

Constitutional Amendment Proposal
Libyan Political Dialogue Forum

Upon review of:

- The Constitutional Declaration of 3 August 2011 and amendments.
- The Libyan Political Agreement signed on 17 December 2015.
- The Rules of Procedure of the House of Representatives.
- The Roadmap of the Libyan Political Dialogue Forum (LPDF) issued on 16 November 2020.

The House of Representatives (HoR) issues the following constitutional amendment:

First Article

Article 30/12/1 of the Constitutional Declaration shall be amended to read as follows:

1. Upon adoption of the Constitutional Amendment herein, the LPDF shall designate a technical committee of eighteen (18) members, three of whom shall be from the cultural components. The technical committee shall begin its work immediately and shall take its decisions with two-thirds majority of its members. It shall identify and amend the contentious articles. The committee shall finish its work and submit its report and findings within twenty-one (21) days from its first meeting. The amendments must include amendment of the relevant articles to ensure holding the elections as scheduled on 24 December 2021.
2. Within ten (10) days from the date of receiving the report of the Technical Committee, the CDA shall adopt the amended Draft Constitution and submit it to the HNEC for referendum. The CDA shall convene in Ghadames, and the quorum shall be constituted by the absolute majority of the CDA members and shall take its decisions with the same majority.
3. After its endorsement by the CDA, the amended Draft Constitution shall be submitted for referendum based on the law promulgated by the House of Representatives and its amendment, provided that the Draft Constitution receives the confidence of the Libyan people through a “yes” vote of fifty percent plus one (50%+1) of the voters in each of the three districts provided for by the law.
4. If the amended Draft Constitution receives the confidence of the Libyan people, it shall become the permanent constitution of the country. The CDA shall, within seven (7) days, prepare draft laws for the general elections based on the permanent constitution and these will be promulgated by the HoR in accordance with Article 23 of the Libyan Political Agreement, as it is within no later than seven (7) days, otherwise they shall be deemed automatically effective.
5. In the event of a “no” referendum on the amended Draft Constitution, within a period not exceeding 15 October 2021, the following Constitutional Basis shall be enforced as a basis for

the elections on 24 December 2021. The constitution-making process shall be completed in accordance with Article (46) of this Constitutional Amendment:

Chapter One: Legislative Authority

Article 1

The legislative authority shall be vested in the House of Representatives (HoR), as set forth in the Constitutional Amendment herein. The candidate for membership of the HoR must be a Libyan Muslim, enjoying his civil and political rights, and possess an educational degree.

- The HoR shall consist of two hundred (200) members elected through direct secret suffrage according to the constituencies indicated in Annex 1, provided that the age of the HoR member on the day of opening the candidacy shall not be less than twenty-three (23) years.
- The electoral system for the HoR shall guarantee representation of women by no less than 30%, and fair representation of the cultural components with no less than five (5) members for each cultural component (Amazigh, Tabu and Tuareg), and shall ensure the representation of youth, refugees and IDPs.

Article 2

The headquarters of the HoR shall be in Benghazi. It may hold its meetings outside the official headquarters in accordance with their Rules of Procedure. As an exception to the provisions of the preceding paragraph and on a temporary basis, it shall be required for the validity of the HoR sessions to take place in Ghadames until the unification of the military institution.

Article 3

Within fifteen (15) days of the announcement of the final results of the elections, the HoR must hold its first session. The session shall be presided by the oldest member, and the youngest member shall be the rapporteur.

Holding the first session of the elected HoR shall entail transference of all prerogatives of the legislative authority thereto in accordance with the Amendment herein without the need for handover/takeover or any other procedures. By that, the capacity of the former HoR and HCS members shall end. The Executive Authority shall continue exercising authority in accordance with the Constitutional Declaration herein until the end of the Preparatory Periods.

In a public session, the HoR members shall take the legal oath set out in Article 19 of the Constitutional Declaration.

Article 4

The meeting of the HoR shall only be valid with the presence of the absolute majority of its members. Decisions shall be taken by a majority vote of those present, except in cases where a prescribed majority is required.

