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Libya's Constitution of 2011

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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.

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.

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.

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.

Article (30)

Before the liberation the National Transitional Council shall be complete as approved by the latter. It shall represent the highest authority of the Libyan state and be responsible for running the country until the election of the General National Congress.

After the declaration of liberation, the National Transitional Council shall take its principal seat in Tripoli. It shall establish an interim government within a period not exceeding thirty days, within a total period of not more than ninety days since the declaration of liberation. The Council shall do the following:

1. Adopt a statute providing for the election of the National General Congress.
2. Appoint the National High Commission on Elections.
3. Convoke the elections for the National General Congress.

The election of the General National Congress shall take place within two hundred and forty days following the declaration of liberation. The General National Congress shall be composed of two hundred elected members, all of them sons of the Libyan people, in accordance with the Act on the election of the General National Congress.

The National Transitional Council shall be dissolved at the first sitting of the National General Congress. The oldest member shall chair the meeting. The youngest member shall assume the role of rapporteur on the deliberations of the meeting. During this first meeting, the President of the General National Congress shall be elected by direct and secret vote with a relative majority. The transitional government shall continue its work until an interim government is established.

The General National Congress shall do the following within a period not exceeding thirty days since its first meeting:

1. Designate a Prime Minister who in turn shall propose the names of the members of his government, provided that they obtain the confidence of the National General Congress before they start working as members of the interim government. The Congress shall also proceed to the designation of the heads of sovereign functions.
2. Choose a constitutive body for the formulation of a draft constitution called the committee for the elaboration of the constitution which shall present a draft constitution to the Congress within a period not exceeding sixty days following its first meeting. The draft constitution shall be approved by the National General Congress and be submitted to a yes-or-no referendum within thirty days following its adoption by Congress. If the Libyan people approve the constitution by a two-thirds-majority of voters, the committee shall certify the text as the constitution of the country and it shall be promulgated by Congress.

The General National Congress shall adopt an Act on general elections in accordance with the Constitution within thirty days. The general elections shall take place within one hundred and twenty days following the promulgation of the relevant Act. The General National Congress and the interim government shall supervise the whole electoral process in a democratic and transparent manner.

The National High Commission on Elections (which shall be reconstituted by the National General Congress) shall organize the general elections under the supervision of the national judiciary and the control of the United Nations, international and regional organizations.

The National General Congress shall certify and proclaim the election results and invite the legislative power to convene within a period not exceeding thirty days. At its first meeting, the General National Congress shall be dissolved. The legislative power shall assume its functions.

Before the first sitting of the legislative authority, the interim government shall be deemed a government in charge of managing current affairs until the formation of a permanent Government under the new Constitution.

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.