UNITY IN DIVERSITY –
A CONSTITUTION FOR ALL SYRIANS

PROPOSAL FOR A SYRIAN CONSTITUTION

Commented Version

Europäisches Zentrum für Kurdische Studien
European Center for Kurdish Studies

Since 2017, the European Center for Kurdish Studies has been organizing dialogue workshops with members of the Syrian opposition. Initially, the participants of these workshops developed principles for a future democratic Syrian State. In 2018, these principles were translated into a draft constitution. In the sense of a Living Paper, also the draft constitution is being further developed in dialogue workshops. To date over a hundred Syrian opposition members have participated in the discussion on the content of this document. The contents of the draft constitution reflect the discussions of the Dialogue Workshops. This does, however, not mean that all participants agree on all points of this paper. The draft constitution is for internal use only and duplication or publication is not permitted.

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Proposal for a Syrian Constitution

PREAMBLE

With the intention of effecting a democratic transition in Syria, of respecting and protecting the dignity, rights and freedoms of each individual and of all groups, and of recognising and promoting diversity within the country;

With the conviction that the standards for equitable coexistence in Syria arise from the Universal Declaration of Human Rights and the human rights conventions laid down by the United Nations, and that Syria is bound to ensure the equality of rights of all human persons, in law and in practice, specifically equal rights for women and men;

With the intention of safeguarding the independence of Syria and of maintaining peaceful relationships with its neighbouring countries and of engaging in open and effective collaboration with the international community;

With the desire to safeguard the rule of law, to put an end to marginalisation and discrimination, and to ensure peaceful coexistence in the spirit of reconciliation;

With the conviction that the diversity of Syria necessitates a distribution of powers and responsibilities as well as collaboration at the federal level;

With the aim of promoting general welfare, equality of opportunity, and the economic development of the country, and of safeguarding the livelihoods of future generations, the Syrian people issues this constitution.

CHAPTER I — FUNDAMENTAL PRINCIPLES

ARTICLE 1 (SYRIA)

1. Syria shall be a democratic state. All state authority shall be conditional upon the will of the people and shall be exercised for the good of the population.

Comment

PREAMBLE The Preamble serves as a bridge between the past and future and lays down the most important values of the state. The Preamble comprises part of the constitution and shall be binding. However, it does not lay down any rights and obligations which could be enforced in court. The purpose of the Preamble is to convey the self-perception of the state and to serve as an interpretive aid for the constitution.

CHAPTER I The section on fundamental principles sets forth the principles and rules that shall apply to Syria in its entirety and shall be binding for all levels of the state. The eternity clause (Article 110) shall apply to Articles 1 to 10. They may not be repealed nor significantly limited in effect.

ARTICLE 1.1 On principle, it is therefore clear that the federal, regional and local governing authorities of Syria must be organised on a democratic basis. The provision shall enshrine both aspects of democracy: All decisions taken by the state must stem from the will of the

people (input democracy) and be carried out in the best interests of and for the good of the population (output democracy). This is laid out in greater detail in Article 6 (Democracy), Article 42 (Political Rights) and the regulations on the individual public authorities.

Article 4 is also closely linked to democracy, and clarifies that Syria is not bound to practice pure majoritarian democracy, focusing instead on the equitable participation of all societal groups.

2. Syria shall be a constitutional state which respects and protects the principles of the separation of powers and the independence of the judiciary, and which is bound to abide by the principles of the rule of law.

ARTICLE 1.2 The principle of the rule of law is clarified in greater detail in Article 7 and Article 8, in the procedural safeguards and in the section on the judiciary.

3. Syria shall be a federal state which shares power and resources equitably between the federal, regional and municipal levels.

ARTICLE 1.3 This principle is reified in Article 9 and Chapter III in particular.

Federalism is stipulated as it strengthens both democracy and the rule of law. It aids political diversity by allowing different political forces to take responsibility at local and regional levels. In particular, it thereby promotes the political participation of women. Federalism supplements the horizontal separation of powers into legislative, executive and judiciary bodies with a vertical separation of powers, thereby offering additional protection against abuse of power and tyranny.

