Independent Commission for Overseeing the Implementation of the Constitution (ICOIC)
A. Introduction

A1. History

Independent Commission for overseeing the implementation of the constitution has been established within the state of Islamic republic of Afghanistan frame on 2010 and it has fully independence in its activities. The ICOIC goal is to intensify and institutionalize a constitutional-state-based regime. For achievement of this goal, ICOIC according to the provisions of the constitution oversees compliance of actions of the president, the three branches of the government, and all governmental and non-governmental institutions with the provisions of the constitution.

A2. Basic Texts

The basis for the Independent commission for overseeing the Implementation of the constitution (ICOIC) is article 157 of the Afghanistan constitution. Which says (the independent commission for supervision of the implementation of the constitution shall be established in accordance with the provisions of the law. Members of this commission shall be appointed by the president with the endorsement of the House of People. ICOIC since its establishment functions in accordance by its own law. This law which has been indorsed by parliament, contains (17) articles. In accordance with this law the commission has seven members. The members nominate by the president and receive vote of confidence from the parliament. The president of ICOIC has been elected through internal election for the period of 4 years, similarly the voice president and the sectary for the period of one year. The second two can be re-elected if they make themselves candidate. The commission is independent in its functions in according to the constitution, within the framework of the state of Islamic republic of Afghanistan. A member of ICOIC must fill full the following conditions.
B. Organization
B1. President

The president of the Commission is elected through internal elections by the majority votes of the members. The President of the Commission chairs the Council of members.

The president represent the ICOIC in external and internal meetings session in international forum, he also chairs the regular and extra ordinary sessions of ICOIC. He is in charge of the budget and has certain power in appointing and promoting the administrative staff of the commission.

B2. Members

1. **According to clause one, article four of the ICOIC law** The Commission including the president is consist of seven members, including both men and women who are appointed by the Afghan president with the endorsement of the house of people.

   The men or women who are appointed as a member of the ICOIC shall have the following qualifications.

   1. He or She must be citizen of Afghanistan
   2. Higher education at the level of master degree in law or Islamic jurisprudence.
   3. At least 5 years work experience.
   4. Well-known background.
   5. 35 years old.
   6. None conviction in crime and depriving from civil rights.
   7. None membership in political parties and organizations during the duty tenure.

Justices

ICOIC promotes its functions through six professional departments, each department has chaired by the head of department and its experts. Each department in accordance with its regulations oversee the implementation of the constitution by the president, government, national assembly, supreme court and other governmental and non-governmental institutions and also they provide legal advice and consultation to the president and national assembly in connection to the constitution, more over present specific proposal to the president in connection to the promoting of the laws. The most important function of the ICOIC is to present a report to the president when coming across of violations and non-applications of any provision of the constitution. The following personalities and institution can refer cases of constitutional points to the ICOIC.
1. The president.
2. parliament
3. Supreme court
4. Human right independent commission.
5. The administrative reform independent commission
6. Independent election commission

ICOIC is trying now to amend its law, so that this commission be able to review and consider private applications involving non application of violation of the constitution.

The commission in order to promote its administrative functions has secretariat headed by the general director.

The staff of the commission employed through merit based competitive procedure.

B3. The Commission professional department

To carry out professional affairs, the Commission has six professional departments each of the professional department is leaded by a member of the Commission.

The professional department are as follow:

1. Department of Overseeing the implementation of the constitution in Government Offices
2. Department of Overseeing the Implementation of Constitution in Organizations and Non-governmental Offices
3. Department of the Explanation of the constitution & legal advices
4. Department of Research and Law Development
5. Department of Studying laws and Finding of the Contradictions against Constitution
6. Department of Communication and Constitutional Awareness
B4. Department of Commission’s Administration

**Secretariat of the General Directorate (SGD)**

Secretariat of the General Directorate (SGD) is made to carry out the administrative affairs of the Commission.

SGD carries out its duties according to the provisions of the law and the ICOIC internal procedure which is approved by the Commission.

SGD is made of Human Resource Department, planning department, Finance and Administrative Department, Department of Public Information and Communication, Department of Information Technology, Department of General Registry and Communication, and Gender Specialist.

**C. Jurisdictions**

According to article 8 of the ICOIC law, the Commission has the following duties and authorities in order to provide a better oversight from the implementation of the constitution:

1. Interpretation of the constitution, at the request of the President, National Assembly, Supreme Court and the government;
2. Overseeing the compliance of the actions of the president, government, National Assembly, Judiciary, Offices, governmental and non-governmental institutions with the provisions of the constitution;
3. Providing legal advice in case of issues arising from the constitution to the President and National Assembly;
4. The study of laws for finding out their contradictions with the constitution and to present the findings to the President and National Assembly in order to take necessary measures for their elimination.
5. Presenting specific proposal to the President and National Assembly in regards to taking necessary measures concerning the development of legislation in cases where the constitution has ruled.
6. Presenting the report to the President in the event of violation from the provisions of the constitution.
7. Approval of by-laws and relevant guidelines.

The ICOIC is established in the bases of article 157 constitution, the president,
national assembly independent human rights commission, Independent administrative reform and civil services commission refer constitutional point to the ICOIC for legal advises one of these important cases which they sent to the ICOIC by the president was on elections problem the general election for the parliament was delayed due to security problem.

ICOIC resolved the problem which was created by the two chambers of the parliament, as a result of the ICOIC advise now the elections of the national assembly going to be health in a few months’ time.