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# The Constitutional Declaration

## **In the Name of God, the Merciful, the Compassionate**

### **The Interim National Transitional Council**

**In view of our belief** in the Revolution of the 17th day of February, 2011 AD corresponding to 14 Rabi' al-Awwal 1432 AH, which has been led by the Libyan people throughout their country and due to our faithfulness to the martyrs of this blessed revolution who sacrificed their lives to enjoy freedom, live with dignity on the nation's soil and retrieve all the rights looted by Gaddafi and his collapsed regime.

**Based on** the legitimacy of this Revolution, and in response to the Libyan people's desire and hopes to achieve democracy, establish political pluralism and a state of institutions, to create a society wherein all of us can live in stability, tranquillity and justice; a society that can advance in knowledge and culture and achieve prosperity and health care, and that can bring up the rising generations according to the Islamic spirit and love of goodness and the nation.

**In the hope of seeking** a society of citizenship, justice, equality, well-being, progress and prosperity where there is no place for injustice, tyranny, despotism, exploitation or dictatorship. The interim National Transitional Council has decided to promulgate this Constitutional Declaration in order to be the basis of governance in the transitional stage until a permanent Constitution is ratified in a popular referendum.

#### **Part One General Provisions**

##### **Article (1)**

Libya is an independent democratic State where the people are the source of authority. The city of Tripoli shall be the capital of the State. Islam is the religion of the State and the principal source of legislation is the Islamic Sharia. The State shall guarantee for non-Muslims the freedom to practice religious rituals. Arabic is its official language. The State shall guarantee the cultural rights for all components of Libyan society and its languages shall be deemed national ones.

##### **Article (2)**

The law shall prescribe the emblem and national anthem of the State.

##### **Article (3)**

The national flag shall have the following shape and dimensions:

Its length shall be double its width, it shall be divided into three parallel coloured stripes, the uppermost being red, the centre black and the lowest green, the black stripe shall be equal in area to the two other stripes together and shall bear in its centre a white crescent, between the two extremities of which there shall be a five-pointed white star.

#### **Article (4)**

The State shall seek to establish a democratic political regime to be based upon political pluralism and the multi-party system in the aim of achieving peaceful and democratic alternation of power.

#### **Article (5)**

The family is the basis of society and shall be entitled to protection by the State. The State shall also protect and encourage marriage. The State shall guarantee the protection of motherhood, childhood and the elderly. The State shall take care of children, youth and the handicapped.

#### **Article (6)**

**Second paragraph added pursuant to Article (1) of Constitutional Amendment No. (5) of 2013.**

Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities, and be subject to the same public duties and obligations, without discrimination due to religion, sect, language, wealth, sex, kinship, political opinions, social status, and tribal, provincial or familial affiliation.

The isolation of some persons and banning them from sovereign offices and leadership posts in the State's higher departments for a temporary period of time pursuant to a law issued to such effect, and which does not prejudice the right of the persons concerned to appeal, shall not be deemed a violation of the provisions of this declaration.

### **Part Two Rights and Public Freedoms**

#### **Article (7)**

Human rights and basic freedoms shall be respected by the State. The State shall commit itself to joining international and regional declarations and charters which protect such rights and freedoms. The State shall endeavour to promulgate new charters which shall honour the human being as God's creation on Earth.

#### **Article (8)**

The State shall guarantee equal opportunity for every citizen and shall provide an appropriate standard of living. The State shall also guarantee the right of work, education, medical care, social security, and the right of intellectual and private property. The State shall further guarantee the fair distribution of national wealth among citizens, and among the different cities and districts thereof.

#### **Article (9)**

Defence of the nation, safeguarding national unity, upholding the civil, constitutional and democratic system, abiding by civil values, combating tribal, provincial and clannish bias shall be the duty of each and every citizen.

#### **Article (10)**

The State shall guarantee the right of asylum by virtue of the law. The extradition of political refugees shall be prohibited.

#### **Article (11)**

Dwelling houses and homes are inviolable and they may not be entered or inspected except in cases prescribed by the law and according to the manner set forth therein. Caring for public and private funds shall be duty of each and every citizen.

#### **Article (12)**

The law shall protect the inviolability of the private life of citizens and the State shall not spy on the same except by a causal judicial warrant in accordance with the provisions of the law.

