

THE
CARTER CENTER



**Syria's Transition
Governance & Constitutional Options
Under U.N. Security Council Resolution 2254**

Working Paper

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WORKING PAPER

Syria's Transition Governance & Constitutional Options Under U.N. Security Council Resolution 2254 June 2016

Executive Summary

The United Nations Security Council Resolution (UNSCR or SCR) 2254 (2015) calls for a new constitution for Syria to be approved within 18 months and for internationally supervised elections to be held under the new constitution. It also calls for an “inclusive transitional governing body with full executive powers, which shall be formed on the basis of mutual consent while ensuring continuity of government institutions” (Preamble Para. 5). However, the resolution is silent on the constitutional arrangements required for the 18-month transition period during which a transitional governing body will be exercising executive powers.

The Syrian opposition and its international supporters interpret Para. 5 to mean President Assad must relinquish executive powers from the outset of, or early during, the transition. The Syrian government and its supporters interpret this clause to mean at most a unity government or a power-sharing arrangement with some opposition representatives for the duration of the transition period.

From January through May 2016, The Carter Center (Center), in partnership with the Syrian Civil Coalition (*Tamas*), the U.N. Economic and Social Council for West Asia (ESCWA), the Norwegian Peacebuilding Resource Center (NOREF) and swisspeace, convened a series of workshops in Beirut, Moscow, and Washington with a group of Syrian lawyers and academics to address the lacuna in the SC resolution. The workshops considered the meaning of “inclusive transitional governing body with full executive powers” and the constitutional and legislative changes necessary during the transition period to implement the governance mandate of SCR 2254.

From January through May, in five workshops and additional consultations, the Syrian participants in the discussions agreed that, if the current constitutional order remains unchanged and the transitional “governing body with full executive powers” is left on its own, without checks and balances, the transitional powers are likely to be abused, and the transition is likely to fail. The group concluded that, if the negotiations resulted in an agreement on amending the current constitution, then at the very least, some of the 21 constitutional articles granting unchecked powers to the president of the republic must be amended, more than 20 emergency decrees repealed, the emergency courts abolished, and a declaration of constitutional principles adopted to guide the transition.

Various options for changing the current constitutional framework were discussed at the workshops and consultations. One of the approaches discussed was to amend the current

constitution, incorporating in its introductory pages a declaration of constitutional principles to ensure that Syria is set on a new course (see Appendix IV). Another option was the adoption of an entirely new constitution for the interim transition period in the form of a constitutional declaration – proposing to replace the current constitution in its entirety (see Appendix II). A third option was to reinstate Syria's 1950 constitution as an interim document for the 18-month transition period, an option that ultimately was dismissed as unrealistic.

In Appendix IV, detailing the preferred option, the working paper suggests that a reconstituted Council of Ministers, including ministers from the current government, opposition, and independents — to be formed on the basis of mutual consent — assume the functions of the Transitional Governing Body (TGB). This model also suggests that executive powers be exercised jointly by the president of the republic and the president of the Council of Ministers. Additionally, and in order to provide essential checks and balances to the TGB, the current People's Assembly and the Supreme Constitutional Court should be reconstituted to represent the government, opposition, and independents.

This working paper represents the sense of the Beirut workshops and additional consultations in Moscow, Washington, and Geneva. In proposing urgent amendments to the constitution for the 18-month transition period, workshop participants were cognizant of the challenge to balance the imperative of sufficient reforms in order to implement the provisions of UNSCR 2254 and the likely pushback of a government resisting significant change.

The conclusions summarized in this working paper represent solely the understandings of The Carter Center.

Constitutional Amendments and Principles to Implement UNSCR 2254 for the Transition Period

I. Significance of different Formulations in the Preamble and Operative Paragraphs of UNSCR 2254

UNSCR 2254, incorporating aspects of the Geneva Communiqué of June 2012 and the Vienna Communiqué of November 2015, calls for an “inclusive transitional governing body with full executive powers, which shall be formed on the basis of mutual consent while ensuring continuity of government institutions” (Preamble, Para. 5). Operative paragraph 4 of Resolution 2254 gives the impression of diluting the language of preamble paragraph 5 when the former calls for “credible, inclusive and non-sectarian governance.”

The formulation in the preamble of SCR 2254, taken from the Geneva Communiqué of June 2012, is interpreted by the Syrian opposition and its regional and global supporters to mean that President Assad must relinquish all executive powers from the outset of, or

early in, the transition. The Syrian government and its supporters interpret this clause to mean at most a power-sharing arrangement for the transitional period.

Regardless of how the clause in the Geneva Communiqué is interpreted, the different formulations in the preamble of the resolution and the operative paragraphs must be taken into consideration, given Security Council practice. Effectively, the operative clauses of a U.N. SC resolution contain the decisive language. The preamble of an SCR is not designed to create specific legal obligations, but serves to interpret the operative clauses.

“The preambles to [SCR] may assist in interpretation, by giving guidance as to their object and purpose, but they need to be treated with caution since they tend to be used as a dumping ground for proposals that are not acceptable in the operative paragraphs. And there is no conscious effort to ensure that the object and purpose of each operative provision is reflected in the preamble.”¹

“The preambular paragraphs of a[n SCR] are not designed to create specific legal obligations or to establish a cause for action by the UN member states, but they provide insight into the political rationale behind the adoption of the resolution. Hence, preambular paragraphs may facilitate proper interpretation of the operative parts of a resolution.”²

II. UNSCR 2254 Clauses Impacting Constitutional Provisions

UNSCR 2254 includes the following clauses that may impact the constitution:

- Operative Para. 1 – Reconfirms its endorsement of the Geneva Communiqué ..., endorses the “Vienna Statements”....
 - ✓ Preamble Para. 6 – ... political transition based on the Geneva Communiqué in its entirety....
- Operative Para. 4 – ... established credible, inclusive and non-sectarian governance....
 - ✓ Preamble Para. 5 – ... full implementation of the Geneva Communiqué ... including ... the establishment of an inclusive transitional governing body with full executive powers....
 - ✓ Preamble Para 7 – ... adhere to ... Syria’s ... non-sectarian character....
- Operative Para. 13 – ... all parties immediately comply with their obligations under international law, including ... international human rights law....

¹ Wood, Michael C., “The Interpretation of Security Council Resolutions” in the *Max Planck Yearbook of United Nations Law*, p. 86-87; http://www.mpil.de/files/pdf2/mpunyb_wood_2.pdf.

² Ahlstrom, Christer, “The United Nations Security Council Resolution 1540: non-proliferation by means of international legislation,” *Stockholm International Peace Research Institute* (2006), p. 464-465. <http://www.sipri.org/yearbook/2007/files/SIPRIYB0711A.pdf>; Also, Singh, Rabinder and Charlotte Kilroy, “In the matter of the potential use of armed force by the UK against Iraq and the matter of reliance for that use of force of UN SC R 1441”, *Lawyers Committee on Nuclear Policy Inc.* (2002) <http://lcnp.org/global/CNDLegalOpinion.pdf>.

- ✓ Preamble Para. 4 – ... protect civilians, including members of ethnic, religious and confessional communities....

The Geneva Communiqué of June 2012 mandates that an agreement ending the war must provide “for clear and irreversible steps ... according to a fixed time frame” (Section II, introduction) for the implementation of the following:

- Section II, Bullet Point 1 – ... a transitional governing body which can establish a neutral environment in which transition can take place....
- Section II, Bullet Point 1 – ... a transitional governing body which ... would exercise full executive powers... [that] could include members of the present government and the opposition and other groups....
- Section II, Bullet Point 5 – Women must be fully represented in all aspects of the transition.
- Section III, Bullet Point 3 – ... all government institutions, including the intelligence services, have to perform according to human rights and professional standards and operate under a top leadership that inspires public confidence, under the control of the transitional governing body.

The Vienna Communiqué of 30 October 2015 (Statement I) reached the following “understandings”:

- Para. 1 – Syria’s ... secular character [is] fundamental.
- Para. 3 – The rights of all Syrians, regardless of ethnicity or religious denomination, must be protected.
- Para. 7 – ... [political process leading to] credible, inclusive, non-sectarian governance....

From the above obligations under SCR 2254, incorporating also the Geneva Communiqué and the Vienna Statement I, the following four clusters of obligations emerge:

- A. A credible, inclusive and non-sectarian Transitional Governing Body with full executive powers;
- B. Compliance with obligations under international law, including human rights law;
- C. Compliance with international human rights law requires, among other obligations, the rights of all Syrians, regardless of ethnicity or religious denomination, to be protected; and
- D. Compliance with international human rights law requires, among other obligations, that women be fully represented in all aspects of the transition.

III. Constitutional Amendments Necessary to Implement Relevant Clauses of UNSCR 2254, The Geneva Communiqué & The Vienna Statements

A. Transitional Governing Body and the 2012 Constitution

The formation of an “inclusive transitional governing body with full executive powers” (emphasis added) and “credible, inclusive and non-sectarian governance” require amendments to no fewer than 21 articles of the 2012 Constitution, including:

- Article 83 – the president of the republic and the president of the council of ministers share executive powers.
- Article 97 – the president of the republic names and dismisses the president of the council of ministers, the ministers and their deputies.
- Article 98 – the president of the republic formulates general policies of the state and oversees implementation.
- Article 99 – the president of the republic may convene council of ministers’ meetings and ask for reports.
- Article 100 – the president of the republic signs laws passed by the parliament.
- Article 101 – the president of the republic issues decrees, decisions and orders.
- Article 103 – the president of the republic declares state of emergency.
- Articles 105-106 – as the commander-in-chief, the president of the republic has absolute authority over the armed forces.
- Article 111 – the president of the republic dissolves parliament.
- Article 113 – the president of the republic assumes legislative authority when parliament is not in session or “if absolute necessity requires.”
- Article 114 – the president of the republic can take “quick measures” when the country is faced with grave danger.
- Article 115 – the president of the republic can “set up special bodies, councils and committees.”
- Article 116 – the president of the republic can call a referendum on important issues.
- Article 121 – the president of the council of ministers, his deputies and ministers are responsible before the president.
- Article 124 – the president of the republic can refer the president of the council of ministers, his deputies and ministers to the courts in case they commit criminal offenses, in which case the accused are immediately suspended.
- Article 125(a) – the council of ministers is considered resigned when the term of office of the president of the republic ends.
- Article 132 – the president of the republic ensures the independence of the judiciary assisted by the Supreme Judicial Council.
- Article 133 – the president of the republic controls the Supreme Judicial Council.
- Articles 141– the president of the republic controls the Supreme Constitutional Court.

- Article 148 – the Supreme Constitutional Court has no right to review laws that the president of the republic submits to public referendum and are approved.

Questions were raised during Carter Center consultations with Syrian and international experts as to how extensive the constitutional amendments must be to allow for the implementation of SCR 2254.

If the **Transitional Governing Body** (TGB), possibly the **Council of Ministers** under the current constitution, is to assume full and exclusive executive powers, it must include representatives of both the current government and the opposition in order to satisfy the requirement of a “credible, inclusive ... governance,” taking into account the political, regional, gender, religious, national, and linguistic diversity of the Syrian people. Concerns were expressed that the total exclusion of the president of the republic from all executive decision-making powers would result in paralysis and a failed transition.

Instead, a compromise solution was proposed, combining the institutions of the president of the republic and the Council of Ministers, where in order to provide the TGB “full executive powers,” certain enumerated powers granted to the president of the republic under the current constitution must be shared with the president of the Council of Ministers. This could be accomplished by adding the clause “with the consent of the president of the Council of Ministers” in every article of the constitution where the president of the republic is granted exclusive executive powers. Another option would be to add a single article under a new chapter of the constitution, called a “Transitional Chapter,” stating: “The president of the republic exercises powers granted to him under articles [enumerate articles] with the consent of the president of the Council of Ministers.”

Additionally, any “credible ... governance” requires oversight over the exercise of executive powers. The 2012 Constitution provides for **legislative and judiciary branches** of government. However, both the People’s Assembly and the judiciary as constituted currently may be problematic in terms of their credibility because of the circumstances under which they were elected or appointed. Laws controlling the functioning of political parties, civil society organizations, the media and the management of elections, among others, have to date produced a People’s Assembly that is subservient to the will of the president of the republic.

