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Libya's Constitution of 2011 with Amendments through 2012

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Preamble

In The Name of Allah, the Merciful, the Compassionate

Believing in the Revolution of 17th of February, 2011 (14th Rabi' El-Awal, 1432 Hijri), lead by the Libyan people in the different regions of the country, and being faithful to the martyrs of this blessed revolution who sacrificed their lives to obtain freedom, live in dignity in the territory of their country and recover their rights derided by Kadhafi and his fallen regime;

Based on the legitimacy of this revolution, and in response to the desire of the Libyan people and their aspirations for achieving democracy and promoting the principles of political pluralism and statehood based on institutions, and aspiring to a society enjoying stability, tranquility and justice which develop through science and culture, achieves prosperity and sanitary well-being and works on educating the future generations in the spirit of Islam and love of the good and of the country;

With the objective of establishing a society of citizenship, justice, equality, progress, development and prosperity in which there is no place for despotism, repression, tyranny, exploitation and individual power, the National Transitional Council has decided to promulgate this Constitutional Declaration as a basis for the exercise of power in the transitional period until the adoption of a permanent Constitution by general popular referendum.

CHAPTER ONE: GENERAL PROVISIONS

Article 1

Libya shall be an independent democratic state in which the people shall be the source of all powers. Its capital shall be Tripoli, Islam shall be its religion and Islamic Shari'a shall be the main source of legislation. The State shall guarantee for non-Muslims the freedom to practice their religious rituals. Arabic shall be the official language, while the linguistic and cultural rights of the Amazigh, the Tabous, the Touareg and the other components of the Libyan society shall be guaranteed.

Article 2

The emblem of the state and its national anthem shall be determined by statute.

Article 3

The national flag shall have the following shape and dimensions: its length shall be twice its width; it shall be divided into three parallel colored stripes with the uppermost being red, the centre black and the lowest green. The black stripe shall be equal in size to the two other stripes and shall bear in its centre a white crescent, between the two ends of which there shall be a five- pointed white star.

Article 4

The state shall endeavor to establish a political democratic system based on political pluralism and a [multi-] party system, with the aim of realizing the peaceful democratic alternation in power.

Article 5

Family shall be the basis of society and shall be protected by the State. The State shall protect and encourage marriage. The State shall guarantee the protection of motherhood, Childhood and old age and look after children, young people and persons with special needs.

Article 6

Libyans shall be equal before the law, enjoy equal civil and political rights with, have the same opportunities in all areas and be subject to the same public duties and obligations, without distinction on the grounds of religion, belief, language, wealth, gender, kinship, political opinions, social status, or tribal, regional or familial adherence.

CHAPTER TWO: FUNDAMENTAL RIGHTS AND FREEDOMS

Article 7

The State shall safeguard human rights and fundamental freedoms, endeavor to join the regional and international declarations and covenants which protect these rights and freedoms and strive for the promulgation of new covenants which recognize the dignity of man as Allah's representative on earth.

Article 8

The state shall ensure equal opportunity and strive to guarantee a proper standard of living, the right to work, education medical care and social security to every citizen. The State shall guarantee individual and private property. It shall guarantee the just distribution of national wealth among citizens and among the different cities and regions of the State.

Article 9

Every citizen shall have the duty to defend the homeland, preserve its national unity, ensure respect for the civil constitutional democratic system, and adhere to civil values and combat the regional, factional and tribal tendencies.

Article 10

The State shall guarantee the right of asylum in accordance with an Act of Parliament. The extradition of political refugees shall be prohibited.

Article 11

Private homes and properties shall be inviolable. They shall not be entered or searched except in cases prescribed by the law and according to the manner indicated therein. The preservation of the public and private goods shall be a duty for every citizen.