Article 5

The HoR shall take the following decisions by a two-thirds majority of the members of each Chamber:

1. Procedures of the constitutional process.
2. Award concessions of strategic nature for foreign investment.
3. Ratification or abolishment of international conventions and treaties.

Article 6

The term of the new HoR shall begin from the date of its first session and shall expire with the lapse of two (2) calendar years, or with the election of the legislative authority in accordance with the Permanent Constitution, whichever is earlier. The HoR shall ensure completion of the Permanent Constitution within no later than six (6) months prior to the end of its term. In the event that the Constitution is not completed within the specified time, legislative elections shall be called for within no later than one hundred and twenty (120) days before the end of term of the HoR based on the Constitutional Basis herein and the electoral laws promulgated accordingly.

The Article herein may not be amended.

Article 7

No later than fifteen (15) days from its first meeting, the HoR shall elect its Speaker and two deputies [to serve] for one (1) year non-renewable.

Article 8

Within a maximum of thirty (30) days from its first meeting, the HoR shall establish its Rules of Procedure by an absolute majority of its members. The Rules of Procedure shall include modalities of exercising competences and safeguarding the Rules of Procedure. This shall be regulated by law and published in the official gazette.

The HoR sessions shall be public, and the deliberations shall be recorded in minutes published in accordance with its Rules of Procedure. The HoR may convene a closed session at the request of the Speaker, President of State, Prime Minister, or at the request of one third of the members.

Broadcasting the sessions in the media shall be in accordance with the conditions prescribed in the Rules of Procedure.

Article 9

The HoR shall enjoy administrative and financial independence under the general budget of the State. The expenditures of the HoR shall be subject to oversight by an independent external statutory auditor selected in accordance with the Rules of Procedure for a period of one (1) year.

The State shall allocate the human and financial resource necessary for the good performance of the HoR.

Article 10

The HoR member shall represent the entire people. The respective voters may not limit such representation with any restriction or condition. Voting shall be a personal right for the member and may not be delegated or waived.

Article 11

Membership of the HoR may not be combined with any position at an executive authority institution. The HoR member may not be a member of or advisor to committees or boards of directors of companies, bodies or public institutions.

Article 12

Without prejudice to the Rules of Procedure of the HoR, the HoR member shall not be held accountable for the opinions he/she expresses in the HoR or its committees.

Article 13

Each HoR member shall enjoy parliamentary immunity. In cases other than in flagrante delicto, the HoR member may not be arrested or subjected to any criminal proceedings without the permission of the HoR in accordance with its Rules of Procedure. If a HoR member is arrested in flagrante delicto, the Speaker shall be notified within forty-eight (48) hours.

Article 14

Membership in the HoR shall expire with resignation, death, loss of eligibility, or inability of the member to perform duties, or if the member no longer meets one of the membership requirements based on which he/she was elected, or if the member fails to fulfil duties. The Rules of Procedure shall set out the procedures related to the vacant seat. A decision of termination of membership shall be issued by a majority of two thirds of the HoR members.

Article 15

If a seat of a HoR member becomes vacant, the alternative candidate shall be selected in accordance with the Electoral Law, provided that the HoR notifies the High National Elections Commission (HNEC) within a maximum of ten (10) days from the date the vacancy is confirmed. The term of the new member shall expire with the expiration of the HoR term.

Article 16

The HoR shall enact legislations, grant a vote of confidence and a motion of censure to the Council of Ministers, oversee the executive authority, approve the public budget, and endorse the general policy presented by the government.

Article 17

Proposals for laws shall be submitted on an initiative of ten (10) HoR members. Draft laws shall be submitted by the Council of Ministers, and the Prime Minister shall be responsible for submitting the draft laws on ratification of international treaties and the draft general budget law. Priority shall be given to the consideration of draft laws.

Article 18

The HoR shall not discuss a draft or proposed law before its consideration by the competent committees according to the Rules of Procedure unless this is agreed by the absolute majority of the HoR members before presenting the draft law or proposal for discussion.

