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CURRENT EVENTS

THE PROVISIONAL CONSTITUTION OF THE REPUBLIC OF CHINA

Following is a full translation of the Yueh Fa (Provisional Constitution) as adopted at the 4th general session of the Kuo-Min-Hui-I (National People's Convention) on the Twelve of May. The law came into force on June 1st.

PREAMBLE

The National Government, in order to reconstruct the Republic of China on the basis of the Three Principles of the People and the Constitution of Five Powers, which forms the underlying principle of the revolution, having now brought the revolution from the military to the political tutelage period, deems it necessary to promulgate a Yueh Fa (Provisional Constitution) for general observance, so that the realization of constitutional government may be accelerated and political power restored to a popularly-elected government; and further, in pursuance of the last will of our late Leader, has called at the national capital the Kuo-Min-Hui-I (National People's Convention).

The said National People's Convention do hereby enact and ordain the following Provisional Constitution for enforcement during the political tutelage period:—

CHAPTER 1.—GENERAL PRINCIPLES

Article 1.—The territory of the Republic of China consists of the various provinces and Mongolia and Tibet.

Articles 2.—The sovereignty of the Republic of China is vested in the people as a whole.

All persons who, according to Law, enjoy the nationality of the Republic of China shall be citizens (Kuo-Min) of the Republic of China.

Article 3.—The Republic of China shall be a unified republic for ever.

Article 4.—The national flag of the Republic of China shall have a red background with a “blue sky and white sun” in the upper left corner.

Article 5.—Nanking shall be the national Capital of the Republic of China.

CHAPTER 2.—RIGHTS AND DUTIES OF THE PEOPLE

Article 6.—All citizens (Kuo-Min) of the Republic of China shall be equal before the law, irrespective of sex, race, religion or caste.

Article 7.—Citizens of the Republic of China shall, according to the stipulation in Article 8 of the “Outline of National Reconstruction,” enjoy in all completely autonomous districts (Hsien) the rights of election, initiative, recall and referendum as provided by Article 9 of the “Outline of National Reconstruction.”

Article 8.—Except in accordance with law, no person (Jen-min) shall be arrested, detained, tried or punished.

When a person is arrested or detained on a criminal charge, the organ responsible for his (or her) arrest or detention shall send him (or her) to the competent court for trial not later than 24 hours. The party concerned may himself petition, or some other person may petition on his behalf that he be brought (before the Court) for trial within 24 hours.

Article 9.—Except in accordance with Law, no person other than those in active military service, shall be subject to trial by a military court.

Article 10.—Except in accordance with law, no private houses of the people shall be subject to forcible entry, search or sealing.

Article 11.—All persons shall have the liberty of beliefs.

Article 12.—All persons shall be free to choose and change their residence: such freedom shall not be denied or restricted except in accordance with law.

Article 13.—All persons shall have the right to the privacy of correspondence and telegraphic communications: such right shall not be denied or restricted except in accordance with law.

Article 14.—All persons shall have the freedom of assembly and formation of associations: such freedom shall not be denied or restricted except in accordance with law.

Article 15.—All persons shall have the liberty of speech and publication: such liberty shall not be denied or restricted except in accordance with law.

Article 16.—Except in accordance with law, no private property shall be sealed or confiscated.

Article 17.—The exercise of the right of ownership by any private owner of property, in so far as it does not conflict with the public interest, shall be protected by law.

Article 18.—Where public interest necessitates, the property of the people may be expropriated in accordance with law.

Article 19.—All persons shall have the right to inherit property in accordance with law.

Article 20.—All persons shall have the right of petition (to the Government).

Article 21.—All persons shall have the right to institute judicial proceedings at the courts of justice, in accordance with law.

Article 22.—All persons shall have the right to submit petitions, and institute administrative proceedings (at the Administrative Court) in accordance with law (for the redress of wrongs done by Government administrative organs).

Article 23.—All persons shall have the right to compete in civil service examinations in accordance with law.

Article 24.—All persons may, according to law, hold public posts.

Article 25.—All persons shall have the duty of paying taxes in accordance with law.

Article 26.—All persons shall have the duty of undertaking military service and of performing compulsory labour (for the State) in accordance with law.

Article 27.—All persons shall have the duty to obey the measures taken by Government Organs in the performance of their duties according to law.

CHAPTER 3.—ESSENTIALS OF POLITICAL TUTELAGE

Article 28.—The political policies and programs during the period of political tutelage shall be in accordance with the "Outline of National Reconstruction."

Article 29.—The system of district autonomy shall be enforced in accordance with the provisions of the "Outline of National Reconstruction" and the "Law governing the Institution of District Autonomy."

