

**Draft Constitutional Charter
for the Transitional Stage**

In the Name of God, the Merciful, the Compassionate

In the Name of the People

In view of our belief in the Revolution of the 7th February, 2011 AD 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 spoiled rights.

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 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. Therefore, this Revolution requires issuing these presents in order to be the basis of rule in the transitional stage until a permanent constitution is issued.

NOW, THEREFORE, based on the statute of the interim Transitional National Council issued on March 12th, 2011 and the resolution No. (...) in the year of ...concerning naming the local councils, the following Charter has been promulgated:

Part One

General Provisions

Article (1)

Libya is an independent Democratic State wherein the people are the source of authorities. 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 (Sharia). Arabic is its official language while preserving the linguistic and cultural rights of all components of the Libyan society. The State shall guarantee for non-Moslems the freedom of practising religious rights and shall guarantee respect for their systems of personal status.

Article (2)

The law shall prescribe the emblem and 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 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 are brothers and their official relationship shall be based on law rather than tribal, proud or personal loyalty. 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, belief, race, language, wealth, kinship or political opinions or social status. The State shall guarantee for woman all opportunities which shall allow her to participate entirely and actively in political, economic and social spheres.

Part Two

Rights and Public Freedoms

Article (7)

Human rights and his basic freedoms shall be respected. The state shall endeavor to join

the international and regional declarations and charters which protect such rights and freedoms.

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)

Defence of the motherland, safeguarding national unity, keeping the civil, constitutional and democratic system, abiding by civil values, combating tribal bias and caring for the public funds shall be duty of each and every citizen.

Article (10)

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

Article (11)

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

Article (11 bis)

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.

Article (12)

The law shall protect the inviolability of the private life of citizens.

Article (12 bis)

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 and according to the provisions of the law.

Article (13)

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.

Article (14)

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 (15)

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 (16)

During the transitional stage, the Transitional National Council, the supreme authority in the State of Libya 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 17. 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, and to establish the bases of the civil constitutional democratic state.

Article (17)

- The 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 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. The term of the new president or his vice shall extend until the end of the term of his predecessor. 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 oldest member shall be elected.

Article (18)

The members of the Transitional National Council shall take in a private meeting to be held for this purpose within a week from the date of re-establishing the Council the following oath: "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 (19)

The 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 (20)

It shall be impermissible for any member of the National Council to assume any other 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 relatives even the fourth degree 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 (21)

No membership in the National Council shall be revoked except on the grounds of loss of confidence or status or 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 Council members.

The membership shall end in cases of death, acceptance of resignation by the 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 (21 bis)

The seat of the 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 (22)

- The Transitional National Council shall have an Executive Office consisting of a chairman and sufficient number of members in order to manage the different sectors of the State. The Transitional National Council shall have the right to dismiss the Chairman of the Executive Office 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 and the members thereof shall be jointly liable before the Transitional National Council for carrying out the general policy of the State in accordance with the instructions and directions of Transitional National. Each and every member shall further be responsible for the works of the sector presided by him before the Transitional National.

Article (23)

The Chairman of the Executive Office and the members thereof shall take oath in the formula prescribed by Article (18) prior to carrying on their duties before the Transitional National Council.

Article (24)

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

Article (25)

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

Article (26)

The 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 National Council and the Executive Office.

Article (27)

The National Council shall appoint diplomatic representatives of the State abroad upon the nomination of the Foreign Affairs. 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 (28)

- Prior to liberation, the Transitional National Council shall be completed according to the number designated for each approved Local 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 elected legislative and executive authorities manage the affairs of the State.
- After the announcement of liberation, the Transitional National Council shall move to Tripoli. The President thereof shall form an interim national government in the first meeting thereof.
- After the lapse of one month of liberation, the members of the Constitutional Authority shall be appointed by secret balloting outside the members of the Transitional National Council.
- The Constitutional Authority shall supervise laying down the Constitution of the State within three months after its first meeting wherein it shall approve the proposal of constitution in its final form. Then it shall refer the Constitution to the People for a plebiscite.
- The Constitution shall be referred to the people for a plebiscite with (Yes) or (No) within one month from the date of its preparation. If and when the Libyan people approve the Constitution by absolute majority, the Constitutional Authority shall then approve the Constitution as being the Constitution approved for the State. The Transitional National Council shall also approve the Constitution. In case of disapproval of the Libyan people, the Constitutional Authority shall then be assigned to reformulate the Constitution and the constitution shall be re-referred to the people for a plebiscite within a period not exceeding one month.
- Legal committees affiliated to the Transitional National Council shall lay down the laws of the legislative and presidential elections in accordance with the Constitution within sixty (60) days from the date of approving same.
- The date of the process of the legislative and presidential elections shall be announced and made known provided that it shall not exceed the period of six months from the date of issuing the laws regulating same. The National Council

and the government shall supervise the preparation of all the requirements for instituting the electoral process in a transparent and democratic manner.

- Both the legislative and presidential elections shall be conducted under the supervision of the United Nations.
- The Transitional National Council shall approve and announce the results of the elections, and shall convoke the Parliament for meeting within a period not exceeding one month. In the first session thereof, the Transitional National Council shall be dissolved and the Parliament shall fulfill its legislative task.
- The permanent government shall be appointed in accordance with the Constitution and the interim government shall submit its resignation.

Article (29)

The members of the Transitional National Council, of the interim government and of the Local Councils may not nominate for or assume the position of the President of the state, the membership of the legislative councils and ministerial portfolios.

Part Four

Judicial Guarantees

Article (30)

- There shall be no crime or penalty except by virtue of the law.
- Any defendant shall be innocent until he is proved guilty by a court ruling and he shall be granted the guarantees necessary to defend himself. Imprisoning the defendant in the bar during the trial shall be prohibited. No physical or psychological harm is to be inflicted upon him.

Article (31)

- 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 (32)

- 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 (33) [This Article is repeated under Article 29]

The members of the Transitional National Council, of the interim government and of the Local Councils may not nominate for or assume the position of the President of the state, the membership of the legislative councils and ministerial portfolios.

Article(34)

The constitutional documents and laws which were applicable before applying these presents 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", the "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 interim Local Councils 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 Transitional National Council and by the majority of two thirds of the members of the Council.

Article(37)

These presents shall be published in different media and shall take effect from the date they are approved and published in media.

The Transitional National Council

Benghazi on / / 2011 AD

Names and signatures