Article 19

The Prime Minister shall submit to the HoR the draft general budget law at least thirty (30) days before the beginning of the fiscal year for review and adoption. It shall be voted on chapter by chapter, provided that the budget is issued by a law that defines the fiscal year and includes provisions for the budgets and accounts of institutions, bodies and local administration units, and provisions for transfers between lines of the approved budget, as well as provisions for settlement of any additional or contingent expenditures not previously included in the approved allocations.

Article 20

The government shall not have the right to close a public loan or pledge that may entail extra-budgetary financial obligations except with the approval of the HoR.

Article 21

Fact-finding committees shall be formed by a decision of the president of the Parliament and may not be formed on incidents subject of judicial investigation as long as such investigation is

ongoing. The task of each previously formed fact-finding committee shall end immediately upon opening a judicial investigation in the incidents that necessitated its formation.

Parliamentary investigation committees shall be formed at the request of the President of State or two-thirds of HoR members. The work of the investigation committee shall end with the submission of its report to the HoR.

Article 22

Every HoR member may address a question or interpellate the Prime Minister or any of the Ministers, as established by the Rules of Procedures.

Article 23

If the HoR decides, by absolute majority of its members, on a motion of censure for the government, the latter shall be deemed to have resigned and shall continue to function in care-taking capacity until a new government is designated. If the decision concerns one of the ministers, the latter shall be deemed to have resigned.

The HoR shall only consider the request for a motion of censure at the request of one fourth of the HoR members. This request shall only be presented for discussion after eight (8) days from the day of its submission, and voting shall only take place after two (2) days from completion of the discussion.

Chapter Two: The Executive Authority

Article 24

The executive authority shall consist of the President of State and the Council of Ministers.

Article 25

The Head of State shall embody its unity and continuity, and shall protect the interests of the people, preserve the independence and territorial integrity of the homeland, shall protect the vulnerable groups, shall work to consolidate national coherence and maintain the balance of powers. The president of State shall exercise prerogatives as described in the Constitutional Declaration herein.

Article 26

Fifteen days before the end of the Preparatory Phase, the HoR shall elect the Head of State and his two deputies through secret ballot based on the list system. The nomination and winning list shall be determined as follows:

1. Each list shall be required to obtain two endorsements from members of the HoR for each constituency.
2. The list that receives a majority of two-thirds of the HoR members shall be deemed to have won the election in the first round.
3. If none of the lists wins in the first round, a second round shall be organized for the two lists that receive the highest number of votes in the first round. The list that receives the majority votes shall be the winning list.
4. The president and his two deputies shall be elected in a session held in a city determined by the existing Presidency Council.
5. In the event that it is not possible to elect the President of State, for any reason whatsoever, the existing Presidency Council shall exercise the prerogatives of the President of State stipulated in the Constitutional Amendment herein until a President of State is elected.

Article 27

A candidate for the presidency and his two deputies during the transitional period [shall be accountable] before the HoR and must:

1. Be a Libyan Muslim.
2. Not hold the nationality of another country, unless an evidence of renouncing that nationality is presented with the application for candidacy.
3. Not be married to a non-Libyan.
4. Be no less than thirty-five (35) years of age on the day of candidacy.
5. Must not have been previously convicted for financial corruption or violation of human rights or international humanitarian law.
6. Submit a declaration of immovable and movable properties inside and outside Libya, as well as those of his spouse and minor children.
7. Meet any other criteria provided for by the law.

Article 28

In a public session, the President of State and his deputies shall take the legal oath set forth in Article 19 of the Constitutional Declaration before the President of the Supreme Court and in the presence of the Presidency of the HoR.

Article 29

The President of State shall:

1. Represent the State in its foreign relations for protocol purposes.
2. Accredite representatives of foreign countries and bodies to Libya.
3. Fifteen (15) days before the end of the preparatory Period, designate the Prime Minister and assign him to form the government based on the results of the HoR elections and on a decision by the HoR Presidency acknowledging these results.
4. Issue special presidential pardons after consultation with the Prime Minister and the Supreme Judicial Council.
5. Issue decisions related to convening extraordinary sessions of the Parliament.
6. Promulgate laws adopted by the HoR within the deadlines specified in the Constitutional Amendment herein.