- Rights of children
- State support for the elderly
- State support for the disabled
- State support for children
- Right to found a family
- Right to marry

- General guarantee of equality
- Equality regardless of gender
- Equality regardless of creed or belief
- Equality regardless of social status
- Equality regardless of financial status
- Equality regardless of tribe or clan
- Equality regardless of political party
- Equality regardless of parentage
- Equality regardless of language
- Equality regardless of religion

- Human dignity
- God or other deities
- International law

- Right to health care
- Right to own property
- Right to work
- Mentions of social class
- General guarantee of social security
- Right to reasonable standard of living

- Duty to obey the constitution

- Protection of stateless persons
- Extradition procedure

- Regulation of evidence collection
- Inalienable rights
- Right to privacy

Article 12

Private life for citizens shall be inviolable and shall be protected by statute. The State shall not intrude into it without a judicial warrant in accordance with the statute.

Article 13

Correspondence, telephonic conversations and other forms of communications shall be inviolable and confidential. They shall be guaranteed and shall not be confiscated, examined or censored except by judicial warrant for a determined period and in accordance with the statutory provisions.

Article 14

The State shall guarantee freedom of opinion, individual and collective expression, research, communication, press, media, printing and editing, movement, assembly, demonstration and peaceful sit-in in accordance with the statute.

Article 15

The state shall ensure freedom of establishing political parties, associations and other civil society organizations, and shall adopt a statute for their regulation. Secret or armed associations or societies in conflict with public order or public morals or threatening in other ways the State or the integrity of the national territory shall be prohibited.

Article 16

Private property shall be safeguarded. No owner may be prevented from disposing of his property except within the limits of the law.

CHAPTER THREE: SYSTEM OF GOVERNMENT DURING THE TRANSITIONAL PERIOD

Article 17

The National Transitional Council shall be the highest authority of the Libyan state and assume the supreme functions of sovereignty, including legislation and determination of general policy of the State. It shall be the sole legitimate representative of the Libyan people which draws its legitimacy from the revolution of February 17th. It shall be the guarantor of national unity, the security of the national territory, the definition of values and morals and their dissemination, the safety of the citizens and residents, the ratification of international treaties and the establishment of the basis of the civil constitutional and democratic state.

- Regulation of evidence collection
- Inalienable rights
- Right to privacy

- Regulation of evidence collection
- Inalienable rights
- Right to privacy
- Telecommunications

- Right to academic freedom
- Freedom of assembly
- Freedom of expression
- Freedom of movement
- Freedom of opinion/thought/conscience
- Freedom of press

- Freedom of association
- Prohibited political parties
- Restrictions on political parties
- Right to form political parties

- Right to own property
- Right to transfer property

- Structure of legislative chamber(s)
- International law
- Treaty ratification

Article 18

The National Transitional Council shall consist of representatives of the local councils. In determining the number of representatives of each council the population density and the geographic context of the represented city or region shall be taken into account. The Council shall have the right to add ten (10) members for reasons of national interest. The members shall be proposed and chosen by the Council.

The National Transitional Council shall elect its president as well as the first and second vice- president. If one of these posts becomes vacant, the Council shall provide for the replacement. The election shall take place in all these cases by a relative majority of the members present. In case of a tied vote, the successful candidate shall be designated by the President.

Article 19

The President of the National Transitional Council shall take the oath before the Council. The members of the National Transitional Council shall take the following oath before the President:

“I swear by Almighty God to carry out my duty with honesty and loyalty, to remain faithful to the objectives of the Revolution of February 17th, to respect the constitutional declaration and the rules of procedure of the Council. I shall fully observe the interests of the Libyan people and protect the independence of Libya, its security and territorial integrity.

Article 20

The National Transitional Council shall operate on the basis of rules of procedure regulating its work method and the modalities for the exercise of its functions.

Article 21

It shall be prohibited to combine the membership in the National Transitional Council with other public offices, or to combine membership in the National Transitional Council with membership in a local council. A member of the Council may not be appointed to the board of a company or take part in any undertakings of the government or of one of the public institutions. During the term of membership the member, his spouse or children shall not proceed to buy or rent any property belonging to the State, or to lend or sell any of their property to the State, or to exchange goods with the State, or to conclude contracts with the State as an interested party, entrepreneur or importer.