#### **Article (13)**

Correspondence, telephone calls and other means of communication are inviolable and their secrecy shall be guaranteed. They may not be confiscated, examined or monitored except by a causal judicial warrant and for a definite period in accordance with the provisions of the law.

#### **Article (14)**

Freedom of opinion for individuals and groups, freedom of scientific research, freedom of communication, liberty of the press, printing, publication and mass media, freedom of movement, freedom of assembly, freedom of demonstration and freedom of peaceful sit-in shall be guaranteed by the State in accordance with the law.

#### **Article (15)**

The State shall guarantee the freedom of forming political parties, societies and other civil society organisations, and a law shall be promulgated to regulate same. The establishment of clandestine or armed groups, or groups in violation of public order or of public morals and others which may be detrimental to the State or the unity of national territory shall be prohibited.

#### **Article (16)**

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

### **Part Three**

#### **Form of State Governance during the Transitional Stage**

##### **Article (17)**

The Interim National Transitional Council is the supreme power in the State of Libya and shall undertake the works of the supreme sovereignty including legislation and laying down the general policy of the State. The National Transitional Council shall be deemed as the sole legitimate representative of the Libyan people and it shall derive its legitimacy from the Revolution of February 17th. The National Transitional Council shall be entrusted to guarantee the national unity, the safety of the national territory, to embody and promote values and morals, to ensure the safety of citizens and residents, to ratify international agreements and to establish the bases of a civil constitutional democratic state.

##### **Article (18)**

- The Interim National Transitional Council shall consist of representatives of the local councils. In determining the representatives of each Local Council, the population density and the geographical extent of the city or the area which it represents shall be taken into account. The NTC shall have the right to add ten members for the sake of the national interest. The NTC shall nominate and elect those members.
- The Interim National Transitional Council shall elect a president, and first and second deputies thereof. If the post of the President or of his deputy becomes vacant, a successor shall be elected by the Council. In all cases, election shall be effected by relative majority of those present. In the event of a tie, the member who is given a casting vote by the President shall be elected.

##### **Article (19)**

The President of the Interim National Transitional Council shall take an oath before the NTC and the members of the Interim National Transitional Council shall take the oath in the following formula:

"I swear by Almighty God to carry out the duties of my job honestly and truthfully, to remain faithful to the goals and principles of the 17 February Revolution, to respect the Constitutional Declaration and the bylaws of the National Transitional Council, to look after the interests of the Libyan people in full and to safeguard the independence, security and unity and territorial integrity of Libya."

##### **Article (20)**

The Interim National Transitional Council shall have its own statutes which shall regulate the method of work therein and the manner to exercise the duties and functions thereof.

##### **Article (21)**

It shall be impermissible for any member of the Interim National Transitional Council to assume any public office. It shall also be impermissible to combine membership in the National Transitional Council with membership on the Local Council. A member may neither be appointed to a Board of Directors of any company nor may he contribute to obligations contracted by the government or any public institution. Furthermore, during the term of his membership, neither the member, his wife nor his sons may not buy or rent any State property or lease, sell or barter with the State any of his own property, or conclude a contract with the State in his capacity as obligator, supplier or contractor.

#### **Article (22)**

Membership in the National Transitional Council shall only be revoked on grounds of lapse of one of the conditions of membership or violation of his obligations as a member. Membership shall be revoked based on a decision taken by two-thirds of the Interim National Transitional Council members. Membership shall expire in cases of death, acceptance of resignation by the Interim National Transitional Council, loss of legal competence or disability to perform his duties. In the event that membership expires or is revoked, the National Transitional Council shall elect a new member in replacement of the member whose membership was revoked or expired.

#### **Article (23)**

The seat of the Interim National Transitional Council shall be in the city of Tripoli and it may establish an interim seat in the city of Benghazi. However, the Council may meet in another place upon the request of the majority of its members.

#### **Article (24)**

- The National Transitional Council shall appoint an Executive Office or an Interim Government consisting of a Chairman and a sufficient number of members in order to manage the different sectors of the State. The Interim National Transitional Council shall have the right to dismiss the Chairman of the Executive Office or the Interim Government or any member thereof provided that such resolution shall be issued and adopted by the majority of two-thirds of the members of the Council.
- The Chairman of the Executive Office or the Interim Government and the members thereof shall be jointly liable before the Interim National Transitional Council for carrying out the general policy of the State in accordance with the instructions and directions of Interim National Transitional Council. Each and every member shall further be responsible for the works of the sector presided over by him before the Executive Office or the Interim Government.