For the interim period of the transition, **legislative authority** could be exercised by the **People’s Assembly**, but not in its current composition. In an attempt to improve its credibility and inclusivity, the People’s Assembly could be enlarged by adding representatives selected by the opposition delegation participating in the Geneva talks, as well as representatives from civil society organizations, including from the Women’s Advisory Board, independents and others. However, such a solution could create a People’s Assembly too large to be functional. A variant could be for the current People’s Assembly to elect a smaller group of its membership (i.e. 50) to make up one-third of a transitional People’s Assembly, the opposition High Negotiation Committee could select the second third, and a neutral third party (i.e. an international institution) could select the

remaining third. Such a reconstitution of the People's Assembly could be agreed at the Geneva talks as an extraordinary measure for the interim transitional period in order to give effect to the SCR 2254's requirement of "credible, inclusive ... governance."

An alternative approach to the formation of the TGB and legislature was proposed in a constitutional declaration reproduced in Appendix II of this paper. This proposal suggested the formation of a TGB composed of 30 members appointed one-third by the current government, one-third by the opposition, and the remaining third by an independent entity. This TGB would also assume the functions of the transitional legislature in addition to its executive functions. However, concerns were voiced that such a combination of executive and legislative functions within a single governing body would violate the basic principle of separation of powers, possibly undermining the aims of the transition, and setting a dangerous precedent for the longer-term constitutional development. The proposed constitutional declaration also includes provisions addressing the challenges presented by the state of the judiciary in Syria. The proposed constitutional declaration is meant to replace the current constitution altogether for the 18-month transition period. While the proposed constitutional declaration may be simpler in terms of starting the transition with a clean slate, and therefore may be more acceptable to one side of the conflict, the side resisting change may find it more difficult to accept.

The powers of the president of the republic over the **judiciary** raise considerable concern. The president of the republic "assures" the independence of the judiciary "assisted by" the **Supreme Judicial Council** (SJC) (Article 132). Even if the vague meaning of "assures" and "assisted by" are accepted, the SJC is headed by the president of the republic, and the constitution does not specify its composition or the manner of its formation; it leaves it to legislation (Article 133). The appointing, disciplining, and dismissal of judges are also left to legislation rather than the constitution (Article 136). Given the powers that the president of the republic enjoys in legislative matters, these provisions are inadequate to guarantee the independence of the judiciary. In fact, Syrian lawyers across the political divides are highly skeptical of the judiciary.

The provisions for the **Supreme Constitutional Court** (SCC) are equally troubling with respect to compromising the independence of the judiciary. While Article 141 of the constitution specifies that the president of the republic names the members of the SCC, the appointment of the president of the SCC is not clear. Again, the dismissal of the SCC members is left to legislation instead of specifying in the constitution (Articles 106 and 144). The powers of the SCC to review the constitutionality of laws and to regulate its internal functioning are also abridged (Articles 146(2), 147(a), 148, and 149).

The current Supreme Constitutional Court could be reconstituted for the transition phase. Its membership could be increased, with a third nominated by the current People's Assembly, the second third nominated by the opposition delegation in the Geneva talks, and the remaining third nominated by a neutral third party (i.e. an international institution). Alternatively, members could be appointed by the reconstituted transitional People's Assembly.

The Supreme Constitutional Court must be the final arbiter to determine if decisions of the TGB, legislation adopted by the transitional People's Assembly, and a draft constitution proposed for popular approval by the Constituent Assembly to be formed are in compliance with the letter and spirit of SCR 2254. Decisions of the Supreme Constitutional Court must be adopted by a qualified majority. If a qualified majority cannot be reached after two votes on a given matter, then a simple majority vote should suffice for a decision.

Other provisions of the constitution will require special consideration to accommodate the requirements of SCR 2254. For example, according to Article 97, the "president of the republic shall appoint the president of the Council of Ministers, his deputies, ministers and their deputies...." If the Council of Ministers is to assume the functions of the TGB, the negotiators in Geneva will have to agree on the "president of the Council of Ministers, his deputies, ministers and their deputies." Similarly, other provisions of the constitution must be amended or deleted altogether to ensure the implementation of SCR 2254. Appendix IV reproduces the 2012 Constitution with suggested amendments highlighted.

B. Compliance With Obligations Under International Law, Including Human Rights

Syria is a signatory to some 30 international humanitarian law and human right instruments. Yet, the 2012 Constitution includes only vague and general references to Syria's obligations under these international instruments – i.e. see Introduction, Para. 3. To ensure full implementation of SCR 2254's Operative Para. 13 on compliance with obligations under international law, including human rights, a clear reference in the constitution (perhaps in a transitional chapter – Declaration of Constitutional Principles) to Syria's obligations under international instruments that the country has accepted would be critically important.

The 2012 Constitution, Chapter 2, includes a range of provisions for the protection of universal human rights and fundamental freedoms. The constitution even refers to the "rule of the people by the people and for the people" (Article 2). However, these provisions upholding universal human rights values are restricted or contradicted through other constitutional provisions and legislation, *inter alia* controlling political parties, civil society organizations and the media. More significantly, these human rights and fundamental freedoms have been annulled, suspended or severely compromised through emergency laws and decrees issued since the 1960s and continuing into the current period of civil war. Furthermore, special courts and the security apparatus have completely undermined the individual rights recognized in the constitution. Legislation providing State Security Courts with exceptional jurisdiction and special counter-terrorism laws listed in Appendix I must be repealed, and all such courts must be abolished through an overarching clause in the same Declaration of Constitutional Principles referenced in the previous paragraph.

C. Compliance With International Human Rights Law Requires, Among Other Obligations, the Rights of All Syrians, Regardless of Ethnicity or Religious Denomination, Must Be Protected

Article 9 of the 2012 Constitution guarantees “the protection of cultural diversity of the Syrian society with all its components and the multiplicity of its tributaries.” Article 33(3) guarantees the equality of citizens “without discrimination among them on grounds of ... origin, language, religion or creed.” Yet, Article 3(1) requires that the “religion of the president of the republic is Islam.”

More significantly, five years of war have eroded the tolerant culture that existed in the country among various communities. Moreover, sectarian rhetoric and violent extremist groups have introduced existential fears in the minds of some communities in Syria that they no longer have a place in the future of the country. As such, the limited clauses in the current constitution may no longer be sufficient to protect the diversity of the country.

The Oslo Group for Dialogue in Syria, a group of Syrian religious and academic leaders, has developed a set of principles on “citizenship and the protection of rights” as a means to safeguard the diversity of the country (see Appendix III). These principles may be considered during the deliberations of the longer-term constitution of Syria.

During Carter Center consultations, some Syrian interlocutors suggested that the name of the country – the Syrian Arab Republic – denies non-Arab communities in Syria their distinct identity. As such, they suggested, the name of the country must drop the “Arab” designation. Others suggested that the diversity of Syria could be protected only through various autonomy schemes, including a territorial autonomy such as the “Northern Syria Federation” announced in early April.

These issues are better addressed during deliberations of the longer-term constitution of Syria rather than when considering governance and constitutional arrangements for the 18-month transition period. In the opinion of an expert on such issues, the 10 measures detailed below must be taken into consideration when drafting the longer-term constitution of Syria:

1. Solutions to the “minorities” problem need to be national and framed as being for *all* citizens, not based on particular solutions for particular ethnic and religious groups.
2. The political system must not politicize ethnic or religious identity and must not organize power according to ethnic or religious identity.
3. The electoral system must be designed to dampen, rather than fuel, sectarianism. This must also be applied in the design of decentralized governing units.
4. The economy, access to resources, and provisions for revenue sharing between the central state and decentralized governing units must also be designed to

dampen, rather than fuel, sectarianism.

5. There needs to be pan-sectarian confidence in the checks and balances of the political system, most of all in the selection of members of the constitutional court.

6. The re-allocation of jobs in state institutions to end perceptions of sectarian imbalance must be gradual. This process will not only preserve the functioning of institutions, but also will prevent the emergence of new spoilers.

7. All sects need to have confidence in the forces of law and order.

8. All perceived instruments of sectarian persecution must be neutralized.

9. A narrative of individual responsibility for crimes must be asserted over sectarian narratives of group responsibility for crimes.

10. Immediate protection measures for communities in locations that face imminent ethnic cleansing or sectarian-motivated violence must be devised, resourced and deployed.

D. Compliance With International Obligations Requires That Women Be Fully Represented In All Aspects Of The Transition

SC Resolution 1325 (2000) reaffirms the important role of women in, among other functions, peace negotiations, peacebuilding, and post-conflict reconstruction. Accordingly, the Geneva Communiqué (June 2012), Section II, Bullet Point 5, incorporated in SCR 2254, mandates that women must be fully represented in all aspects of the transition.

The 2012 Constitution of Syria is not gender sensitive. In some articles, it assumes that the officeholder is a male (see Article 84(4)), and in other articles it uses the masculine form of words (see Articles 22, 58).

Taking into consideration SCRs 1325 and 2254, the following paragraph is suggested to be included in the constitution's transition chapter – Declaration of Constitutional Principles, applicable for the transition period and beyond:

Gender Equality – all who exercise public power, de jure or de facto, to adopt a gender perspective that includes the special needs of women and girls during repatriation and resettlement, rehabilitation, reintegration, and post-conflict reconstruction; involve women in all implementation mechanisms of the peace agreements, as well as measures to ensure the human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary; and protect women and girls from gender-based violence.

IV. Declaration of Constitutional Principles To Ensure Implementation of UNSCR 2254

Consultations and discussions with Syrians suggest that any transition might be done in accordance with fundamental principles that reflect aspirations of moving forward peacefully, while also recognizing the realities of the conflict. The discussions emphasized the importance of basic principles, such as respect, participation, and equality. Clearly, the proposed principles represent ideals. Including them in this document is not meant to suggest that they will come into force on the ground in the near future. Nevertheless, eventual agreement on such aspirant principles could provide an important foundation for negotiating the transitional arrangements prescribed by U.N. SCR 2254 and serve to reassure all stakeholders in the country that their interests could be protected in transitional Syria.

The principles listed below and included in Appendix IV (“Transition Chapter: Declaration of Constitutional Principles” immediately following the “Introduction” in the current constitution) can be given the force of law either through a Security Council resolution or preferably through an agreement among the Syrian participants in the Geneva peace conference to include these principles in a transition chapter immediately following the introduction of the current constitution. The latter option has the advantage of making these principles wholly Syrian-“owned” and can be adopted by amending the current constitution in accordance with Article 150. These principles must supersede any contradictory provisions in the current constitution, and any contradictory legislation and decree currently in force. The Supreme Constitutional Court should be charged with the interpretation of what constitutional provision, legislation, or decree is contradictory to the principles.

The proposed principles largely reflect and further detail some of the principles in the U.N. Special Envoy’s Paper on (12) Points of Commonalities or Convergence, dated 24 March 2016. The paper “of essential principles” was submitted to the Syrian parties at the conclusion of the first phase of the intra-Syrian talks “as the foundation for a future Syrian state that meets the aspirations of the Syrian people.”

Declaration of Constitutional Principles

1. During the transition foreseen in United Nations Security Council Resolution (UNSCR) 2254 (2015), the principles adopted herein shall supersede any contradictory constitutional provisions, legislation and decrees currently in force and shall be binding on all state organs.
2. All obligations undertaken by Syria through the signature and ratification of international humanitarian laws and human rights instruments are herewith proclaimed as the law of the country, shall prevail in case where there is a contradiction with Syrian law, and are enforceable by the judicial authorities of the country. [May wish to list the principal international instruments ratified by Syria.]