Article 22

A member of the national council may forfeit his membership only if he lacks a requirement for membership or violates the obligations resulting from his membership. The decision on forfeiture shall be taken by the National Transitional Council by a majority of two-thirds of its members.

The membership shall terminate in the event of death or resignation accepted by the National Transitional Council, in the event of loss of eligibility or of incapacity to perform the duties of office.

In the event of forfeiture or termination of membership, the competent local council shall provide for the replacement of the member whose membership was forfeited or terminated.

- Size of first chamber
- First chamber selection
- Municipal government

- Leader of first chamber

- God or other deities
- Oaths to abide by constitution

- Eligibility for cabinet
- Municipal government
- Outside professions of legislators

- Removal of individual legislators

- Replacement of legislators
- Municipal government

Article 23

Tripoli shall be the seat of the National Transitional Council. The Council may have a provisional seat in Benghazi. It may, upon the request of the majority of its members, hold its meetings in another place.

Article 24

The National Transitional Council shall appoint an executive board or interim government composed of a president and a sufficient number of members for the management of the different sectors of the country. The National Transitional Council shall have the right to dismiss the president of the executive board or the interim government or any of its members by a decision taken by a majority of two thirds of the Council's members.

The president of the executive board or interim government and its members shall be collectively responsible before the National Transitional Council for implementing the general policy of the State as designed by the National Transitional Council. Every member shall be responsible before the executive board or interim government for the activities of the sector over which he presides.

Article 25

Before assuming their office, the president and the members of the executive board or interim government shall take the oath in the terms prescribed in Article (19) before the National Transitional Council.

Article 26

The executive board or interim government shall proceed with the implementation of the general policy of the State, as designed by the National Transitional Council. It shall adopt the implementing regulations for the statutes which have been adopted. The executive board or interim government shall submit draft legislation to the National Transitional Council for review and appropriate further action.

Article 27

The general budget of the State shall be determined by statute.

Article 28

The National Transitional Council shall establish an audit unit. The latter shall assume the task to audit the total revenue and expenditure and all movable and immovable assets belonging to the State. It shall ensure the appropriate use of funds and their preservation. It shall submit a periodic report on the situation to the National Transitional Council and the executive board or interim government.

Article 29

The National Transitional Council shall appoint diplomatic representatives of the State abroad, upon proposal of the foreign affairs department. It shall have the power to remove them from office and accept their resignation. It shall also have the power to accept the credentials of the heads of foreign diplomatic missions. The Council may delegate to its President the power to accept the credentials of the heads of foreign diplomatic missions.

- Cabinet removal
- Establishment of cabinet/ministers
- Cabinet selection
- Name/structure of executive(s)
- Head of state removal
- Head of state selection

- Oaths to abide by constitution

- Powers of cabinet
- Initiation of general legislation

- Foreign affairs representative

Article 30

The formation of the National Transitional Council shall be completed according to Article (18) of the Declaration, and it shall remain the highest authority in the Libyan state and responsible for administering the country until the election of the General National Congress.

Following the declaration of liberation the National Transitional Council shall move to its headquarters in Tripoli, and shall form an interim government within thirty days, and within ninety days of the declaration of liberation the Council shall:

1. Pass a special law for the election of the General National Congress.
2. Appoint the High Elections Commission.
3. Declare elections for the General National Congress.

The General National Congress shall be elected within two hundred and forty days of the declaration of liberation. The General National Congress shall consist of two hundred members elected from all the Libyan people, according to the special election law of the General National Congress.

The National Transitional Council shall be dissolved at the first session of the Congress and all its responsibilities shall be transferred to the General National Congress. The oldest member of the Congress shall chair this session, and the youngest member shall act as secretary. During this session the president of the General National Congress shall be elected with two deputies through direct secret ballot. The transitional government shall continue in its role as caretaker until the formation of an interim government. In all cases the decisions of the General National Congress shall pass with the approval of two thirds of the Congress.