#### **Article (25)**

The Chairman of the Executive Office or the Interim Government shall take an oath in the formula prescribed by Article (19) prior to carrying out their duties before the President of the Interim National Transitional Council.

#### **Article (26)**

The Executive Office or the Interim Government shall carry out the general policy of the State in accordance with the instructions and directions of the Interim National Transitional Council. The Executive Office or the Interim Government shall as well undertake the issuance of the executive regulations of the issued laws. The Executive Office or the Interim Government shall also submit the draft laws to the Interim National Council in order to review same and to take the action it may deem appropriate in respect thereof.

#### **Article (27)**

The general budget of the State shall be issued by law.

#### **Article (28)**

The Interim National Transitional Council shall establish an Audit Office, which shall exercise financial oversight over all revenues, expenses, and all movable and immovable property belonging to the State. The said department shall verify the optimum use of such funds and preserve same. It shall also submit an annual report on such to the Interim National Transitional Council, the Executive Office or the Interim Government.

#### **Article (29)**

The Interim National Transitional Council shall appoint diplomatic representatives of the State abroad upon the nomination of the Executive Office. It shall also have the right to remove them or to accept their resignations. It shall further accept the credentials of the heads of foreign diplomatic missions. The NTC shall as well mandate its President to accept the credentials of the heads of foreign diplomatic missions.

#### **Article (30)**

**Amended pursuant to Constitutional Amendment No. (1) of 2012, Constitutional Amendment No. (2) of 2012, Constitutional Amendment No. (3) of 2012, Constitutional Amendment No. (4) of 2012, Constitutional Amendment No. (5) of 2013, Constitutional Amendment No. (6) of 2014, Constitutional Amendment No. (7) of 2014, and Constitutional Amendment No. (8) of 2014.**

1. The interim National Transitional Council (NTC) shall be fully established as per Article (18) of the present Declaration, and it shall remain the highest governing authority in the State of Libya and responsible for the administration of the country until the election of the General National Congress.



2. After the Liberation Declaration, the interim NTC shall relocate to its headquarters in Tripoli to form a transitional government within a maximum period of thirty days.  
Within a maximum period of ninety days from the Liberation Declaration, the NTC shall:
  - a. Issue an election law for the GNC.
  - b. Appoint the High National Elections Commission.
  - c. Call for the election of the GNC.
3. The GNC shall be elected within 270 days from the Liberation Declaration.
4. The GNC shall be composed of 200 members elected from the entire Libyan people in accordance with the GNC election law.
5. The interim NTC shall be dissolved at the first session of the GNC, and all its powers shall be transferred to the GNC. The oldest member shall preside over the session, while the youngest member shall serve as rapporteur. During the said session, the president of the GNC and his two deputies shall be elected by direct secret ballot. The transitional government shall continue to exercise its functions until an interim government is formed.
6. Legislation shall be issued by the GNC by a majority of at least 120 members in the following matters:
  - a. Approving the general budget and the State's final accounts.
  - b. Declaring and lifting a state of emergency.
  - c. Declaring and ending war.
  - d. Dismissing the GNC president, his deputies or any members of the GNC.
  - e. Withdrawing confidence from the government.
  - f. Ratifying international treaties.
  - g. Legislation regulating local administration affairs and general elections.
  - h. Legislation that places financial liabilities on the public treasury that are not included in the general budget.
7. Votes on political and administrative isolation laws shall pass by a majority of 101 GNC members.
8. GNC members may move to require a 120 member majority for an issue under discussion. The motion may only be put to a vote upon obtaining the support of five members. The resolution to require such a majority shall pass with a simple majority of members present.
9. Except in the preceding cases, legislation shall pass with a simple majority of members present.
10. Within a maximum of 90 days from its first session, the GNC shall:
  - a. Appoint a prime minister, who shall nominate his government's ministers, provided that all such members are granted confidence by the GNC before

exercising their function as an interim government. The GNC shall also appoint the heads of sovereign functions.

