

Draft Constitutional Charter For the Transitional Stage

The Constitutional Declaration

In the Name of God, the Merciful, the Compassionate

The Interim Transitional National Council

In view of our belief in the Revolution of the 7th day of February, 2011 AD corresponding to the 14th day of Rabi' al-awwal, 1432 (Islamic calendar) which has been led by the Libyan people in different districts of their country and due to our faithfulness to the martyrs of this blessed Revolution who sacrificed their lives for the sake of freedom, living with dignity on the land of home as well as retrieving all the rights looted by Al-Gaddafi and his collapsed regime.

Based on the legitimacy of this Revolution, and in response to the desire of the Libyan people and their hopes to achieve democracy, establish the political multitude and the estate of institutions, to create a society wherein all of us can live in stability, tranquility and justice; a society that can raise by science, culture, welfare and health, and that can bring up the new generations according to the Islamic spirit and love of goodness and home.

In the hope of seeking a society of citizenship, justice, equality, booming, progress and prosperity wherein there is no place for injustice, tyranny, despotism, exploitation and dictatorship. The interim Transitional National Council has decided to promulgate this Constitutional Declaration in order to be the basis of rule in the transitional stage until a permanent Constitution is ratified in a plebiscite.

Part One

General Provisions

Article (1)

Libya is an independent Democratic State wherein the people are the source of powers. 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 Islamic Jurisprudence (Shari'a). The State shall guarantee for non-Moslems the freedom of practicing religious rituals .Arabic is its official language. The State shall guarantee the cultural rights for all components of the 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 colored 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 political democratic regime to be based upon the political multitude and multi party system in a view of achieving peaceful and democratic circulation 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)

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, doctrine, language, wealth, race, kinship, political opinions, and social status, tribal or eminent or familial loyalty.

Part Two

Rights and Public Freedoms

Article (7)

Human rights and his basic freedoms shall be respected by the State. The state shall commit itself to join the international and regional declarations and charters which protect such rights and freedoms. The State shall endeavor to promulgate new charters which shall honor the human being as being God's successor on Earth.

Article (8)

The State shall guarantee for every citizen equal opportunities and shall provide an appropriate standard of living. The State shall also guarantee the right of work, education, medical care, and social security, 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)

Defense of the motherland, safeguarding national unity, keeping the civil, constitutional and democratic system, abiding by civil values, combating tribal, kindred and eminent 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 shall have their sanctity 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 the 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 shall have their own sanctity and their secrecy shall be guaranteed. They may not be confiscated 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 strike 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 societies, and a law shall be promulgated to regulate same. The establishment of clandestine or armed societies, or societies in violation of public system or of public morals and others which may be detriment to the State or the unity of the State 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 Transitional National 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 Transitional National 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 Transitional National Council shall be entrusted to guarantee the national unity, the safety of the national territory, to embody and circulate values and morals, to ensure the safety of citizens and expatriates, to ratify the international agreements and to establish the bases of the civil constitutional democratic state.

Article (18)

- The Interim Transitional National Council shall consist of representatives for the Local Councils. It must be taken into consideration in determining the representatives of each Local Council the population density and the geographical standard of the city or the area which it represents. The Council shall have the right to add ten (10) members for the sake of national interest. The Council shall nominate and elect those members.
- The Interim Transitional National Council shall elect a president, first and second vices thereof. If the post of the President or of his vice becomes vacant, a successor shall be

elected by the Council. In all cases, election shall be effected by relative majority of those present. In case more than one nominee equaled in obtaining the majority votes, the member who is given a casting vote by the President shall be elected.

Article (19)

The President of the Interim Transitional National Council shall take oath before the Council and the members of the Interim Transitional National Council shall take 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 Interim Transitional National Council in Libya, to respect the constitutional charter and internal statutes thereof, to look after the interests of the Libyan people in full and to safeguard the independence, security and unity and territorial integrity of the motherland."

Article (20)

The Interim Transitional National 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 Transitional National Council to assume any executive public office. It shall also be impermissible to combine the membership of the National Council with the membership of the Local Council. A member may neither be appointed in a Board of Directors of any company nor may he contribute to obligations made by the government or made by one of the public institutions. Further, during the term of his membership, the member, his wife or his sons may not buy or rent any State property or lease or sell to 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)

No membership in the National Council shall be revoked except on the grounds of loss of one of the conditions of membership or the violation of his obligations as a member. The membership shall be deemed invalid on the grounds of a decision taken by two-thirds of the Interim Transitional National Council members. The membership shall end in cases of death, acceptance of resignation by the Interim Transitional National Council, losing of legal competence or disability to perform duty. In case of revoking or expiration of the membership, the National Council shall elect the new member in replacement of the member whose membership was revoked or expired.