3. One of the principal aims of the transition foreseen in UNSCR 2254 is to ensure the sovereignty and territorial integrity of Syria.
4. During the transition foreseen in UNSCR 2254, the following principles shall control the exercise of all public powers:
 - a) Peace – all who exercise public power, de jure or de facto, to acknowledge and actively assist in bringing an end to the violence, with the objective that there would never be a resumption of civil war or significant armed conflict.
 - b) Healing – all who exercise public power, de jure or de facto, to acknowledge and stop the injury caused to all aspects of Syrian life – including to the families of and those killed and injured, detained without due process of law, displaced from their homes, or dispossessed of property - prevent the resumption of injury, and repair the injury as best and as quickly as possible.
 - c) Change – all who exercise public power, de jure or de facto, to acknowledge that the core purposes of the transition is to establish eventually a new constitutional and governance order in Syria, reflecting these fundamental principles.
 - d) Dignity – all who exercise public power, de jure or de facto, to guarantee basic human rights in relation to food security, shelter, education, health, employment, and welfare for all.
 - e) Gender Equality – all who exercise public power, de jure or de facto, to adopt a gender perspective that includes the special needs of women and girls during repatriation and resettlement, rehabilitation, reintegration and post-conflict reconstruction; involve women in all implementation mechanisms of the peace agreements, as well as measures to ensure the human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary; and protect women and girls from gender-based violence.
5. The constitution and laws of Syria shall ensure the equality of all before the law and an equitable legal process, and shall prohibit any form of discrimination based on religion or sect, language, national origin, and gender.
6. There shall be separation of powers between the executive, legislature, and judiciary, with appropriate checks and balances to ensure accountability against the arbitrary exercise of power.
7. The independence of the judiciary shall be ensured, the decisions of the judiciary shall be respected by all, and the judiciary shall be appropriately qualified, independent, and impartial, and shall have the power and jurisdiction to safeguard and enforce the present principles, the constitution, and all fundamental rights.
8. There must be an efficient, nonpartisan, career-orientated public service representative of the Syrian citizenship, functioning on a basis of fairness, which must serve all members of the public in an unbiased and impartial manner and must, in the exercise of its powers and in compliance with its duties, execute the lawful policies of the government in the performance of its functions. The structures and functioning of the public service, as well as the terms and conditions of service of its members, must be regulated by law.

9. Members of the security forces – military, intelligence, and police – and the security forces as a whole shall be required to perform their functions and exercise their powers in the national interest, respecting the culture of accountability, human rights, and democratic principles, and shall be prohibited from furthering or prejudicing the interests of ruling political parties or elites. The establishment of effective administration, civilian oversight, and accountability systems for the security forces, including the non-state paramilitary forces, must be a high priority for the Transitional Governing Body. Civilian oversight bodies over the security forces and agencies shall have the capacity to exercise effective control over operations, budgets, funding, and expenditures.
10. Provisions shall be made for freedom of, and access to, information so that there can be open and accountable administration of government.
11. All who exercise public power shall accept that public revenue is raised from and governance conducted on behalf of the people of Syria, and that there should be effective mechanisms by which the people could exercise reasonable measures of control over their lives and their governance, including transparent accounting of public expenditures.

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Appendix I – Decrees and Laws Relating to Emergency, Counterterrorism, and Special Tribunals

Background note: Some of the decrees and laws listed below are cited inconsistently in various sources. On 21 April 2011, the State of Emergency Law (Military Act No 2/1963) was repealed and the Supreme State Security Court abolished. At the same time, Legislative Decree No 161 abolished the Supreme State Security Court (SSSC), an exceptional court with almost no procedural guarantees. However, the security apparatuses have continued to detain individuals without arrest warrants even before the enactment of Legislative Decree No 19 (2 July 2012), dubbed the Counterterrorism Law. Also, Law No. 20 (2 July 2012) was enacted, targeting state employees “convicted” of any act of terrorism. Finally, Law No. 22 (26 July 2012) was enacted, establishing the Counterterrorism Court to apply the Counterterrorism Law.

The list of laws that might be repealed includes (but not limited to) the following:

1. Legislative Act No 51 (Law of Emergency) of 22 December 1962
2. Military Act No 2 (Law of Emergency) of 8 March 1963
3. Legislative Decree No 6 (The establishment of military tribunals in Damascus and in other cities when needed) of 7 January 1965.
4. Legislative Decree No 40 (no immunity for judges) of 21 May 1966
5. Legislative Decree No 109 (establishing the Military Field Tribunal) of 17 August 1967
6. Legislative Decree No 47 (Supreme State Security Court) of 28 March 1968
7. Legislative Decree No 14 (establishing the General Intelligence Administration, and guaranteeing immunity to intelligence personnel for crimes committed in the course of duty) of 15 January 1969
8. Legislative Decree No 549 (regarding the regulations of the Internal Structure of the General Intelligence Administration (Article 74 guarantees immunity to intelligence personnel for crimes committed in the course of duty) of 25 May 1969
9. Law No 53 (on the Security of Arab Socialist Baath Party) of 8 April 1979
10. Law No 49 (on the Muslim Brotherhood) of 7 July 1980
11. Legislative Decree No 64 (immunities of police, customs police and political security by requiring a decree from the General Command of the Army and Armed Forces to prosecute any member of the internal security forces, Political Security (one of Syria's security services), and customs police) of 30 September 2008
12. Legislative Decree No 55 (allowing the detention of suspects for up to 60 days) of 21 April 2011
13. Law No 19 (on counterterrorism) of 2 July 2012
14. Law No 20 (targeting state employees “convicted” of any act of terrorism) of 2 July 2012
15. Law No 22 (on counterterrorism courts) of 26 July 2012

Appendix II – Alternative Constitutional Declaration Proposed

**Constitutional Declaration
During the Transitional Phase
[Drafted in the Arabic language and translated to English]
Revised June 2016**

Preamble

During the five years of armed conflict in Syria, starting in April of 2011, the U.N. Security Council has issued twelve resolutions and six presidential statements regarding the Syrian Crisis that appealed to the sides in the conflict, but without reaching a resolution.

The landmarks for solving the crisis have only been statements issued by groups that include nations guaranteeing the resolution of the conflict. The Action Group for Syria was established in Geneva on June 30, 2012 with a communique supported by the Security Council (Resolution No. 2118 of 2013). It later issued a Joint Statement in Vienna on October 30, 2015 on the results of the multi-lateral talks regarding Syria. It also issued another statement in Vienna on November 15, 2015 on the International Syria Support Group. These statements led at last to UNSC Resolution No. 2254 of 2015, which laid out a roadmap for an end to the conflict by requesting the Secretary General of the U.N. to exert his full efforts to Syria by inviting representatives of the Syrian government and the opposition to urgently enter official negotiations for a political transition, in accordance with the Geneva Communique and the Statement of the aforementioned International Syria Support Group, to reach a permanent political settlement in Syria.

In its resolution, the Security Council expressed its support to a political process under Syrian leadership, facilitated by the United Nations, to establish legitimate self rule that includes all and is not based on sectarianism, within a target period of six months. It then supported parliamentary and presidential elections within eighteen months. These two periods began as of the date of the political negotiations between representatives of the government and the opposition.

The second paragraph of Resolution 2254 explicitly refers to the Geneva Communique of 2012, which stipulates the establishment of a transitional governing body which can establish a neutral environment in which the transition can take place. This body must exercise full executive powers. It can include members of the current government, opposition, and independent bodies and shall be formed on the basis of mutual consent.

WHEREAS this organization cannot be established and exercise its full authority within the framework of the current Syrian Constitution of 2012, distinct constitutional rules must be prepared for the establishment and formation of this transitional governing body, determine its authority, and specify the establishment of other required organizations. This rule must be included in a constitutional statement, proposed as follows:

Fundamental Principles

1. Syria is a civil democratic republic with complete sovereignty. Its governmental system is based on nationality and the rule of law. It is a single political unit and no territory thereof may be relinquished. It forms part of the system of Arab states.

Its official language is Arabic. The cultural and linguistic rights of its minorities are hereby secured and form part of the Syrian national heritage and strengthen national unity within the framework of a united nation.

2. The sovereignty of the people may not be infringed by anyone. It is based on the principle of governance of the people, by the people, and for the people. The people exercise their sovereignty through transparent and impartial elections organized and supervised by an independent organization that operates under the supervision of the United Nations during the transitional period.

3. The governing system in the nation will operate on the basis of multiple parties and the peaceful transfer of power and the separation and balancing of power.

4. The nation respects all religions and guarantees the free practice of all doctrines.

5. Syrians are equal citizens before the law in the exercise of political and civil rights; in equal opportunity and in equal public duties and obligations. There is no discrimination because of religion, sect, gender, language, heritage, ancestry, political opinion, social status, or national, ethnic, provincial, or familial affiliation. The nation will take practical steps and value the institutions that guarantee this equality.

6. Citizens have the right to form organizations on a democratic basis. These organizations shall have their own corporate personality merely by declaration thereof. They may practice their activity freely; no administrative agency may interfere in their affairs, dissolve them or their board of directors or board of trustees without a court order. The law shall regulate their affairs by the Ministry of Social Affairs.

7. Citizens have the right to form political parties by notice as regulated by law. No political activity may occur or political party formed on the basis of religion, sect, geography. No party may operate in opposition to democratic principles, in secret, or on a military or paramilitary basis. A party may only be dissolved by court order. The law shall regulate these institutions without delving into the absolute freedom of their formation.

8. Citizens have the right to organize public meetings, marches, demonstrations and all forms of peaceful protests by providing notice as regulated by law.

9. International agreements ratified by the nation have a higher status than laws in the Syrian legal system. These agreements shall prevail in any case where there is a contradiction with Syrian law.

10. Each citizen may have access to information and data related to public order and may publish this information. The law may only limit this access to protect secret information related to national defense, national security, or the privacy of third parties.

11. The nation shall ensure equality between men and women in all civil, political, social, cultural rights according to the provisions of the constitution. The nation shall take steps to ensure appropriate representation of women in the representational bodies, as specified by law. Women shall also have the right to hold public employment and senior management positions and shall be assigned to judicial agencies and organizations without discrimination, taking into consideration the ratios contained in international treaties in this regard.

The nation shall protect women from all forms of violence and discrimination, and shall ensure that women can take a position between family duties and job requirements. It is obligated to provide care and protection to mothers, children, women providers, aged women, and women in dire need.

12. Dignity is the right of all citizens and may not be infringed. The state must respect it and protect it.

13. Torture in any shape or form is a crime punishable by law and has no statute of limitations.

14. Personal liberty is a natural right and may only be infringed in cases of a crime in progress. No person may be arrested, searched, stopped, or confined except by court order issued for cause and as required by exigencies. Any person whose liberty is restricted must be informed of the cause thereof, regardless of the reason. The confined person may contact related persons and his/her attorney immediately, and must be presented before judicial investigation authorities within twenty-four hours of restriction of liberty. The investigation may only begin with the presence of his/her attorney or an appointed attorney if the confined person does not have an attorney. Any person whose liberty is restricted may appeal this procedure before a judge. The matter must be resolved within one week or the restricted person must be freed immediately.

15. No aggression against personal liberty, the sanctity of life, and other citizen rights and general freedoms protected by this declaration and criminal law may be barred by the statute of limitations against any criminal or civil case arising therefrom. The nation guarantees fair compensation for any victim of aggression. No citizen may be deported from the country or prevented from returning thereto.

16. Any person arrested, confined, or put under restricted liberty will be treated honorably and may not be tortured, terrorized, coerced, or be physically or mentally abused. Any confined person must be held in a location designed for this purpose that is

appropriate for human occupancy and health. Any violation of this principle is a crime punishable by law.

The accused person may remain silent. Any statement proven to be made under pressure or threat is null and void.

17. The freedom of belief is absolute. The freedom to practice a religion and to erect a location for the worship of a divinely revealed canon is a right governed by law.

18. The freedom of thought and opinion is guaranteed. All persons have the right to express their opinions, in speech, writing, illustration, or any other form of expression and publication.

19. The freedom of the press, printing, publication, and other forms of media is guaranteed. Control of the press and other forms of media is prohibited. Warning, stopping, or terminating the press through administrative action is prohibited.