- b. Reconstitute the High National Elections Commission to elect a constituent assembly, called the Constitutional Drafting Assembly (CDA), through direct free ballot from among non-members, in order to draft a permanent constitution for the country. It shall be composed of sixty members after the model of the Committee of Sixty, which was established to draft the constitution of Libya's independence in 1951. Pursuant to a special law, the GNC shall be responsible for setting the criteria and rules for its election, taking into account the distinct linguistic and cultural components of Libyan society (Amazigh – Tuareg – Tubu). Decisions of the CDA require a majority of two-thirds plus one, and it is necessary to come to an agreement with the distinct linguistic and cultural components of Libyan society in provisions that concern them. The constitution shall be drafted and adopted within a maximum of 120 days from the opening of the first session.
11. The February Committee's proposal, to the effect that the House of Representatives shall elect a temporary speaker through direct or indirect vote within no more than 45 days from convening its first session, shall be adopted.<sup>1</sup>
  12. As soon as the CDA finishes drafting the constitution, it shall be submitted to a yes-or-no referendum within 30 days from the date of approval thereof.
    - If the Libyan people approve the draft constitution by a majority of two-thirds of voters, the CDA shall ratify the same as the country's Constitution and it shall be referred to the House of Representatives for issuance.
    - If the draft is not approved, the CDA shall revise it and submit it again for referendum within a period of 30 days from the date that the first referendum's results are announced.
    - The House of Representatives shall issue a general election law in accordance with the constitution within 30 days from the date that the constitution is promulgated.

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<sup>1</sup> Pursuant to Constitutional Amendment No. (8) of 2014, a new paragraph shall be added to Article 34 of the February Committee's proposal (adopted by virtue of Constitutional Amendment No. (7) to stipulate as follows:

- Until the election of the (interim) Head of State, the (interim) House of Representatives shall exercise all the above powers with the exception of the two powers stipulated in Paragraphs 1 and 9 of the article referred to, which shall be ascribed to the Prime Minister.
- In all cases, the interim House of Representatives may delegate to the Speaker's Office all or some of the powers ascribed to the House pursuant to this amendment.

- General elections shall be held within 120 days from the date the organizing laws are issued. The House of Representatives and the interim government shall oversee the preparation of all requirements for holding elections democratically and transparently.
- The High National Elections Commission (which shall be reconstituted by the House of Representatives) shall be responsible for conducting general elections under the supervision of the national judiciary and the oversight of the United Nations and international and regional organizations.
- The High National Elections Commission shall endorse and announce the results, and the new legislature shall be called to session within no more than 30 days from the date the House of Representatives endorses the results. At its first session, the House of Representatives shall be dissolved and the legislature shall perform its duties.

## **Part Four Judicial Guarantees**

### **Article (31)**

There shall be no crime or penalty except by virtue of the text of the law. Any defendant shall be innocent until he is proved guilty by a fair trial wherein he shall be granted the guarantees necessary to defend himself. Each and every citizen shall have the right to recourse to the judiciary in accordance with the law.

### **Article (32)**

- The judiciary shall be independent. It shall be exercised by courts of justice of different kinds and degrees. They shall issue their judgments in accordance with the law. Judges shall be independent, subject to no other authority but the law and conscience.
- Establishing Extraordinary Courts shall be prohibited.

### **Article (33)**

- Right of resorting to judiciary shall be preserved and guaranteed for all people. Each and every citizen shall have the right to resort to his natural judge. The State shall guarantee to bring the judiciary authorities near the litigants and shall guarantee speedy decisions in lawsuits.
- Laws shall not provide for any administrative decree to be immune from judicial oversight.

## **Part Five Final Provisions**

### **Article (34)**

Constitutional documents and laws which were applicable before this Declaration entered into force shall be repealed.

#### **Article (35)**

All the provisions prescribed in existing legislation shall continue to be effective in so far as they are not inconsistent with the provisions hereof until they are amended or repealed. Each reference in these legislations to the “People’s Congresses”, the “General People's Congress”, shall be deemed as a reference to the Interim National Transitional Council or to the General National Congress. Each reference to “General People's Committee” or the “People's Committees” shall be deemed as a reference to the Executive Office, to the members of the Executive Office, to the interim government or to the members thereof each within their respective area of jurisdiction. Each reference to the "Great Socialist People's Libyan Arab Jamahiriya" shall be deemed as a reference to "Libya".

#### **Article (36)**

No cancellation or amendment shall be made to any provision contained herein save with another provision issued by the Interim National Transitional Council and by the majority of two-thirds of the members of the NTC.

#### **Article (37)**

This Declaration shall be published in different media and shall take effect from the date of its publication.

**The Interim National Transitional Council -- Libya**  
**Benghazi on 3 Ramadan 1432 AH corresponding to 03/08/2011 AD**