristics required to be deputy to the National Constituent Assembly are the same as those that are required to be deputy to the Congress, and the constituent deputies shall enjoy equal immunities and privileges.

It will not be possible to be simultaneously deputy to the National Constituent Assembly and to the Congress of the Republic.

The elections of deputies to the National Constituent Assembly, the number of deputies to be elected, and the other questions relating to the electoral process will be regulated in an equal form as the elections to the Congress of the Republic.

Article 280.

Amendments by the Congress and Referendum [*consulta popular*].

For any other constitutional amendment, it will be necessary that the Congress of the Republic approve it with an affirmative vote of two-thirds of the total number of deputies. Amendments will not enter into effect unless they are ratified through a referendum referred to in Article 173 of this Constitution.

If the result of the referendum were to ratify the amendment, the latter will enter into effect 60 days after the Supreme Electoral Court announced the result of the referendum.

Article 281.

Articles Not Subject to Amendment.

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

## TITLE VIII

Transitory and Final Provisions

### SINGLE CHAPTER

Transitory and Final Provisions

Article 1.

Civil Service Law of the Legislative Organism.

The law specifies that the relations of the Legislative Organism with its personnel should be regulated within 30 days following the installation of said Organism.

Article 2.

Minor Decisions.

No municipal authority shall perform judicial functions so that within a deadline no greater than two years from the effective date of this Constitution, minor cases will have to be severed from the municipalities of the country and the Judicial Organism shall appoint the specific authorities, regionalizing and appointing judges where appropriate. Within this deadline, they will have to dictate the laws and other provisions necessary for the appropriate fulfillment of this article.

Article 3.

Retention of Citizenship.

Whoever has secured Guatemalan citizenship, of origin or through naturalization, shall retain it and enjoy all its rights. The Congress of the Republic will pass a law relative to citizenship with all possible speed.

Article 4.

De facto Government.

The Government of the Republic, organized in accordance with the Fundamental Statute of Government and its amendments, will retain its functions until the individual elected to be President of the Republic assumes his duties.

The Fundamental Statute of Government contained in Decree-Law 24-82 of April 27, 1982, 36-82 of June 9, 1982, 87-83 of August 8, 1983, and other amendments will continue in force until the time when this Constitution comes into force.

Article 5.  
General Elections.

On November 3, 1985, general elections will be held for President and Vice President of the Republic, for deputies to the Congress of the Republic, and for municipal corporations across the country, in accordance with what is established by the specific Electoral Law issued by the Head of State for the holding of the said general elections.

If appropriate, a second election will be held for President and Vice President of the Republic on December 8, 1985, in accordance with the same law.

The Supreme Electoral Court will organize said elections and will make the definitive determination of its results, proclaiming the names of the elected citizens.

Article 6.  
Congress of the Republic.

The National Constituent Assembly will hand over their duties to the deputies declared elected by the Supreme Electoral Court on January 14, 1986.

The deputies elected to the Congress of the Republic will hold preparatory sessions so that on the same occasion when they take possession of their duties, the Executive Committee [*Junta Directiva*] of the Congress of the Republic made up in the form established by this Constitution may also assume its responsibilities.

Article 7.  
Dissolution of the National Constituent Assembly.

Once the mandate to hand over their duties to the deputies elected to the Congress of the Republic is carried out and the Congress is organized, on January 14, 1986, the National Constituent Assembly of the Republic of Guatemala elected on July 1, 1984, will have completed its functions and its mandate having expired on the same day, it will proceed with its dissolution. Prior to its dissolution, it will examine its accounts and approve them.

Article 8.  
Presidency of the Republic.

The Congress of the Republic, once installed in accordance with the laws in effect, is obligated to give possession of his duties to the individual declared elected as President of the Republic by the Supreme Electoral Tribunal, and it shall do this in a solemn session that shall be held at the latest at 1600 hours on January 14, 1986. At the same event, the Congress of the Republic will hand over his duties to the individual declared elected by the Supreme Electoral Court as Vice President of the Republic.

In the preparatory sessions of the Congress of the Republic, it will plan and organize the necessary ceremony.

Article 9.  
Municipalities.

The elected municipal corporations will take possession of their duties and will initiate the period for which they were elected on January 15, 1986.

The Congress of the Republic will have to promulgate a new Municipal Code, the Law of Municipal Service, the Preliminary Law of Regionalization, and a Municipal Tax Code, conforming to the constitutional injunctions, no later than within a year from the installation of the Congress.

Article 10.  
Supreme Court of Justice.

The judges of the Supreme Court of Justice and other officials whose appointment is the responsibility of the Congress of the Republic on this occasion will be appointed and take possession of their duties in the period between January 15, 1986 and February 14, 1986. Its mandate will end on the dates established in this Constitution and the Civil Service Law of the Judicial Organism.

Six months after taking possession of their duties, the members of the Supreme Court of Justice, exercising their initiative of law, will have to send to the Congress of the Republic the draft of the law of the organization [*integración*] of the Judicial Organism.

Article 11.  
Executive Organism.

During the first year after this Constitution enters into effect, the President of the Republic, in the exercise of his initiative of law, will have to send to the Congress of the Republic the draft of law concerning the Executive Organism.

Article 12.  
Budget.

Beginning with the entering into force of the Constitution, the Government of the Republic will be able to submit to the cognizance of the Congress of the Republic the General Budget of Revenues and Expenditures of the State put into effect by the previous government. Without amendment, it will continue its effectiveness during fiscal 1986.

Article 13.  
Allocation for Improving Literacy.

One percent of the General Ordinary Budget of Revenues of the State is allocated to eradicate illiteracy among the economically active population during the first three governments based on this Constitution, an allocation that will be deducted in these periods from the percentage established in Article 91 of this Constitution.