20. The nation must ensure the independence of press and media institutions that are owned in a fashion to guarantee their neutrality and ability to express all opinions, political and intellectual perspectives, and social interests. The nation must guarantee equal opportunity in writing general opinion.

21. Transparency and oversight of civil society and financial, administrative, and judicial accounting organizations are the basic rules for political and administrative practice.

22. The above basic principles are *jus cogens*. Any contrary laws or regulations in effect in Syria are null and void

Authorities of the Transitional Phase

The Executive Authority

23. The president of the republic and the Transitional Governing Body will exercise executive authority on behalf of the people, within the limits specified in the Constitutional Declaration.

President of the Republic

24. The president will have three vice presidents, one selected from the independents, the second from the loyalists, and the third from the opposition, and will delegate some of his authorities to them.

25. If a temporary impediment prevents the president from performing his duties, his independent vice president will act in his stead.

26. If the position of president becomes vacant or the president is permanently disabled from performing his duties, the independent vice president will perform this duty until the end of the transitional phase. This phase will end with the election of a president according to the new constitution, which will be prepared during the transitional phase and will come into force after a referendum thereon.

27. The president will preserve the Constitutional Declaration, protect national unity, and maintain the country's existence.

28. The president will lead the Transitional Governing Body, at his request to attend its sessions, without participating in its voting. He may present any matter he deems appropriate from outside its order of business.

29. The president is commander in chief of the army and armed forces. He will issue all decrees and orders required to exercise this authority and may delegate some of this authority.

30. The president will conclude international treaties after their ratification by the Transitional Governing Body.

31. The president will appoint the heads of diplomatic missions to foreign nations and accept the credentials of diplomatic delegations in Syria.

32. The president will sign decrees to appoint judges and officials whose appointment requires a decree. He will also sign organizational decrees and other decrees presented to him in accordance with law.

33. If the president does not sign a law referred to him within 10 days of presentation or refer the law to the constitutional court to examine a possible violation of the Constitutional Declaration, the law will be issued by the chairman of the Transitional Governing Body and come into effect from its date of publication.

34. If the constitutional court does not resolve a decree referred thereto within 10 days of recording the decree, it will be issued by the chairman of the Transitional Governing Body and come into effect from its date of publication.

35. The president may veto any decree by the Transitional Governing Body within 10 days of its issue by letter to the body explaining the reasons for his veto. If the body reconsiders the matter and approves it by a simple majority, the decree will come into effect.

35. The president may issue a special amnesty.

36. The president may announce a state of emergency after approval by the Transitional Governing Body. This state may not exceed three months. It may be extended on a per month basis through the same method.

37. If it appears that the exceptional conditions that required the state of emergency are no longer valid, the chairman of the Transitional Governing Body or 10 of its members may petition the constitutional court and request a decision on whether these conditions have ceased to exist.

The constitutional court will decide this matter by a two-thirds majority of its members. If it determines that the cause for the state of emergency no longer exists, it must issue a decree to terminate it.

Transitional Governing Body

38. The Transitional Governing Body is the supreme authority in the nation during the transitional phase, and all security, military, and civil state institutions are directly subject to it. It is composed of 30 members; 10 appointed by the government, 10 appointed by the opposition, and 10 others appointed from independent individuals selected by a representative of the secretary general of the U.N. from a list containing 20 names approved by the opposition and the loyalists. The chairman will be elected from among its independent members by simple majority.

The Transitional Governing Body will exercise both legislative and executive authority. It will set general policies for the nation during the transitional phase, which will cease when the authoritative agency begins operations after the results of elections conducted under the framework of the new constitution.

39. Members of the Transitional Governing Body must take the following oath:

“I swear by Allah the Great to respect the Constitutional Declaration and current law and will do my duty impartially and faithfully.”

40. The chairman and members of the Transitional Governing Body are civilly and criminally liable according to law.

41. The body will set bylaws to govern its operations, the manner in which it exercises its authority, and the majorities required for its resolutions.

42. The Transitional Governing Body and each of its members will be entrusted with the following ministerial portfolios, as assigned to each:

- a. Set general policy of the nation during the transitional phase and take responsibility for its execution.
- b. Form a military council containing representatives of the military authorities from the regime and the opposition having a considerable presence on the ground. The council will be headed by a high-level military person acceptable to both parties to be selected with the assistance of a representative of the secretary general of the U.N. This council will be entrusted with undertaking measures to stop the fighting

- among these authorities and coordinate their efforts in fighting terrorist organizations, regaining the unity and integrity of Syrian territory, and securing the exit of foreign forces from it. It will also be entrusted with proposing the restructuring of the police, security, and military agencies.
- c. Make decisions to rekindle the sense of kinship among the people of Syria, stop all violent acts throughout the nation's territory, facilitate the return of refugees and displaced persons, and support the families of war victims.
 - d. Prepare a national program for transitional justice, truth telling, reconciliation, and compensating those harmed by violent acts, with special attention paid to the needs of women after they return, their rehabilitation and integration into society, rebuilding, and involving them in the enforcement mechanisms of peace agreements.
 - e. Direct, coordinate, and track work of the nation's ministries, supervisory agencies, and public organizations and establishments.
 - f. Issue administrative and executive decrees, according to law, regulation, and decrees, and track their execution.
 - g. Prepare draft laws for the transitional period and amend laws that conflict with the fundamental principles in this declaration; draft decrees and orders to be issued by the president.
 - h. Prepare the draft general budget for the nation.
 - i. Acquire and grant loans.
 - j. Enforce the law, maintain the nation's security and interests, and protect the rights and freedoms of its citizens.
44. The body's chairman will issue implementing instructions for laws, unless the law stipulates that another agency do so.
45. Within 15 days from the issuance of this declaration, the Transitional Governing Body will form a committee of 30 members, known for their experience, with care in their selection to equally represent the three categories that compose the Transitional Governing Body. They should be members of the judiciary or current or former university professors with relevant specializations. Their task will be to formulate a new constitution that lays the foundation for a political system based on the fundamental principles of this Constitutional Declaration.

The Judiciary

46. The judiciary is independent. The president and the Transitional Governing Body will guarantee this independence, with assistance from the Supreme Judicial Council.
47. - Judges are independent; they answer to no authority other than the law.
- The judges' honor, conscience, and impartiality ensure the people's rights and freedoms.

The Supreme Judicial Council

48. The Supreme Judicial Council is headed by the president of the Supreme Constitutional Court; and the law provides for the composition, mandate and rules of procedure thereof.

The Supreme Judicial Council ensures the guarantees necessary for the independence of the judiciary.

The Supreme Constitutional Court

49. This is an independent judicial organization with sole jurisdiction for oversight of the constitutionality of laws and regulations. It is responsible for the interpretation of legislative texts.

50. During the transitional phase, the Supreme Constitutional Court will be composed of nine members; three chosen by the president, three chosen by the Transitional Governing Body, and three named by the representative of the secretary general of the U.N. from among independent individuals.

51. The members of the court are selected from persons with the adequate qualifications to undertake this office, holding post graduate degrees and having attained 40 years of age.

52. The Supreme Constitutional Court shall elect a chief justice from among its members by simple majority vote.

53. Members of the Supreme Constitutional Court cannot be dismissed from office except in accordance with the law.

54. The mandate of the Supreme Constitutional Court is as follows:

- Control over the constitutionality of the laws, legislative decrees, and regulations.
- Expressing an opinion, upon the request of the president, on the constitutionality of draft laws and legislative decrees.
- Supervising the election of the president of the republic.
- Hear appeals on the validity of the election for president.
- Trying the president in cases of high treason.
- Other authorities stated by law.

55. The Supreme Constitutional Court is charged with control over the constitutionality of the laws as follows:

- a. Hear cases on the constitutionality of law and resolve the matter as follows:
 - If the president objects to the constitutionality of a law, it shall be suspended until the court rules on it within 10 days of the date of filing the objection with the court. If the law is urgently needed, the court shall rule on it within three days.

If the court rules that there are constitutional violations, the law will be returned to the agency that formulated this law for its review, which must be completed within 15 days of the date the ruling is recorded. The relevant agency must remove the text in violation. If not, the text in violation will be considered retroactively null and void.

b. Hearing cases on the unconstitutionality of laws and ruling in accordance with the following:

- If a litigant in an appeal argues the unconstitutionality of a legal text applied by the court whose ruling is being challenged, and if the appellate court finds that the claim has merit and should be the subject of a ruling, it shall stay the proceedings of the case and refer the argument to the Supreme Constitutional Court.
- The Supreme Constitutional Court shall rule on the claim within 30 days of its filing.

The State Council

The State Council is a judicial body independent from the executive authority. It holds jurisdiction to rule on administrative disputes and disciplinary actions. Its other authorities will be specified by the law.

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Appendix III - The Oslo Principles - Reproduced Here with the Permission of the Group

Version: 19 March 2015 [This paper was written originally in Arabic and translated to English]

Oslo Group for Dialogue on Syrian Citizenship and the Protection of Rights

Introduction

The crisis in Syria has imposed a set of grave challenges that greatly afflict the bonds of the Syrian social fabric; this crisis represents a danger to Syria's people and civilization, as well as to the cultural, religious, and social status of all of the diverse components of the Syrian people.

With the increased level of violence, there is an urgent need to take a conscientious stand against the disaster that has befallen Syria and its people.

Therefore, a clear and wise vision for the post-conflict era has become an urgent necessity; a vision in which all Syrians participate in rebuilding a nation that brings people together, protects them, provides them with the fundamentals of belonging and loyalty, and ensures rights and freedoms for all.

As a result of this, a group of patriotic Syrian religious and academic individuals – with common determination – met and agreed to enhance the concept of Syrian citizenship and societal participation, based on their desire to affirm a common destiny and the unity of the Syrian people in its diversity. They agreed that this would be a realistic entry point, after the end of this disastrous conflict, for everyone to be active citizens participating in Syria's intellectual, cultural, political, and social life, and in its development.

There is a deep Syrian conviction that Syria is enriched by its religious, ethnic, cultural, and political diversity; therefore, it is necessary to establish legal and political guarantees under the umbrella of the state to protect such diversity and preserve it.

Accordingly, there has been agreement on the following basic principles:

Principles for the Future

Principle 1: Affirmation of the Integrity of the Sovereign Territory of Syria

Principle 2: Citizenship and Human Dignity for All Equally

1. Citizenship is a framework of equal and inalienable rights and duties.
2. The concept of citizenship should be stipulated in the constitution.
3. Citizenship is based on equality between citizens regardless of religion, ethnicity,

social status or gender.

4. Enhancing the principle of citizenship requires that the constitution guarantee equality between men and women, and combating all forms of discrimination against women.
5. Citizenship forms the framework of relations between individuals before the state.
6. Citizenship is underpinned by a sense of belonging to the nation and includes a sense of shared participation in public life, (including political participation, which must be based on equal political rights between citizens).
7. Citizenship depends upon the rule of law, in which the rights of all citizens are protected.
8. National exclusivity unites citizens who are diverse in their religion, their sects, and their beliefs. It forms the basis of their unity and of the respect for the religious, cultural and ethnic uniqueness of each group. Citizens as individuals and as groups are equal in their rights and responsibilities. Citizens, in their expression of their uniqueness, rely on the rule of mutual respect and holding on to the foundations of the broader national identity.

Principle 3: Coexistence and Mutual Respect Among All of the Components of the Country

1. Coexistence and mutual respect are a necessary result of acknowledging diversity. The adherents of every religion or component have their particularities. The behavior of the adherents of all religions should take into consideration these particularities, and show respect to those to whom they belong.
2. The belief of the adherents of any religion or denomination in the truth and correctness of their faith should not negatively affect the human relations among people, neither should it lead to despicable fanaticism.

Principle 4: Freedom of Religious Belief

1. Religious belief is a personal freedom for every citizen that enables citizens to practice their religion in accordance with their beliefs, and pursuant to constitutional safeguards and the law.
2. The state should guarantee freedom of conscience and belief, including the right to choose one's faith and the right to profess it, pursuant to constitutional safeguards and the law.
3. Existing denominations and sects have a moral personality defined by law.