Article (23)

The seat of the Interim Transitional National 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 Transitional National Council shall appoint an Executive Office or an Interim Government consisting of a Chairman and sufficient number of members in order to manage the different sectors of the State. The Interim Transitional National 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 Transitional National Council for carrying out the general policy of the State in accordance with the instructions and directions of Interim Transitional National Council. Each and every member shall further be responsible for the works of the sector presided by him before the Executive Office or the Interim Government.

Article (25)

The Chairman of the Executive Office or the Interim Government shall take oath in the formula prescribed by Article (19) prior to carrying on their duties before the President of the Interim Transitional National 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 Transitional National 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 as it may deem appropriate in respect thereof.

Article (27)

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

Article (28)

The Interim Transitional National Council shall establish an Accounting Department which shall undertake financial control over all revenues, expenses, 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 that to the Interim National Council, the

Executive Office or the Interim Government.

Article (29)

The Interim Transitional National 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 Council shall as well delegate its President in accepting the credentials of the heads of foreign diplomatic missions.

Article (30)

- Prior to liberation, the Interim Transitional National Council shall be completed as approved by the Council. It shall remain the Council which represents the supreme authority in the State of Libya; it shall be liable for managing the State until the National Public Conference is elected.
- After the announcement of liberation, the Interim Transitional National Council shall move to its headquarters in Tripoli. The Interim Transitional National Council shall form an interim government within a period not exceeding thirty days and within a period not later than ninety days from the date liberation is announced and made known, the Council shall:
 1. Promulgate a law on electing the National Public Conference.
 2. Appoint the National Supreme Commission for elections.
 3. Invite for the election of the National Public Conference.
- The National Public Conference shall be elected within a period of two hundred forty days from the date liberation is announced and made known.
- The National Public Conference shall consist of two hundred elected members from amongst all the sons of the Libyan People in accordance with the law of electing the National Public Conference.
- The Interim Transitional National Council shall be dissolved upon holding the first meeting of the National Public Conference. The oldest members shall undertake the chairmanship of the meeting. The youngest member shall assume the position of the secretary of the meeting. During such meeting, the President of the National Public Conference and his Vice shall be elected by direct, secret balloting by relative majority. The Provisional Government shall continue carrying on its works until an interim government is formed.
 - The National Public Conference shall, within a period not later than thirty days as of the date thereof, shall:
 1. Appoint ministers and shall propose the names of the members of its government provided that all such members shall have the confidence of the National Public Conference prior to carrying on their works as an Interim Government. The National Public Conference shall further appoint the presidents of the sovereign posts.
 2. Opt for a Constitutional Power in order to formulate the constitution draft for the State which Power shall be called "the Constitutional Power for Formulating the Constitution" provided that such Power shall finish

submitting the constitution draft to the Conference within a period not exceeding sixty (60) days from the date of holding its first meeting.

- The constitution draft shall be approved by the National Public Conference and shall be referred to the people for a plebiscite with (Yes) or (No) within thirty days from the date of the approval thereof by the Conference. If and when the Libyan people approve the Constitution by two thirds of the majority of the voters, the Constitutional Power shall then approve the constitution draft as being the Constitution for the State. The National Public Conference shall also approve the same. In case of disapproval of the Libyan people, the Constitutional Power shall then be assigned to reformulate the constitution draft and the constitution draft shall be re-referred to the people for a plebiscite within a period not exceeding thirty days.
- The National Public Conference shall issue the Law of public elections in accordance with the Constitution within thirty days.
- The public elections shall be conducted within a period of one hundred eighty days from the date the laws regulating the same are promulgated. Both the National Public Conference and the interim government shall oversee the preparation of all the requirements of conducting the election process in a democratic and transparent manner.
- The National supreme Commission for Elections, which shall be reformed by the National Public Conference, shall conduct the public elections under the supervision of the National Judicial authority, the United Nations and the international and regional organizations.
- The National Public Conference shall ratify and announce the results of the elections, and shall convoke the Legislative Authority for meeting within a period not exceeding thirty days. In the first session thereof, the National Public Conference shall be dissolved and the Legislative Power shall fulfill its legislative tasks.
- By holding the first session of the Legislative Power, the Interim Government shall be deemed and taken as a caretaker government for conducting business until a permanent government is approved in accordance with the Constitution.

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 authority in accordance with the law.

Article (32)

- The Judiciary Authority shall be independent. It shall be exercised by courts of justice of different sorts and competences. 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 Exceptional 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 the swift determination on lawsuits.
- Laws shall not provide for the prohibition of judiciary authority to control any administrative decree.

Part Five

Conclusive Provisions

Article(34)

The constitutional documents and laws which were applicable before applying this Declaration shall be repealed.

Article(35)

All the provisions prescribed in the existing legislations 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 Transitional National Council or to the National Public Conference. 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 its respective area of jurisdiction. Each reference to (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 Transitional National Council and by the majority of two thirds of the members of the Council.

Article(37)

This Declaration shall be published in different media and shall take effect from the date it is published in media.

The Interim Transitional National Council

Benghazi on the 3rd day of Ramadan, 1432 AH corresponding to 03/ 08/ 2011 AD.