Article 30.—During the period of political tutelage, the National Congress of Kuomintang Delegates (Kuo-in-Tang-Tsuan-Kuo-Tai-Piao-Ta-Hui) shall exercise the governing powers on behalf of the National People's Congress (Kuo-Min-Ta-Hui). During the recess of the National Congress of Kuomintang Delegates, the Central Executive Committee of the Kuomintang shall exercise the said powers.

Article 31.—The National Government shall train and guide (the citizens) in the exercise of the four political rights of election, initiative, recall and referendum.

Article 32.—The National Government shall exercise the five governing powers, namely, executive, legislative, judicial, examination and supervisory.

CHAPTER 4.—PEOPLE'S LIVELIHOOD

Article 33.—In order to develop the people's economic welfare, the state (Kuo-Chia) shall afford every encouragement and protection to the productive enterprises of the people.

Article 34.—In order to develop rural economy, to improve the living conditions of farmers as well as to promote the well-being of peasants, the state shall take active steps for the carrying out of the following measures:—

1. Reclamation of all waste land in the country and development of farm irrigation;
2. Establishment of agricultural banks and encouragement of co-operative enterprises in the rural communities;
3. Enforcement of the (public) granary system for the prevention of famine and other calamities and replenishment of the people's food-supplies;
4. Development of agricultural education with special emphasis on scientific experiments, extensive development

of agricultural enterprises, and increase of agricultural produce;

5. Encouragement of road-building in the rural villages to facilitate the transportation of agricultural products.

Article 35.—The state shall open and develop oil, coal, gold and iron mines; and shall also encourage and protect private mining enterprises.

Article 36.—The state shall undertake and inaugurate state shipping enterprises; and shall also encourage and protect private shipping enterprises.

Article 37.—All persons shall be free to choose their profession or occupation. But when it is contrary to the public interest, the state may, by law, restrict or deny such freedom.

Article 38.—All persons shall be free to make contracts: such freedom, in so far as it is not in conflict with the public interest or with good morals, shall be protected by Law.

Article 39.—In order to better their economic well-being as well as to promote closer co-operation between Capital and Labour, the people may form occupational organizations in accordance with law.

Article 40.—Both capital and labour shall develop productive enterprises in accordance with the principle of co-operation and mutual benefit.

Article 41.—In order to improve the living conditions of labour, the state shall put into effect various Laws for the protection of labourers and shall afford special protection to child and woman workers in respect of their age and health.

Article 42.—In order to safeguard as well as relieve peasants and workers who shall be unable to work on account of accidents, sickness, disability or old age, the state shall put into effect a labour insurance system.

Article 43.—In order to promote the economic interests of the people, the state shall encourage and promote various co-operative enterprises.

Article 44.—The state may control or regulate the production or sale as well as the market price of daily necessities of the people.

Article 45.—Laws shall be enacted for the prohibition of usury, and exorbitant rents for the use of immovable properties.

Article 46.—The State shall give appropriate relief to those members of the national forces who are disabled in the course of active service.

CHAPTER 5.—EDUCATION OF THE CITIZENS

Article 47.—The Three Principles of the People shall be the basic principles of education in the Republic of China.

Article 48.—Both sexes shall have equal opportunity for education.

Article 49.—All public and private educational institutions in the country shall be subject to the supervision of the state, and shall also be responsible for the carrying out of the educational policies adopted by the state.

Article 50.—All children of school age shall receive free education. Details shall be separately provided by law.

Article 51.—Those who have not had free education (in their youth) shall receive special adult education. Details shall be separately provided by law.

Article 52.—The Central and Local Governments shall provide adequate funds for necessary educational expenses, and shall also safeguard the security of funds which are, by law, specially set apart (for educational purposes).

Article 53.—The state shall give encouragement or grants to private educational institutions which have achieved particularly satisfactory results.

Article 54.—Encouragement and aids shall be given for the education of overseas Chinese.

Article 55.—The state shall encourage and safeguard members of the administrative or teaching staffs of schools who hold satisfactory records and have been long in service.

Article 56.—All public and private educational institutions in the country shall establish scholarships and prizes for the encouragement of deserving but needy students.

Article 57.—The state shall encourage and protect research and discoveries in science or the arts.

Article 58.—The state shall protect and preserve historic remains and ancient relics which have historical, cultural or artistic value.

CHAPTER 6.—DIVISION OF POWER BETWEEN THE CENTRAL
AND LOCAL GOVERNMENTS

Article 59.—The principle of equilibrium shall be adopted in the division of power between the central and local governments, as stipulated in Article 17 of the “Outline of National Reconstruction.”