Principle 5: Freedom of Expression and Freedom of Opinion

1. Freedom of opinion, thought and peaceful expression – without prejudice to the beliefs,

ethnicities and cultures of others – shall be guaranteed by the constitution and ensured by the force of law.

2. There should be no prior censorship exerted on these freedoms.
3. The state should guarantee the right to access the media and information, in accordance with laws in force.
4. Academic freedoms and the freedom of scientific research should be guaranteed in a manner that takes into account human rights and international conventions.
5. The right to peaceful assembly and demonstration(s) should be guaranteed by the constitution and specified in laws issued by the state in this regard.
6. The freedom of association in gatherings, institutions, political and social parties should be guaranteed in the constitution and subject to the laws issued by the state in this regard.

Principle 6: Safety and Security for All and the Rejection of Violence

1. The safety of life for citizens and their security is the responsibility of the state and its institutions.
2. Violence in all its forms is rejected as a means to pursue political, economic, or social demands.
3. The promotion of a culture of non-violence is a shared responsibility between the state and citizens as well as civil society institutions.
4. The state should promulgate a series of laws and measures to ensure the implementation of this principle.

Principle 7: Religious, Ethnic and Cultural Diversity

1. All of Syria's religions, ethnicities, and cultures are recognized as integral parts of the national fabric.
2. The religious, ethnic, cultural, and linguistic diversity of Syria must be preserved.
3. This principle is considered an enhancement of the principle of equal citizenship and the principle of the sovereign integrity of Syria.

Principle 8: Labor Rights and Equal Opportunities for All

1. The state must guarantee in law to its citizens equality in job opportunities, entrepreneurship, freedom of movement, the right to access health care, and the right to work by all legitimate means, while taking into consideration provincial planning in

a manner that ensures moving towards fulfillment of economic sufficiency and well-being of the society.

2. Any discrimination between citizens or regions in these matters, or any other rights, because of their religion, faith, gender, ethnicity, physical capability, or geographic location, is rejected and contradicts the right to equality and the concept of citizenship.

The participants also recommend working on the following urgent proposals, which are for immediate attention rather than the long-term governance of Syria given the gravity of the security and humanitarian circumstances:

1. For the international community to exert serious efforts to end the presence of all foreign fighters, since this is considered blatant terrorism, and works to stop all acts of violence, so as to put an end to the conflict and to achieve security and peace.
2. To improve the humanitarian relief system and the delivery of aid to all the Syrians who need it, whether inside or outside Syria.

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Appendix IV - the Constitution of Syria with Proposed Amendments

Constitution of the Syrian Arab Republic, 2012³

[With Suggested Amendments in Bold, Italic and Highlighted]

Introduction

Arab civilization, which is part of human heritage, has faced through its long history great challenges aimed at breaking its will and subjecting it to colonial domination, but it has always rose through its own creative abilities to exercise its role in building human civilization.

The Syrian Arab Republic is proud of its Arab identity and the fact that its people are an integral part of the Arab nation. The Syrian Arab Republic embodies this belonging in its national and pan-Arab project and the work to support Arab cooperation in order to promote integration and achieve the unity of the Arab nation.

The Syrian Arab Republic considers international peace and security a key objective and a strategic choice, and it works on achieving both of them under the international law and the values of right and justice.

The Syrian Arab role has increased on the regional and international levels over the past decades, which has led to achieving human and national aspirations and achievements in all fields and domains. Syria has occupied an important political position, as it is the beating heart of Arabism, the forefront of confrontation with the Zionist enemy, and the bedrock of resistance against colonial hegemony on the Arab world and its capabilities and wealth. The long struggle and sacrifices of our people for the sake of its independence, progress, and national unity have paved the way for building the strong state and promoting cohesion between the people and their Syrian Arab army, which is the main guarantor and protector of the homeland's sovereignty, security, stability, and territorial integrity; thus, forming the solid foundation of the people's struggle for liberating all occupied territories.

The Syrian society, with all its components and constituents, and through its popular, political, and civil institutions and organizations, has managed to accomplish achievements that demonstrated the depth of civilizational accumulation represented by the Syrian society, its unwavering will and its ability to keep pace with the changes and to create the appropriate environment to maintain its human role as a historical and

³ The English translation of the Syrian Constitution was published by Sana, Syria's official news agency. The translation was done by *Qordoba* (http://www.al-bab.com/arab/docs/syria/syria_draft_constitution_2012.htm). Although that version of the translation has become the principle source of reference for many organizations and publications, after careful review by The Carter Center, omissions and discrepancies were found when compared with the original Arabic, and the English translation was revised.

effective power in the march of human civilization.

Since the beginning of the 21st century, Syria, both as people and institutions, had faced the challenge of development and modernization during tough regional and international circumstances which targeted its national sovereignty. This has formed the incentive to accomplish this constitution as the basis for strengthening the rule of law.

The completion of this constitution is the culmination of the people's struggle on the road to freedom and democracy. It is a real embodiment of achievements, a response to shifts and changes, an evidence of organizing the march of the state towards the future, a regulator of the movement of its institutions, and a source of legislation. All of this is attainable through a system of fundamental principles that enshrines independence, sovereignty, and the rule of the people based on election, political and party pluralism, and the protection of national unity, cultural diversity, public freedoms, human rights, social justice, equality, equal opportunities, citizenship, and the rule of law, where the society and the citizen are the objective and purpose for which every national effort is dedicated. Preserving the dignity of the society and the citizen is an indicator of the civilization of the country and the prestige of the state.

Transition Chapter: Declaration of Constitutional Principles

Article A – General Principles

- 1. During the transition foreseen in United Nations Security Council Resolution (UNSCR) 2254 (2015), the principles adopted herein shall supersede any contradictory constitutional provisions, legislature and decrees currently in force and shall be binding on all state organs.***
- 2. All obligations undertaken by Syria through the signature and ratification of international humanitarian laws and human rights instruments are herewith proclaimed as the law of the country, shall prevail in case where there is a contradiction with Syrian law, and are enforceable by the judicial authorities of the country. [May wish to list the principal international instruments ratified by Syria]***
- 3. One of the principal aims of the transition foreseen in UNSCR 2254 is to ensure the sovereignty and territorial integrity of Syria.***
- 4. During the transition foreseen in UNSCR 2254, the following principles shall control the exercise of all public powers:***
 - a. Peace – all who exercise public power, de jure or de facto, to acknowledge and actively assist in bringing an end to the violence, with the objective that there would never be a resumption of civil war or significant armed conflict.***
 - b. Healing – all who exercise public power, de jure or de facto, to acknowledge and stop the injury caused to all aspects of Syrian life – including to the families of and those killed and injured, detained without due process of law, displaced from their homes, or dispossessed***

- of property - prevent the resumption of injury, and repair the injury as best and as quickly as possible.*
- c. Change – all who exercise public power, de jure or de facto, to acknowledge that the core purposes of the transition is to establish eventually a new constitutional and governance order in Syria, reflecting these fundamental principles.*
 - d. Dignity – all who exercise public power, de jure or de facto, to guarantee basic human rights in relation to food security, shelter, education, health, employment, and welfare for all.*
 - e. Gender Equality – all who exercise public power, de jure or de facto, to adopt a gender perspective that includes the special needs of women and girls during repatriation and resettlement, rehabilitation, reintegration and post-conflict reconstruction; involve women in all implementation mechanisms of the peace agreements, as well as measures to ensure the human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary; and protect women and girls from gender-based violence.*
- 5. The constitution and laws of Syria shall ensure the equality of all before the law and an equitable legal process, and shall prohibit any form of discrimination based on religion or sect, language, national origin, and gender.*
 - 6. There shall be separation of powers between the executive, legislature and judiciary, with appropriate checks and balances to ensure accountability against the arbitrary exercise of power.*
 - 7. The independence of the judiciary shall be ensured, the decisions of the judiciary shall be respected by all, and the judiciary shall be appropriately qualified, independent and impartial, and shall have the power and jurisdiction to safeguard and enforce the present Principles, the Constitution and all fundamental rights.*
 - 8. There must be an efficient, non-partisan, career-orientated public service representative of the Syrian citizenship, functioning on a basis of fairness and which must serve all members of the public in an unbiased and impartial manner, and must, in the exercise of its powers and in compliance with its duties, execute the lawful policies of the government in the performance of its functions. The structures and functioning of the public service, as well as the terms and conditions of service of its members, must be regulated by law.*
 - 9. Members of the security forces – military, intelligence and police – and the security forces as a whole shall be required to perform their functions and exercise their powers in the national interest, respecting the culture of accountability, human rights and democratic principles, and shall be prohibited from furthering or prejudicing the interests of ruling political parties or elites. The establishment of effective administration, civilian oversight, and accountability systems for the*

security forces, including the non-state para-military forces, must be a high priority for the Transitional Governing Body. Civilian oversight bodies over the security forces and agencies shall have the capacity to exercise effective control over operations, budgets, funding and expenditures.

10. Provisions shall be made for freedom of and access to information so that there can be open and accountable administration of government.

11. All who exercise public power shall accept that public revenue is raised from and governance conducted on behalf of the people of Syria, and that there should be effective mechanisms, by which the people could exercise reasonable measures of control over their lives and their governance, including transparent accounting of public expenditures.

Article B – Transitional Governing Body and the Exercise of Executive Powers

1. (a) For the 18-month transitional period foreseen in UNSCR 2254, the Council of Ministers under the current Constitution assumes the functions of the Transitional Governing Body (TGB) with full executive powers. [Option 1a]

[alternatively]

(b) For the 18-month transitional period foreseen in UNSCR 2254, an ad hoc Transitional Governing Body is constituted by combining the institutions of the president of the republic and the Council of Ministers under the current Constitution as amended. [Option 1b]

2. [if Option 1a] All executive powers exercised by the president of the republic are transferred to the President of the Council of Ministers under the following articles of the current Constitution: 96, 98, 100, 101, 102, 103, 105, 106, 107, 108, 111, 112, 113, 114, 115, 116, 124(2), 132, 141.

[if Option 1b] The President of the republic exercises powers granted to him under articles 96, 98, 100, 101, 102, 103, 105, 106, 107, 108, 111, 112, 113, 114, 115, 116, 124(2), 132, 141 of the current Constitution with the consent of the President of the Council of Ministers.

Chapter 1: Basic Principles

Part 1: Political principles

Article 1

1. The Syrian Arab Republic is a democratic state with full sovereignty, indivisible, and may not waive any part of its territory, and is part of the Arab homeland
2. The people of Syria are part of the Arab nation.

Article 2

1. The system of governance in the state shall be a republican system
2. Sovereignty is an attribute of the people; and no individual or group may claim sovereignty. Sovereignty shall be based on the principle of the rule of the people by the people and for the people
3. The People shall exercise their sovereignty within the aspects and limits prescribed in the Constitution.

Article 3

1. The religion of the president of the republic is Islam
2. Islamic jurisprudence shall be a major source of legislation
3. The State shall respect all religions, and ensure the freedom to perform all the rituals that do not prejudice public order
4. The personal status of religious communities shall be protected and respected.

Article 4

The official language of the state is Arabic.

Article 5

The capital of the state is Damascus.

Article 6

1. The flag of the Syrian Arab Republic consists of three colors: red, white and black, in addition to two stars, each with five heads of green color. The flag is rectangular in shape; its width equals two thirds of its length and consists of three rectangles evenly spaced along the flag, the highest in red, the middle in white and lowest in black, and the two stars are in the middle of the white rectangle;
2. The law identifies the state's emblem, its national anthem and the respective provisions.

Article 7

The constitutional oath shall be as follows: "I swear by the Almighty God to respect the country's constitution, laws and Republican system, to look after the interests and freedoms of the people, to safeguard the homeland's sovereignty, independence, freedom and to defend its territorial integrity and to act in order to achieve social justice and the unity of the Arab Nation."