Article 30

The State Presidency Council shall consist of the President, his two deputies, and the Prime Minister. It shall take its decisions unanimously according to meeting minutes. Any decision to the contrary of the above shall be null and void. The State Presidency Council shall:

1. Conclude international agreements and treaties provided that these are ratified by the HoR.
2. Exercise the functions of the Supreme Commander of the Libyan Army.
3. Appoint and relieve of office the head of Intelligence Service and his deputies.
4. Appoint and relieve of office ambassadors and representatives of Libya at international organizations based on a proposal by the Minister of foreign Affairs in accordance with the legislation in force.
5. Propose to the HoR the declaration of a state of emergency and war and take exceptional measures. The HoR shall take the decision whether to approve or not within a period not exceeding ten (10) days by an absolute majority of its members.

A state of emergency shall be declared for a period not exceeding three (3) months, extendable for the same period based on a vote of the HoR by a majority of 60% (sixty percent) of its members. Its further extension shall require two-thirds majority of the HoR members.

Article 31

The financial remuneration of the Head of State shall be determined in accordance with Article 44. The Head of State may not receive any other salary or remuneration, or engage during his tenure in any other business, or in commercial, financial or industrial activity, nor may he buy or rent any of the state properties or sue it thereon, or conclude contracts of obligation, supply, or building contracts. In the event that the Head of State receives, personally or through an intermediary, a cash or in-kind gift, the ownership of the same shall devolve to the public treasury, all as regulated by the law.

Article 32

In the event that the position of the President becomes vacant due to resignation, death, permanent disability, or for any other reason whatsoever, the First Deputy of the Head of State shall temporarily assume the functions of the Head of State, provided that the vacant position of the President and his two deputies is announced by the Speaker of the HoR. A new president or any of his deputies shall be elected within thirty (30) days from the announcement of the vacancy.

Resignation of the Head of State or his deputies shall be submitted in writing to the Speaker of the HoR.

Article 33

The Head of State and his two deputies shall enjoy judicial immunity throughout their term in presidency. All statutory limitation and preclusive deadlines shall be suspended. Proceedings may be resumed after the end of their term.

Subject to Article 34, the Head of State and his two deputies shall not be accountable for their acts while exercising duties.

Article 34

Accusation of high treason against the Head of State or any of his deputies shall only be considered upon a request signed by one third of the HoR members. The decision to refer the matter to the Prosecutor General shall only be taken by an absolute majority of the HoR members. Once such decision is issued, the Head of State, or any of his deputies, shall be suspended from duties. This shall prevent the Head of State from exercising functions until a court order is issued.

The Head of State shall be tried before the chambers of the Supreme Court collectively. Prosecution shall be undertaken by the Prosecutor General. The rulings of the Court shall be final and shall not be subject to appeal. Should the Head of State, or any of his deputies, be convicted, he shall be relieved of office without prejudice to other penalties.

Article 35

The Head of State may address the HoR directly or through messages read on his behalf; these messages shall not be subject to discussion.

Article 36

Within seven (7) days from the date of adoption of a law, the Head of State may request the HoR, through a reasoned note, to reconsider the said law. The HoR shall re-discuss the law within one (1) week. If re-adopted, the law shall be transmitted for promulgations and publication.

Article 37

If the Head of State is unable to perform duties temporarily, he may delegate some of his prerogatives to his First Deputy for a period not exceeding thirty (30) days. The Head of State shall inform the Speaker of the HoR of the same.

The Council of Ministers

Article 38

The Council of Ministers shall consist of a prime minister, one or more deputies, and ministers. It shall be entrusted with administering the internal and external affairs of the State. The Prime Minister shall supervise the work of the Council and guide it to perform its functions, provided that the President of State is consulted with respect to the Ministries of Foreign Affairs and Defense.

Article 39

The Prime Minister and ministers shall be collectively accountable before the HoR for the policy of the State. Each minister shall be accountable for the work of the respective ministry.