Article 14.  
National Committee to Improve Literacy.

The approval of the budget and of programs to improve literacy, and the control and supervision of its development will be the responsibility of a National Committee to Improve Literacy made up by the public and private sectors, half plus one of whose members will be

from the public sector. A Law of Improved Literacy will be issued by the Congress of the Republic in the six months following the entering into force of this Constitution.

Article 15.  
Integration of Petén.

The promotion and economic development of the Department of Petén for its effective integration into the national economy is declared to be of national urgency. The law will determine the measures and activities that would promote such a goal.

Article 16.  
Decree-Laws.

The juridical validity of the decree-laws originating from the Government of the Republic beginning on March 23, 1982, as well as all the administrative and government acts realized in accordance with the law beginning on said date is recognized.

Article 17.  
Funding of Political Parties.

Political parties will receive funding beginning with the general elections of November 3, 1985, a matter that will be regulated by the Constitutional Electoral Law.

Article 18.  
Circulation of the Constitution.

During the year following its entering into effect, the Constitution will be broadly circulated in the Quiché, Mam, Cakchiquel, and Kekchí languages.

Article 19.  
Belize [*Belize*].

The Executive will have the power [*facultado*] to take those measures that would tend to resolve the situation of the rights of Guatemala with respect to Belize, in accordance with the national interests. Any definitive agreement will have to be submitted by the Congress of the Republic to the referendum procedure provided in Article 173 of the Constitution.

The Government of Guatemala will promote social, economic, and cultural relations with the population of Belize.

For the purposes of citizenship, the natives of Belize are subjected to the regime which this Constitution established for the natives of Central American countries.

Article 20.  
Headings.

The headings [*epígrafes*] that precede the articles of this Constitution do not have interpretive validity and cannot be quoted with respect to the content and scope of constitutional norms.

Article 21.

Implementation of the Constitution.

The present Political Constitution of the Republic of Guatemala will enter into force on January 14, 1986, on the installation of the Congress of the Republic and will not lose its validity and effectiveness regardless of any temporary interruptions resulting from situations involving force.

The present article and Articles 4, 5, 6, 7, 8, 17, and 20 of the transitory and final provisions of this Constitution are excepted from the date of implementation of this Constitution. Those will go into effect on June 1, 1985.

Article 22.

Repeal.

All the Constitutions of the Republic of Guatemala and constitutional amendments decreed prior to the present Constitution are repealed, as are any laws and provisions that may have had the same effects.

Article 23.

To adequate [*adecuación*] the Congress of the Republic to the constitutional reforms approved on November 17, 1993 one shall proceed in the following manner:

- a) When the present constitutional reforms are in force the Supreme Electoral Tribunal shall convoke elections for deputies to the Congress of the Republic, which should be carried out in a period not more than one hundred and twenty days after being convoked.
- b) The deputies that are elected shall take possession of their posts thirty days after the election takes place, date on which the period and responsibilities of the deputies of the Congress of the Republic which was installed on January 15, 1991 ends.
- c) The Congress of the Republic that is installed in conformity with the provisions a) and b) of the present article shall conclude its functions on January 14, 1996. This same day the deputies that are elected in the general elections of 1995 shall take possession of their posts.

Article 24.

To adequate the Supreme Court of Justice and the other courts which are referred to in Article 217 of this Constitution, the Office of the Comptroller General of Accounts and Public Ministry to the approved constitutional reforms, one shall proceed in the following manner:

- a) The Congress of the Republic which is installed in conformity with the transitory previous article shall convoke within the three days of its installation the Commissions of Postulation foreseen in Articles 215, 217 and 233 of this Constitution, so that in a period of not more than fifteen days it shall proceed to make the corresponding postulations.
- b) The Congress of the Republic installed in conformity with the previous transitory article shall elect the judges of the Supreme Court of Justice and the other courts referred to in Article 217 of this Constitution and the Comptroller General of Accounts within the thirty

days following the installation of the new Congress, date on which the elected should take possession of their posts and on which the period and functions of the judges and comptroller which they shall substitute end.

c) For the effect of the previous disposition the Congress shall meet in extraordinary sessions if deemed necessary.

d) The President of the Republic shall name the Procurator General of the Nation within thirty days after the present reforms enter into effect, date on which he shall take possession and on which the period and functions of the procurator whom he substitutes shall end.

e) The President of the Republic shall name the General Prosecutor [*Fiscal General*] of the Republic within the thirty days after the present reforms enter into effect, date on which he shall take possession.

f) The Procurator General of the Nation shall continue to fill his post of Head of the Public Ministry until the General Prosecutor takes possession.

#### Article 25.

The dispositions contained in Articles 23 and 24 of the Single Article of Title VIII of this Constitution are of special character and prevail over any others of general character.

#### Article 26.

At the latest, within a period of eighteen months from the date the present reforms take effect, the Executive Organism shall send to the Congress of the Republic, in exercise of its initiative of law, an initiative of law that contains the Law of the Executive Organism in order to modernize and make the public administration more efficient.

#### Article 27.

With the objective that the elections of the municipal governments be carried out on one date, together with the elections for president and deputies, in those municipalities where municipal governments took possession for a period of five years in 1993, the next elections shall be for a period that will end January 15, 2000.

To this end, the Supreme Electoral Court shall take the pertinent measures.

Signed in the Sessions Hall of the National Constituent Assembly in Guatemala City on the thirty-first of May, nineteen hundred and eighty-five.

[Reforms are in conformity with Legislative Decree Number 18-93 of November 17, 1993]

[Signatures]

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