Article 8

1. The political system of the state shall be based on the principle of political pluralism, and exercising power democratically through the ballot box;
2. Licensed political parties and constituencies shall contribute to the national political life, and shall respect the principles of national sovereignty and democracy;
3. The law shall regulate the provisions and procedures related to the formation of political parties;
4. Carrying out any political activity or forming any political parties or groupings on the basis of religious, sectarian, tribal, regional, class, professional, or on discrimination based on gender, origin, race or color may not be undertaken;
5. Public office or public money may not be exploited for a political, partisan or electoral interest.

Article 9

As a national heritage that promotes national unity in the framework of territorial integrity of the Syrian Arab Republic, the Constitution shall guarantee the protection of cultural diversity of the Syrian society with all its components and the multiplicity of its tributaries.

Article 10

Public organizations, professional unions and associations shall be bodies that group citizens in order to develop society and attain the interests of its members. The State shall guarantee the independence of these bodies and the right to exercise public control and participation in various sectors and councils defined in laws; in areas which achieve their objectives, and in accordance with the terms and conditions prescribed by law.

Article 11

The army and the armed forces shall be a national institution responsible for defending the security of the homeland and its territorial integrity. This institution shall be in the service of the people's interests and the protection of its objectives and national security.

Article 12

Democratically elected councils at the national or local level shall be institutions through which citizens exercise their role in sovereignty, state-building and leading society.

Part 2: Economic Principles

Article 13

1. The national economy shall be based on the principle of developing public and private economic activity through economic and social plans aiming at increasing the national income, developing production, raising the individual's living standards and creating jobs opportunities;

2. Economic policy of the state shall aim at meeting the basic needs of individuals and society through the achievement of economic growth and social justice in order to reach comprehensive, balanced and sustainable development;

3. The State shall guarantee the protection of producers and consumers, foster trade and investment, prevent monopoly in various economic fields and work on developing human resources and protecting the labor force in a way that serves the national economy.

Article 14

Natural resources, facilities, institutions and public utilities shall be publicly owned, and the state shall invest and oversee their management for the benefit of all people, and the citizens' duty is to protect them.

Article 15

1. Collective and individual private ownership shall be protected in accordance with the following basis:
 - a) General confiscation of funds shall be prohibited
 - b) Private ownership shall not be expropriated except for the public interest by a decree and against fair compensation according to the law;
 - c) Confiscation of private property shall not be imposed without a final court ruling;
 - d) Private property may be confiscated for necessities of war and disasters by a law and against fair compensation;
2. Compensation shall be equivalent to the real value of the property.

Article 16

The law shall determine the maximum level of agricultural ownership and agricultural investment to ensure the protection of the farmer and the agricultural laborer from exploitation and to ensure increased production.

Article 17

The right of inheritance shall be maintained in accordance with the law.

Article 18

1. Taxes, fees and overhead costs shall not be imposed except by a law;
2. The tax system shall be based on a fair basis; and taxes shall be progressive in a way that achieves the principles of equality and social justice.

Part 3: Social Principles

Article 19

Society in the Syrian Arab Republic shall be based on the basis of solidarity, symbiosis

and respect for the principles of social justice, freedom, equality and maintenance of human dignity of every individual.

Article 20

1. The family shall be the nucleus of society and the law shall maintain its existence and strengthen its ties;
2. The state shall protect and encourage marriage, and shall work on removing material and social obstacles that hinder it. The state shall also protect maternity and childhood, take care of adolescents and youth and provide the suitable conditions for the development of their talents.

Article 21

Martyrdom for the sake of the homeland shall be a supreme value, and the State shall guarantee the families of the martyrs in accordance with the law.

Article 22

1. The state shall guarantee every citizen and his family in cases of emergency, sickness, disability, orphan-hood and old age;
2. The state shall protect the health of citizens and provide them with the means of prevention, treatment and medication.

Article 23

The state shall provide women with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life, and the state shall work on removing the restrictions that prevent their development and participation in building society.

Article 24

The state shall shoulder, in solidarity with the society, the burdens resulting from natural disasters.

Article 25

Education, health and social services shall be basic pillars for building society, and the state shall work on achieving balanced development among all regions of the Syrian Arab Republic.

Article 26

1. Public service shall be a responsibility and an honor the purpose of which is to achieve public interest and to serve the people;
2. Citizens shall be equal in assuming the functions of public service, and the law shall determine the conditions of assuming such functions and the rights and duties assigned to

them.

Article 27

Protection of the environment shall be the responsibility of the state and society and it shall be the duty of every citizen.

Part 4: Educational and Cultural Principles

Article 28

The educational system shall be based on creating a generation committed to its identity, heritage, belonging and national unity.

Article 29

1. Education shall be a right guaranteed by the state, and it is free at all levels. The law shall regulate the cases where education could not be free at universities and government institutes;
2. Education shall be compulsory until the end of the Basic Education Stage, and the state shall work on extending compulsory education to other stages;
3. The state shall oversee education and direct it in a way that achieves the link between it and the needs of society and the requirements of development;
4. The law shall regulate the state's supervision of private educational institutions.

Article 30

Physical education shall be an essential pillar in building the society; and the state shall encourage it to prepare a physically, mentally, and morally strong generation.

Article 31

The state shall support scientific research and all its requirements, ensure the freedom of scientific, literary, artistic and cultural creativity and provide the necessary means for that end. The state shall provide any assistance for the progress of sciences and arts, and shall encourage scientific and technical inventions, creative skills and talents and protect their results.

Article 32

The state shall protect antiquities, archaeological and heritage sites and objects of artistic, historical and cultural value.

Chapter 2: Rights, freedoms and the rule of law

Part 1: Rights and Freedoms

Article 33

1. Freedom shall be a sacred right and the state shall guarantee the personal freedom of citizens and preserve their dignity and security;
2. Citizenship shall be a fundamental principle which involves rights and duties enjoyed by every citizen and exercised according to law;
3. Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed;
4. The state shall guarantee the principle of equal opportunities among citizens.

Article 34

Every citizen shall have the right to participate in the political, economic, social and cultural life and the law shall regulate this.

Article 35

Every citizen shall be subjected to the duty of respecting the Constitution and laws.

Article 36

1. The inviolability of private life shall be protected by the law;
2. Houses shall not be entered or inspected except by an order of the competent judicial authority in the cases prescribed by law.

Article 37

Confidentiality of postal correspondence, telecommunications and radio and other communication shall be guaranteed in accordance with the law.

Article 38

1. No citizen may be deported from the country, or prevented from returning to it;
2. No citizen may be extradited to any foreign entity;
3. Every citizen shall have the right to move in or leave the territory of the state, unless prevented by a decision from the competent court or the public prosecution office or in accordance with the laws of public health and safety.

Article 39

Political refugees shall not be extradited because of their political beliefs or for their defense of freedom.

Article 40

1. Work shall be a right and a duty for every citizen, and the state shall endeavor to provide work for all citizens, and the law shall organize work, its conditions and the workers' rights;

2. Each worker shall have a fair wage according to the quality and output of the work; this wage shall be no less than the minimum wage that ensures the requirements of living and changes in living conditions;

3. The state shall guarantee social and health security of workers.

Article 41

Payment of taxes, fees and public costs shall be a duty in accordance with the law.

Article 42

1. Freedom of belief shall be protected in accordance with the law;

2. Every citizen shall have the right to freely and openly express his views whether in writing or orally or by all other means of expression.

Article 43

The state shall guarantee freedom of the press, printing and publishing, the media and its independence in accordance with the law.

Article 44

Citizens shall have the right to assemble, peacefully demonstrate and to strike from work within the framework of the Constitution principles, and the law shall regulate the exercise of these rights.

Article 45

Freedom of forming associations and unions shall be based on a national basis, for lawful purposes and by peaceful means which are guaranteed in accordance with the terms and conditions prescribed by law.

Article 46

1. Compulsory military service shall be a sacred duty and is regulated by a law;

2. Defending the territorial integrity of the homeland and maintaining the secrets of state shall be a duty of every citizen.

Article 47

The state shall guarantee the protection of national unity, and the citizens' duty is to maintain it.

Article 48

The law shall regulate the Syrian Arab citizenship.

Article 49

Election and referendum are the right and duty of the citizens and the law shall regulate their exercise.

Part 2: Sovereignty of Law

Article 50

The rule of law shall be the basis of governance in the state.

Article 51

1. Punishment shall be personal; no crime and no punishment except by a law;
2. Every defendant shall be presumed innocent until convicted by a final court ruling in a fair trial;
3. The right to conduct litigation and remedies, review, and the defense before the judiciary shall be protected by the law, and the state shall guarantee legal aid to those who are incapable to do so, in accordance with the law;
4. Any provision of the law shall prohibit the immunity of any act or administrative decision from judicial review.

Article 52

Provisions of the laws shall only apply to the date of its commencement and shall not have a retroactive effect, and it may apply otherwise in matters other than criminal.

Article 53

1. No one may be investigated or arrested, except under an order or decision issued by the competent judicial authority, or if he was arrested in the case of being caught in the act, or with intent to bring him to the judicial authorities on charges of committing a felony or misdemeanor;
2. No one may be tortured or treated in a humiliating manner, and the law shall define the punishment for those who do so;
3. Any person who is arrested must be informed of the reasons for his arrest and his rights, and may not be incarcerated in front of the administrative authority except by an order of the competent judicial authority;
4. Every person sentenced by a final ruling, carried out his sentence and the ruling proved wrong shall have the right to ask the state for compensation for the damage he suffered.

Article 54

Any assault on individual freedom, on the inviolability of private life or any other rights and public freedoms guaranteed by the Constitution shall be considered a punishable crime by the law.

Chapter 3: State Authorities

Part A: Transitional Legislative Authority

1. *For the 18-month transition period foreseen in UNSCR 2254, the People's Assembly is reconstituted as follows -- the current People's Assembly shall elect a caucus of [50] from its members to constitute one-third of the membership of a Transitional People's Assembly, the opposition High Negotiation Committee shall select the second caucus of one-third, and a [neutral third party, i.e. an international institution] shall select the remaining caucus of one-third. Such a reconstitution of the People's Assembly shall be agreed at the Geneva negotiations as an extraordinary measure. The term of office of the reconstituted Transitional People's Assembly shall expire with the election of a new legislature under the new constitution to be adopted at the conclusion of the 18-month transition period.*
2. *If a member of the reconstituted Transitional People's Assembly vacates his/her post or is unable to continue service, the caucus from which the member emanates shall select his/her replacement.*
3. *For the 18-month transition period foreseen in UNSCR 2254, the following articles of the current Constitution shall be suspended: 56, 57, 59, 60, 61, 62, 63, 75.3 and 77.*

Part 1: The Legislative Authority

Article 55

The legislative authority of the state shall be assumed by the People's Assembly in accordance with the manner prescribed in the Constitution.

Article 56

The People's Assembly term shall be for four calendar years from the date of its first meeting and it may not be extended except in case of war by a law.

Article 57

Members of the People's Assembly shall be elected by the public, secret, direct and equal vote in accordance with the provisions of the Election Law.

Article 58

A member of the People's Assembly shall represent the whole people, and his commission may not be limited by a restriction or condition, and shall exercise duties under the guidance of his honor and conscience.

Article 59

Voters shall be the citizens who have completed eighteen years of age and met the conditions stipulated in the Election Law.

Article 60

1. The system of electing members of the People's Assembly, their number and the conditions to be met by the candidates shall be determined by a law;
2. Half of the members of the People's Assembly at least shall be of the workers and farmers, and the law shall state the definition of the worker and the farmer.

Article 61

The Election Law shall include the provisions that ensure:

1. The freedom of voters to choose their representatives and the safety and integrity of the electoral procedures;
2. The right of candidates to supervise the electoral process;
3. Punishing those who abuse the will of the voters;
4. Identifying the regulations of financing election campaigns;
5. Organizing the election campaign and the use of media outlets.

Article 62

1. Elections shall be held during the sixty days preceding the expiry date of the mandate of the People's Assembly term;
2. The People's Assembly shall continue its meetings if no other Assembly is elected and it shall remain in place until a new Assembly is elected.

Article 63

If the membership of a member of the People's Assembly is vacant for some reason, an alternative shall be elected within sixty days from the date of the membership vacancy, provided that the remaining term of the Assembly is no less than six months. The membership of the new member shall end by the expiry date of the mandate of the Assembly's term, and the Election Law shall determine the cases of vacant membership.