Article 40

Except for the tasks entrusted to the President of State, the Council of Ministers shall exercise the executive authority, run the affairs of the state, and ensure the normal functioning of the public institutions and structures of the State, in accordance with the laws in force. It shall, in particular:

1. Establish the priorities of the government work.

2. Propose the policy of the State in consultation with the President and oversee its implementation after adoption.
3. Propose draft laws.
4. Prepare the draft budget law and final account of the State.
5. Issue regulations, decisions and instructions to implement the laws.
6. Negotiate international treaties and agreements.
7. Exercise any other functions provided for in the legislation in force.

Article 41

The appointed Prime Minister or Minister must:

1. Be Libyan and enjoy civil and political rights.
2. Not have been previously convicted for financial corruption or violation of human rights or International Humanitarian Law.
3. Be no less than thirty (30) years of age on appointment date for the Prime Minister and twenty-five (25) years of age for the Minister.
4. Submit a disclosure of immovable and movable properties, as well as those of spouse and minor children in accordance with the legislation in force.

Article 42

The Prime Minister and ministers shall take, before the HoR, the constitutional oath set forth in Article (19) of the Constitutional Declaration.

Article 43

The Prime Minister shall in particular:

1. Invite the Council of Ministers for a meeting and preside over its meetings.
2. Propose to the President of State the composition of the Council of Ministers for approval and then submit to the HoR for a vote of confidence.
3. Issue the decisions taken by the Council of Ministers.
4. Appoint deputy ministers upon a proposal by the competent minister.

Article 44

The Prime Minister shall submit his resignation in writing to the President of State, and the resignation of the minister shall be submitted to the Prime Minister. The resignation of the Prime

Minister shall entail the resignation of the entire government. The outgoing government shall continue in care-taking capacity until a new government is formed.

Article 45

The financial treatment of the Head of State, his two deputies, HoR members, Prime Minister, ministers, and those of similar status shall be determined by a law based on a draft law presented by the Council of Ministers and endorsed by the HoR within a period not to exceed one (1) month from taking the legal oath.

In all cases, the remuneration of the Head of State, his two deputies, Prime Minister, ministers, HoR members and those of similar status may not exceed twenty (20) times the minimum wage.

Chapter Four: Completion of Constitutional Process after Legislative Elections

Article 46

Within a period not exceeding ninety (90) days from the date of convening its first session, the elected HoR shall form a technical committee whose composition shall take into account representation of cultural components.

The committee shall coordinate with the CDA to forge binding solutions regarding the objections on the Draft [Constitution].

The HoR, in coordination with HNEC, shall take the necessary actions to complete the referendum on the amended Draft before the expiration of its term in accordance with Article 6 of the Constitutional Amendment herein.

Chapter Three: General Provisions

Article 47

The local administrative organization shall be based on the principle of decentralization within the framework of unity of the State. The governorates and municipalities, their respective competences and financial allocations shall be regulated by the law to ensure decentralized services, transparent spending, and sovereign nature of state resources, with the aim of sustaining balanced and sustainable development across the country.

Article 48

Possession of weapons and the army, police and security institutions shall be a State monopoly in accordance with the law in the public interest. The Army shall defend the homeland and shall commit to not violating the constitutional system and shall be subject to civil authority. The Army shall be prohibited from engaging in political action. Personnel of the army, police and security services shall have the right to vote in elections without being candidates unless an evidence of approved resignation for the security and military institution is presented along the application for candidacy. It shall be prohibited for any individual, entity or group to establish military or paramilitary formations, groups, or organizations outside the legitimacy of the State.

Chapter Four: Additional Provisions

Electoral System

Article 49

The electoral system for the HoR shall be based on the proportional closed list system and the individual system in accordance with Annex 1, provided that the proportions outlined in Article 1 of the Constitutional Amendment herein are maintained. The lists that fail to comply with this principle shall not be accepted.

Article 50

1. The members of HNEC shall be complemented by appointing the incumbents of the four vacant seats, with two members appointed by the HoR and two members appointed by the HCS, within no later than one (1) week from the date of adoption of the Constitutional Amendment herein, otherwise the LPDF shall undertake this task.
2. The Chairman and members of HNEC Board shall renew their commitment to the responsibilities prescribed by the Law of HNEC establishment, namely the obligation of absolute political impartiality, and not to engage in any act that would suggest political bias or departure from the purely technical nature of their competence.
3. The HNEC shall issue the necessary regulations and operational rules for the timely conduct of elections on the basis of the Constitutional Amendment herein in accordance with the highest international standards. The United Nations Support Mission in Libya (UNSMIL) and international partners shall provide the necessary technical support to that end.