The General National Congress shall perform the following within thirty days of its first session:

1. Appoint a Prime Minister, who in turn will recommend the names of the members of government, who must receive the approval of the General National Congress prior to their appointment as an interim government. The General National Congress shall also appoint all the heads of the sovereign posts.
2. The election of a Constituent Assembly through free, direct elections, excluding its members, for drafting a permanent constitution for the country that shall be named the Constituent Assembly and which shall consist of sixty members in reference to the Committee of Sixty that was formed to prepare the constitution of independence of Libya in 1951. The General National Congress shall determine the electoral criteria and regulations that shall ensure the representation of all constituents of Libyan society with special cultural or linguistic characteristics. In all cases the decisions of the Constituent Assembly for Drafting the Constitution shall be made by a two thirds plus one majority. The Constituent Assembly shall complete the draft constitution and its adoption in a period of time not exceeding one hundred and twenty days from its first session.

The draft constitution shall be put to referendum (yes or no) within thirty days of its adoption. If the Libyan people approve the draft by a majority of two thirds of the voters the Constituent Assembly shall approve it as the country's constitution and it shall be referred to the General National Congress for promulgation. If it is not approved the Constituent Assembly shall redraft it and put it to referendum within

thirty days of the announcement of the results of the first referendum.

The General National Congress shall promulgate the General Election Law according to the constitution within thirty days. General elections shall take place within one hundred and eighty days of the promulgation of laws regulating the elections. The General National Congress and the interim government shall supervise the provision of all necessities of running democratic and transparent elections.

The High National Elections Commission (which shall be reformed by the General National Congress) shall conduct the elections under the supervision of the national judiciary and under the observation of the United Nations and international and regional organizations.

The High National Elections Commission shall ratify the election results and announce them, and the legislature shall be called into session in a period of time not exceeding thirty days from the date of the ratification by the General National Congress. In its first session the General National Congress shall be dissolved and the legislature shall take on its responsibilities.

CHAPTER FOUR: JUDICIAL GUARANTEES

Article 31

No offence may be established or penalty inflicted unless based on a law.

The accused shall be presumed to be innocent until his guilt is established in a fair trial in which he shall have the necessary guarantees to defend himself. Every citizen shall have the right to have recourse to the courts in accordance with the statute.

Article 32

The judicial power shall be independent. It shall be exercised by the different courts. It shall issue judgments in accordance with the law. The judges shall be independent and shall be subject to no other authority except the law and their conscience.

The establishment of exceptional courts shall be prohibited.

Article 33

The right to a judgment shall be inviolable and guaranteed to all. Every citizen shall have the right to resort to his natural judge. The state shall ensure the proximity of the courts to the parties and the quick determination of lawsuits.

Legal decisions exempting any administrative decision from review by the courts shall be prohibited.

CHAPTER FIVE: FINAL PROVISIONS

Article 34

Documents and laws of a constitutional character which were in force before this Declaration shall be repealed.

Article 35

All provisions established in the existing legislation shall remain in force insofar as they are not inconsistent with the provisions of this Declaration until they are amended or repealed. Any reference in these laws to the so-called “People’s Congresses” or “General People’s Congress” shall be understood as reference to the National Transitional Council or the General National Congress. Any reference to the so-called “General People’s Committee” or “People’s Committees” shall be understood as reference to the executive board and the members of the executive board or to the interim government and the members of the interim government, each within the limit of its jurisdiction. Every reference to the “Socialist People’s Libyan Arab Jamahiriya” shall be considered as a reference to Libya.

Article 36

Any provision figuring in this document shall not be repealed or amended except by another provision adopted by the National Transitional Council with a majority of two thirds of its members.

Article 37

This Declaration shall be published in the different media. It shall be in force as of the date of its publication.

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