Article 64

1. The **reconstituted Transitional** People's Assembly shall be called to convene by a decree issued by the president of the republic **with the consent of the president of the Council of Ministers** within fifteen days from the expiry date of the mandate of the existing Assembly or from the date of announcing the election results in case of not having such an Assembly. The People's Assembly shall be definitely convened on the sixteenth day if the call-to-convene decree is not issued;

2. The Assembly shall elect, at its first meeting, its speaker and members who shall be annually re-elected.

Article 65

1. The Assembly shall call for three regular sessions per year; the total of which should not be less than six months, and the Assembly's rules of procedure shall set the time and duration of each of them;

2. The People's Assembly may be invited to extraordinary sessions upon the request of: the president of the republic, the president of the Council of Ministers, or one third of the members of the People's Assembly,

3. The last legislative session of the year shall remain open until the approval of the state budget.

Article 66

1. The Supreme Constitutional Court shall have jurisdiction to consider appeals related to the elections of the members of the People's Assembly.

2. Appeals shall be submitted by the candidate within three days from the date of announcing the results; and the court shall decide its final judgments within seven days from the expiry date of submitting appeals.

Article 67

Members of the People's Assembly shall swear-in the constitutional oath mentioned in Article 7 of the constitution.

Article 68

The emoluments and compensations of members of the People's Assembly shall be determined by a law.

Article 69

The People's Assembly shall put its rules of procedure to regulate the manner of working in it and the way of exercising its functions, and define terms of reference of the assembly' office.

Article 70

Members of the People's Assembly shall not be questioned in a civil or criminal manner because of events or opinions they express or during a vote in public or private sessions and during the work of the committees.

Article 71

Members of the People's Assembly shall enjoy immunity for the mandate duration of the assembly. Unless they are apprehended in the act of committing a crime, no penal

measures can be taken against any member without the advance permission of the assembly. In non-session cases, permission shall be taken from the assembly's office, and the assembly shall be notified by any action taken at its first meeting.

Article 72

1. No member may take advantage of membership in any business;
2. The law shall specify the business which may not be combined with the membership in the assembly.

Article 73

1. The speaker of the People's Assembly shall represent the assembly, sign and speak on its behalf;
2. The People's Assembly shall have special guards under the authority of the speaker of the assembly; and no armed force may enter the assembly without the permission of its speaker.

Article 74

Members of the People's Assembly shall exercise the right of proposing laws and directing questions and inquiries to the cabinet or a minister in accordance with the rules of procedure of the assembly.

Article 75

The People's Assembly undertakes the following functions:

1. Approval of laws;
2. Discussing the statement of the cabinet;
3. Perform a vote of no-confidence in the cabinet or a minister;
4. Approval of the general budget and final accounts;
5. Approval of development plans;
6. Approval of international treaties and conventions related to the safety of the state, namely, peace and alliance treaties, and all treaties related to the rights of sovereignty or conventions which grant privileges to foreign companies or institutions as well as treaties and conventions entailing additional expenses not included in its budget; or treaties and conventions related to loans' contract or that are contrary to the provisions of the laws in force and requires new legislation which should come into force;
7. Approval of a general amnesty;
8. Accepting or rejecting the resignation of one of the members of the assembly.

Article 76

1. The president of the Council of Ministers shall present the cabinet's statement within thirty days from the date of its formation to the People's Assembly for discussion;
2. The cabinet shall be responsible for the implementation of its statement before the People's Assembly;
3. If the assembly is not in a regular session, it shall be invited to convene an extraordinary session.

Article 77

1. A vote of no-confidence can only be conducted after the cabinet or one of its ministers is questioned in the assembly; a vote of no-confidence should be upon a proposal made by at least a fifth of the members of the People's Assembly and it must be obtained with a majority of the members;
2. If a vote of no-confidence is obtained, the president of the Council of Ministers shall submit the cabinet's resignation to the president of the republic, so should the minister who got a vote of no-confidence.

Article 78

The assembly might form temporary committees from among its members to collect information and find facts on the issues related to exercising its authorities.

Article 79

1. For every fiscal year there shall be one budget; and the beginning of fiscal year shall be determined by a law;
2. The law states the method of preparing the state's general budget;
3. The draft budget should be presented to the people's assembly at least two months before the beginning of the fiscal year.

Article 80

1. The assembly votes on the budget title by title; and the budget shall not enter into force unless approved by the Assembly;
2. If the assembly did not complete the process of approving the budget until the beginning of the new fiscal year, the budget of the previous years is used until the new year budget is approved and the revenues are collected in accordance with the laws and regulations in force;
3. Appropriations cannot be transferred from one title to another except according to the provisions of the law;
4. The assembly might not increase the estimates of total revenues or expenditures while examining the budget.

Article 81

The People's Assembly might, after approving the budget, approve laws which could create new expenditures and new revenues to cover them.

Article 82

The final accounts of the fiscal year shall be presented to the People's Assembly within a period not longer than one year as of the end of this year. The settlement of accounts should be made by law; and the same procedures in approving the budget apply to the final account.

Part 2: The Executive Authority (1) The president of the republic

Article 83

The president of the republic and the president of the Council of Ministers exercise executive authority on behalf of the people within the limits stipulated in the constitution.

Article 84

The candidate for the office of president of the republic should:

1. Have completed 40 years of age;
2. Be of Syrian nationality by birth, of parents who are of Syrian nationality by birth;
3. Enjoy civil and political rights and not convicted of a dishonorable felony, even if he was reinstated;
4. Not be married to a non-Syrian wife;
5. Be a resident of the Syrian Arab Republic for no less than 10 years continuously upon being nominated.

Article 85

The nomination of a candidate for the office of president of the republic shall be as follows:

1. The Speaker of the People's Assembly calls for the election of the president of the republic before the end of the term of office of the existing president by no less than 60 days and no more than 90 days;
2. The candidacy application shall be made to the Supreme Constitutional Court, and is entered in a special register, within 10 days of announcing the call for electing the president;
3. The candidacy application shall not be accepted unless the applicant has acquired the written support of at least 35 members of the People's Assembly; and no member of the assembly might support more than one candidate;

4. Applications shall be examined by the Supreme Constitutional Court; and should be ruled on within five days of the deadline for application;

5. If the conditions required for candidacy were met by only one candidate during the period set for applying, the speaker of the people's assembly should call for fresh nominations according to the same conditions.

Article 86

1. The president of the republic shall be elected directly by the people;

2. The candidate who wins the election for the president of the republic is the one who gets the absolute majority of those who take part in the elections. If no candidate receives that majority, a rerun is carried out within two weeks between the two candidates who receive the largest number of votes;

3. The results shall be announced by the speaker of the People's Assembly.

Article 87

1. If the People's Assembly was dissolved during the period set for electing a new president of the republic, the existing president of the republic continues to exercise his duties until after the new Assembly is elected and convened; and the new president of the republic shall be elected within the 90 days which follow the date of convening this Assembly;

2. If the term of the president of the republic finished and no new president was elected, the Existing president of the republic continues to assume his duties until the new president is elected.

Article 88

The president of the republic is elected for seven calendar years as of the end of the term of the existing president. The president can be elected for only one more successive term.

Article 89

1. The Supreme Constitutional Court has the jurisdiction to examine the challenges to the election of the President of the republic;

2. The appeals shall be made by the candidate within three days of announcing the results; and the court rules on them finally within seven days of the end of the deadline for making the appeals.

Article 90

The president of the republic shall be sworn in before the People's Assembly before assuming his duties by repeating the constitutional oath mentioned in Article 7 of the constitution.

Article 91

1. The president of the republic might name one or more deputies and delegate to them some of his authorities;
2. The vice-president is sworn in before the president of the republic by repeating the constitutional oath mentioned in Article 7 of the constitution.

Article 92

If an impediment prevented the president of the republic from continuing to carry out his duties, the vice-president shall deputize for him.

Article 93

1. If the office of the president of the republic becomes vacant or if he is permanently incapacitated, the first vice-president assumes the president's duties; *for a period of no more than 90 days of the President of the republic's office becoming vacant. During this period new presidential elections shall be conducted;*
2. If the office of the president of the republic becomes vacant, and he does not have a vice-president, his duties shall be assumed temporarily by the president of the Council of Ministers. *for a period of no more than 90 days of the date of the president of the republic's office becoming vacant. During this period new presidential elections shall be conducted.*

Article 94

If the president of the republic resigned from office, he should address the resignation letter to the People's Assembly.

Article 95

The protocol, privileges and allocations required for the office of president of the republic shall be set out in a law.

Article 96

The president of the republic shall insure respect for the constitution, the regular running of public authorities, protection of national unity and survival of the state.

Article 97

1. *The President of the republic shall appoint the president of the Council of Ministers, his/her deputies, and ministers and their deputies, are appointed initially for the transition period mandated by UNSCR 2254 by the peace conference convened in Geneva. The deputy ministers are appointed by the president of the Council of Ministers.*
2. *The President of the Council of Ministers [with the consent of the president of the republic] accepts their resignation of the deputies of the president of the Council of Ministers, ministers and their deputies, and appoints their replacement.*
3. *The Transitional People's Assembly accepts with a [qualified][simple] majority vote*

their resignation of the president of the Council of Ministers and the Council of Ministers in its entirety.

4. *Following the Transitional People's Assembly's acceptance of the resignation of the president of the Council of Ministers and the Council of Ministers in its entirety, the speaker of the Transitional People's Assembly with the consent of the president of the republic appoints the new president of the Council of Ministers and new Council of Ministers, and submits the new appointments for the approval of the Transitional People's Assembly with a qualified majority vote.*

Article 98

In a meeting chaired by him, the president of the republic lays down the general policy of the state and oversees its implementation.

Article 99

~~The president of the republic might call the Council of Ministers to a meeting chaired by him; and might ask for reports from the President of the Council of Ministers and the ministers.~~

Article 100

The president of the republic promulgates the laws approved by the People's Assembly. He might also object to them through a justified decision within one month of these laws being received by the Presidency. If they are approved a second time by the People's Assembly with a two thirds majority, they shall be passed by the president of the republic.

Article 101

The president of the republic issues decrees, decisions and orders in accordance with the laws.

Article 102

The president of the republic declares war, calls for general mobilization and concludes peace agreements after obtaining the approval of the People's Assembly.

Article 103

The president of the republic declares the state of emergency and repeals it in a decree taken at the Council of Ministers chaired by him with a two thirds majority, provided that the decree is presented to the People's Assembly in its first session. The law sets out the relevant provisions.

Article 104

The president of the republic accredits heads of diplomatic missions in foreign countries and accepts the credentials of heads of foreign diplomatic missions in the Syrian Arab Republic.

Article 105

The president of the republic is the commander in chief of the army and armed forces; and he issues all the necessary decisions and orders to exercise this authority. He might delegate some of these authorities.

Article 106

The president of the republic appoints civilian and military employees and ends their services in accordance with the law.

Article 107

The president of the republic concludes international treaties and agreements and revokes them in accordance with provisions of the constitution and rules of international law.

Article 108

The president of the republic grants special amnesty and might reinstate decisions.

Article 109

The president of the republic has the right to bestow decorations.

Article 110

The president of the republic might address letters to the People's Assembly and make statements before it.

Article 111

1. The president of the republic might decide to dissolve the People's Assembly in a justified decision he makes;
2. Elections for a new People's Assembly shall be conducted within 60 days of the date of dissolution;
3. The People's Assembly might not be dissolved more than once for the same reason.

Article 112

The president of the republic might prepare draft laws and refer them to the People's Assembly to consider them for approval.

Article 113

1. The president of the republic assumes the authority of legislation when the People's Assembly is not in session, or during sessions if absolute necessity requires this, or in the period during which the assembly is dissolved.
2. These legislation shall be referred to the assembly within 15 days of its first session;

3. The assembly has the right to revoke such legislation or amend them in a law with a majority of two thirds of the members registered for attending the session, provided it is no less than the absolute majority of all its members. Such amendment or revocation shall not have a retroactive effect. If they are not amended or revoked, they shall be considered approved.