Challenges and Electoral Offences

Article 51

Articles of Chapters 8 and 9 of Act 4 (2012) on Election of the General National Congress (GNC) shall be enforced for any challenges and electoral offences.

Second Article

Article 64 of the LPA shall be enforced for issuance and entry into force of the Amendment herein, based on the fact that undermining holding of the elections shall be a serious breach to this agreement as follows:

1. Within no later than fifteen (15) days of the date of adoption by the LPDF, the amendment herein shall be transmitted to the Hor for issuance as is, after approval of the HCS, to ensure political accord of the existing bodies.
2. In the event that adoption is not possible in accordance with the preceding paragraph, the Presidential Council shall issue a decree to include the constitutional Amendment within no later than seven (7) days of the expiry of the period specified for the two Councils.

Third Article

The Constitutional Amendment herein and all its texts and annexes shall become an integral part of the Constitutional Declaration and shall be published in the official gazette.

Fourth Article

The Amendment herein shall come into force as of the date of issuance. Any contradictory provision shall be nullified. All entities and individuals shall comply with it and put it into effect.

Issued on

On / / 1441 H

/ / 2021

House of Representatives

Annex 1
The House of Representatives– Constituencies

HoR					
Constituency No. (Primary)	Constituency (Primary)	Sub-constituencies (Individual System)	No. of Seats of Individual system	No. of seats for list	Total seats
1	Tobruk	Tobruk		10	11
		Qubba			
		Darna	1		
2	Bayda	Shahat		11	11
		Bayda			
		Marj			
		Qasr Libya			
3	Benghazi	Benghazi	0	26	26
		Tukra			
		Al-abyar			
		Femines			
		Slouq			
4	Ajdabya	Ajdabya	0	12	12
		Braiga			
		Jalu, Ojla and Ajkhara			
		Tazerbu			
		Kufra			
		Sarabia	0		
6	Sabha	Sabha	0	9	16
		As-Shati' - Barak		7	

		As-Shati' – Al-Qardha			
		As-Shati'- Adri			
7	Obari	Obari		6	15
		Ghat		2	
		Murzug	2	5	
5	Sirte	Sedra	1	7	9
		Sirte			
		Jufra	1		
8	Gharyan	Gharyan	3	0	17
		Asab'a	1		
		Kikla – Al-Qal'a	1		
		Yafren	1		
		Rayanah	1		
		Rhaibat	1		
		Rajban	1		
		Jadu	1		
		Zintan	2		
		Muzda	1		
		Nalut	1		
		Baten al-Jabal	1		
		Kabaou	1		
	Ghadames	1			
9	Misrata	Tawergha	1	0	16
		Misrata	0	8	
		Bani Walid	2	0	
		Zleitin	0	5	

10	Khums	Tarhuna	0	6	11
		Msallata	0		
		Qasr El-Akhyar	0		
		Al-Khums al-Madina	0	5	
		Al-Khums Al-Sahel	0		
11	Tripoli	Qarabolli	0	10	30
		Tajoura	0		
		Souq el-Jum'a	0		
		Central Tripoli	0	3	
		Hay El-Andalus	0	6	
		Abu Slim	0	8	
		Ain Zara	0		
		Jenzour	0	3	
12	Al-Azizya	Al-Maya	1		
		Al-Nasriya	1		
		Al-Azizya	1		
		Sawani Bani Adam	1	3	9
		Qasr Ben Ghashir	1		
		Msehil, Saeh and Sbei'a	1		
13	Zawiya	Zawiya	0	8	
		Surman	1	3	17
		Sabrata	1		
		Ujailat	1		
		Zwara	1		

		Jmaiyei	1		
		Ragdalin	1		
		Zalten	0		
Total			37	163	200