Article 60.—The various local governments may, within their respective sphere of authority, enact and ordain local laws and regulations. Where such laws and regulations are in conflict with those promulgated by the Central Government, they shall be null and void.

Article 61.—The demarcation of central and local revenues shall be separately determined by law.

Article 62.—The Central Government may restrict, by law, any local tax when

1. It is contrary to public interest,
2. It encroaches upon the source of central revenue,
3. It constitutes overlapping taxation,
4. It is detrimental to communications,
5. It is unjustifiably imposed upon goods imported from other localities for the sole benefit of the locality concerned,
6. It is in the nature of a transit duty on commodities in circulation among various localities.

Article 63.—The power of granting patents and monopolies is vested in the Central Government.

Article 64.—When one of the provinces reaches the period of Constitutionalism, the division of power between the Central and the Local Governments shall be defined in detail by law in accordance with the “Outline of National Reconstruction.”

CHAPTER 7.—ORGANIZATION OF THE GOVERNMENTS

Section 1.—The Central Government

Article 65.—The National Government shall exercise all the governing powers of the Republic of China.

Article 66.—The National Government shall have supreme command over the land, naval and air forces.

Article 67.—The National Government shall have the power to declare war, to negotiate peace and to conclude treaties.

Article 68.—The National Government shall exercise the power of granting amnesties, pardons, reprieves, and restitution of civic rights.

Article 69.—The National Government shall exercise the power of conferring medals and decorations of honor.

Article 70.—The National Government shall compile and publish a budget and financial statement of the national revenues and expenditures for each fiscal year.

Article 71.—The National Government shall be composed of the following five Yuan: the Executive Yuan, the Legislative Yuan, the Judicial Yuan, the Examination Yuan and the Control Yuan, as well as various Ministries and Commissions.

Article 72.—The National Government shall have a President and an appropriate number of State Councillors, who shall be selected and appointed by the Central Executive Committee of the Kuomintang. The number of State Councillors shall be separately determined by Law.

Article 73.—The President of the National Government shall represent the National Government both internally and internationally.

Article 74.—The Presidents of the five Yuan and the Heads of the various Ministries and Commissions shall be appointed or dismissed in accordance with law by the National Government at the instance of the President of the National Government.

Article 75.—All laws shall be promulgated and Mandates issued upon the signature of the President of the National Government according to law.

Article 76.—The various Yuan, Ministries, or Commissions may, according to Law, issue orders.

Article 77.—The organization of the National Government and of the various Yuan, Ministries and Commissions shall be separately determined by Law.

Section 2.—The Local Governments

Article 78.—In each province, a Provincial Government shall be established, which shall attend to the administration of provincial affairs under the direction of the National Government. Its organization shall be separately determined by law.

Article 79.—When, as stipulated in Article 16 of the “Outline of National Reconstruction,” a province reaches the period of Constitutionalism, the (Provincial) Assembly of People’s Delegates may elect a Provincial Governor (Sheng-Chang).

Article 80.—The system of local government in Mongolia and Tibet shall be determined separately by Law in the light of the local conditions.

Article 81.—In each district (Hsien), a district Government shall be established, which shall attend to the administration of district affairs under the direction of the Provincial Governments. Its organization shall be separately determined by Law.

Article 82.—In each of the districts, a district autonomy preparatory committee shall be organized to carry out the preparations as provided for in Article 8 of the “Outline of National Reconstruction.” Its organization shall be separately determined by Law.

Article 83.—Municipalities may be established in localities, where industry and commerce, population or other special conditions warrant. The organization of such Municipalities shall be separately determined by Law.

CHAPTER 8.—ANNEX

Article 84.—All laws which are in conflict with this Yueh Fa (Provisional Constitution) shall be null and void.

Article 85.—The power of interpreting this Yueh Fa shall be exercised by the Central Executive Committee of the Kuomintang of China.

Article 86.—A draft of the (Permanent) Constitution (Hsieh-Fa) shall be prepared by the Legislative Yuan on the basis of the “Outline of National Reconstruction” as well as the achievements during the political tutelage and constitutional periods. The said draft shall be duly made known to the people at large in preparation for its adoption and enforcement at the opportune moment.

Article 87.—When a majority of the provinces in the country reach the period of constitutionalism—that is, when district autonomy has been completely instituted throughout each of such provinces—then the National Government shall immediately summon a National People's Congress (Kuo-Min-Ta-Hui) to decide upon the adoption and promulgation of the Hsien Fa (Permanent Constitution).

Article 88.—The present Yueh Fa (Provisional Constitution) shall be enacted by the National People's Convention (Kuo-Min-Hui-I) and forwarded to the National Government for promulgation.

Article 89.—The present Yueh Fa shall come into force from the date of promulgation.