Article 114

If a grave danger and a situation threatening national unity, the safety and integrity of the territories of the homeland occurs, or prevents state institutions from shouldering their constitutional responsibilities, the president of the republic might take the quick measures necessitated by these circumstances to face that danger.

Article 115

The president of the republic might set up special bodies, councils and committees whose tasks and mandates are set out in the decisions taken to create them.

Article 116

The president of the republic might call for a referendum on important issues which affect the higher interests of the country. The result of the referendum shall be binding and come into force as of the date of its announcement; and it shall be published by the president of the republic.

Article 117

The president of the republic is not responsible for the acts he does in carrying out his duties except in the case of high treason; and the accusation should be made through a People's Assembly decision taken by the assembly in a public vote and with a two thirds majority in a secret session based on a proposal made by at least one third of the members. He shall be tried before the Supreme Constitutional Court.

Part 2: The Executive Authority (2) The Cabinet

Article 118

1. The Council of Ministers is the highest executive and administrative authority of the state. It consists of the president of the Council of Ministers, his deputies and the ministers. It supervises the implementation of the laws and regulations and oversees the work of state institutions;

2. The president of the Council of Ministers supervises the work of his deputies and the ministers.

Article 119

The allocations and benefits of the president of the Council of Ministers, his deputies and the ministers shall be set out in a law.

Article 120

The president of the Council of Ministers, his deputies and the ministers shall be sworn in before the president of the republic when a new government is formed by repeating the constitutional oath mentioned in Article 7 of the constitution before they start their work. When the government is reshuffled, only the new ministers shall be sworn in.

Article 121

The president of the Council of Ministers, his deputies and the ministers shall be responsible before the **president of the republic and the** People's Assembly.

Article 122

The minister is the highest administrative authority in his ministry, and he shall implement the state's public policy in relation to his ministry.

Article 123

While in office, ministers shall be barred from being members of the boards of private companies or agents for such companies and from carrying out, directly or indirectly, any commercial activity or private profession.

Article 124

1. The president of the Council of Ministers, his deputies and the ministers shall be responsible for their acts, from a civil and penal perspective, in accordance with the law;

2. The president of the republic, with the consent of the President of the Council of Ministers, has the right to refer the ~~President of the Council of Ministers, his deputies of the president of the Council of Ministers and the ministers to the courts for any crimes any of them commits while in office or because of such crimes;~~

2a. The president of the republic, with the consent of a two-thirds majority vote of the People's Assembly, has the right to refer the president of the Council of Ministers to the courts for any crimes he/she commits while in office;

3. The accused shall be suspended from office as soon as an indictment is made until a ruling is passed on the accusation made against him. His resignation or dismissal does not prevent his trial. Procedures are conducted as stated in the law.

Article 125

1. The cabinet shall be considered as resigned in the following cases:

- a. Upon the end of the term of office of the president of the republic;
- b. Upon the election of a new People's Assembly;
- c. If the majority of the ministers resigned.

2. The cabinet remains in a caretaker capacity until a decree is passed naming a new cabinet.

Article 126

Cabinet and People's Assembly membership may be combined.

Article 127

Provisions applying to ministers apply to deputy ministers.

Article 128

The mandate of the Council of Ministers is as follows:

1. It draws the executive plans of the state's general policy;
2. It guides the work of ministries and other public bodies;
3. It draws the state's draft budget;
4. It drafts laws;
5. It prepares development plans and plans for upgrading production and the exploitation of national resources and everything that could support and develop the economy and increase national income;
6. It concludes loan contracts and grants loans in accordance with provisions of the constitution;
7. Concludes agreements and treaties in accordance with provisions of the constitution;
8. Follows up on enforcing the laws and preserving the interests and the security of the state and safeguarding the freedoms and rights of the citizens;
9. Issues administrative decisions in accordance with the laws and regulations and oversees their implementation.

10. Executes tasks assigned to the Transition Governing Body by UNSC R 2254 (2015) and any subsequent U.N. Security Council Resolutions relevant to Syria.

Article 129

The president of the Council of Ministers and the ministers exercise the authorities provided for in the legislation in force in a manner that does not contravene the authorities given to other authorities in the constitution, in addition to the other authorities stated in its provisions. ***This article does not apply when the president of the Council of Ministers and the ministers are exercising authorities under UNCR 2254 (2015).***

Part 2: The Executive Authority (3) Local Administration Councils

Article 130

The Syrian Arab Republic consists of administrative units; and the law states their

number, boundaries, authorities, and the extent to which they enjoy the status of a legal entity, and their financial and administrative independence.

Article 131

1. The organization of local administration units is based on applying the principle of decentralization of authorities and responsibilities. The law states the relationship between these units and the central authority, their mandate, financial revenues, and control over their work. It also states the way their heads are appointed or elected, their authorities and the authorities of heads of sectors.

2. Local administration units shall have councils elected in a general, secret, direct, and equal manner.

Part 3: The Judicial Authority (1) The Courts Public Prosecution

Article 132

The judicial authority is independent; and the president of the republic insures this independence assisted by the Supreme Judicial Council.

Article 133

1. The Supreme Judicial Council is headed by the president of the **Republic-Supreme Constitutional Court**; and the law states the way it shall be formed, its mandate and its rules of procedures;

2. The Supreme Judicial Council insures the provision of the guarantees necessary for the independence of the judiciary.

Article 134

1. Judges are independent, and there is no authority over them except that of the law;

2. The judges' honor, conscience, and impartiality constitute the guarantees for people's rights and freedoms.

Article 135

The law regulates the different branches, categories, and degrees of the judicial system. It also defines the rules for the mandates of different courts.

Article 136

The law defines the conditions for appointing judges, promoting, transferring, disciplining, and dismissing them.

Article 137

The public prosecution is a single judicial institution headed by the minister of justice. The law regulates its function and mandate.

Article 138

1. Judicial rulings are made in the name of the Arab people of Syria;
2. Refraining from implementing judicial rulings or obstructing their implementation is a crime punished in accordance with provisions of the law.

*(2) Administrative Judiciary***Article 139**

The State's Council is in charge of Administrative Judiciary. It is an independent judicial and advisory body. The law defines its mandate and conditions for appointing, promoting, transferring, disciplining and dismissing them.

Chapter 4: The Supreme Constitutional Court *** add provisions for the reconstitution of the court *********Article 140**

The Supreme Constitutional Court is an independent judicial body based in Damascus.

Article 141

The Supreme Constitutional Court is composed of at least seven members, of whom one will be the president, and all of whom are appointed by the president of the republic by decree.

Article 142

It is not permissible to combine the membership of the Supreme Constitutional Court with a ministerial post or membership in the People's Assembly. The law defines other functions which cannot be combined with court membership.

Article 143

The term of membership of the Supreme Constitutional Court is four years, subject to renewal.

Article 144

Members of the Supreme Constitutional Court cannot be dismissed from membership except in accordance with the law.

Article 145

President and members of the Supreme Constitutional Court shall be sworn in before the president of the republic in the presence of the speaker of the People's Assembly before they assume their duties. They repeat the following oath: "I swear by the Great Almighty to respect the constitution and the laws of the country and to carry out my responsibilities with integrity and impartiality."

Article 146

The mandate of the Supreme Constitutional Court is as follows:

1. Control over **compliance with U.N. Security Council Resolutions related to Syria and** the constitutionality of the laws, legislative decrees, bylaws and regulations;
2. Expressing opinion, upon the request of the president of the republic **or the president of the Council of Ministers,** on the constitutionality of the draft laws and legislative decrees and the legality of draft decrees;
3. Supervising the election of the president of the republic and organizing the relevant procedures;
4. Considering the appeals made to the soundness of the measures of electing the president of the republic and members of the People's Assembly and ruling on these appeals;
5. Trying the president of the republic in the case of high treason;
6. The law defines its other terms for reference.

Article 147

The Supreme Constitutional Court is charged with control over the constitutionality of the laws as follows:

1. Considering and ruling on the **non-compliance with U.N. Security Council Resolutions related to Syria and** the unconstitutionality of laws in accordance with the following:
 - a. If the president of the republic, **the president of the Council of Ministers or a simple majority** of the members of the People's Assembly object to a law before its promulgation, on the grounds of its **non-compliance with U.N. Security Council Resolutions related to Syria or its** unconstitutionality, the promulgation of such law is suspended until the court rules on it within 15 days of the date of lodging the objection at the court. If the law is urgent in nature, the court shall rule on it within 7 days;
 - b. If a **simple majority** of the members of the People's Assembly object to a legislative decree, on the grounds of its **non-compliance with U.N. Security Council Resolutions related to Syria or its** unconstitutionality, within 15 days of it being presented to the assembly, the court shall rule on it within 15 days of lodging the objection at the court;
 - c. If the court ruled that the law, the legislative decree, or the bylaw was **non-compliant with U.N. Security Council Resolutions related to Syria or** unconstitutional, the items found to be unconstitutional shall be annulled with retroactive effect and all their consequences shall be removed.
2. Considering the claim of the **non-compliance with U.N. Security Council Resolutions related to Syria or** unconstitutionality of a law and ruling on it takes place as follows:

- a. If an opponent making an appeal claimed ***non-compliance with U.N. Security Council Resolutions related to Syria or*** unconstitutionality of a legal text applied by the court whose ruling is being challenged, and if the court considering the challenge found that the claim was serious and should be ruled on, it halts the proceedings of the case and refers it to the Supreme Constitutional Court;
- b. The Supreme Constitutional Court shall rule on the claim within 30 days of being entered in its register.

Article 148

~~***The Supreme Constitutional Court has no right to look into laws which the President of the republic submits to public referendum and are approved by the people.***~~

Article 149

The law regulates the principles of considering and ruling on the issues under the jurisdiction of the Supreme Constitutional Court. The law defines the number of its staff and the conditions which need to be met by its members. It also prescribes their immunity, responsibilities, salaries and privileges.

Chapter 5: Amending the Constitution**Article 150**

1. Amendments to the constitution agreed at the peace conference assembled in Geneva under the auspices of the United Nations and adopted in a U.N. Security Council Resolution shall be considered as part of the present constitution of Syria and shall have immediate force of law throughout the entire territory of Syria without the requirement of a popular referendum.

2. Thereafter and until a new constitution is adopted in accordance with UNSC R 2254, any additional amendments to the Constitution shall be approved by a two-thirds majority vote of the Council of Ministers and signed by the president of the Council of Ministers.

~~***1. The president of the republic, and so does a third of the members of the People's Assembly, have a right to propose amending the constitution;***~~

~~***2. The amendment proposal includes the provisions to be amended and the reasons for it;***~~

~~***3. As soon as the People's Assembly receives the proposal for amendment, it sets up a special committee to examine it.***~~

~~***4. The Assembly discusses the proposal for amendment. If it approved it by a three quarters majority of its members, the amendment shall be considered final, provided that it is also approved by the president of the republic.***~~

Chapter 6: General and Transitional Provisions.

Article 151

The preamble of the constitution is considered part and parcel of the constitution.

Article 152

No person carrying another nationality, in addition to the nationality of the Syrian Arab Republic, might occupy the office of president of the republic, vice-president, president of the Council of Ministers, deputy president of the Council of Ministers, ministers, members of the People's Assembly or members of the Supreme Constitutional Court.

Article 153

~~*This constitution shall not be amended before 18 months of it coming into force.*~~

Article 154

~~*The legislation in force and issued before approving this Constitution remain in force until they are amended in accordance with its provisions, provided that the amendment is done within a period of no longer than 3 years.*~~

Article 155

~~*The term of office of the current President of the republic terminates after 7 years of his being sworn in as President. He has the right to stand again for the office of President of the republic. Provisions of Article 88 of this Constitution apply to him as of the next presidential elections.*~~

Article 156

~~*Elections for the first People's Assembly under this constitution shall be held within 90 days of the date of its being approved through public referendum.*~~

Article 157

This constitution shall be published in the official gazette and enters into force as of being approved.

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