Federalism also contributes proven mechanisms for peaceful ways of managing ethnic, linguistic, religious and denominational diversity. It enables groups to administer themselves in their regions or municipalities and to maintain their cultural identities by guaranteeing both regional and local self-determination and the effective participation of all groups in the federal state. In doing so, federalism makes an important contribution to the stability of the country, to peace and to territorial integrity. Finally, federalism ensures economic development which is adapted to the different regions, and

guarantees an efficient and citizen-oriented provision of state services. It is imperative that decisions are made by the population concerned wherever possible, including during the period of transition and reconstruction.

4. Syria shall be a welfare state. It shall ensure equality of opportunity as well as social security.

ARTICLE 1.4 The welfare state is reified in Article 10 and in the section on fundamental rights. Equality of opportunity and social security are conducive to justice and stability as they make it attractive to belong the Syrian state.

ARTICLE 2 (TERRITORY)

ARTICLE 2 Guaranteeing the territory in the constitution secures the territorial integrity of Syria and ensures that no group or region has a constitutional right to secession. As in most federal states, this constitution does not provide for the option of withdrawal.

1. The territory of Syria shall be guaranteed by this constitution. Said territory shall consist of the regions of Syria.

2. The territory of the regions shall consist of the municipalities.

3. Changes to the territory shall require the consent of the population affected. Consent shall be deemed to have been given if at least half of all eligible voters participate in a vote on the matter and at least two thirds vote in favour of the merger or division.

ARTICLE 2.3 The regions do not correspond to the current provinces. The regions will be newly formed in accordance with the procedure laid out in Article 6 Appendix (Formation of the Regions). All changes to the territories of the regions shall comply with the provisions specified in this article. This ensures that regions cannot be modified against the will of their populations, and that the regions possess a certain stability and can only be modified if the change is supported by a substantial majority.

4. The merger or division of a region shall take effect upon approval by both chambers of parliament, in each case with a two-thirds majority.

ARTICLE 2.4 This provision also promotes stability, as well as taking account of the fact that regional mergers and divisions have an impact at a federal level. This impact particularly concerns the composition of the second chamber of parliament.

ARTICLE 3 (SYRIAN PEOPLE)

1. The Syrian people shall consist of all Syrian citizens.

2. Citizens shall be entitled to equal treatment, in law and in practice, in all matters concerning citizenship.

ARTICLE 3.2 This principle is the result of the fundamental rights. Specific mention of the principle at this point ensures its application to matters concerning the acquisition, inheritance and loss of citizenship.

3. Any individual whose Syrian citizenship has been unlawfully revoked, or from whom Syrian citizenship has been withheld, shall be entitled to Syrian citizenship. Citizenship may only be revoked in cases provided for by the law. It may not be revoked if such revocation would cause an individual to become stateless.

ARTICLE 3.3 This provision takes account of the fact that certain persons and groups have had Syrian citizenship unlawfully revoked or refused in the past. It shall ensure the rectification of such past injustices. Individual cases will have to be settled in the course of the transition or possibly by law.

4. Syria shall respect, protect and promote the diversity of its population. All ethnic, religious, denominational and linguistic groups shall form part of the identity of Syria and shall be recognised as elements of Syrian society. All groups, regardless of their size, shall be entitled to equal respect and equal protection of their rights, to the preservation and promotion of their cultural identity, and to equal participation in the state.

ARTICLE 3.4 There are three aspects to this acknowledgement of the diversity of the Syrian people. Respect means that the state shall have due regard for diversity and, for example, shall not adopt measures which strive for cultural assimilation. Protection means that the state shall avert threats to diversity, for example those posed by private parties, religious communities or employers. Finally, the duty to promote diversity means that the state shall actively pursue diversity and its preservation, for example by supporting translations or cultivating intercultural dialogue.

ARTICLE 4 (INCLUSIVITY AND REPRESENTATIVITY)

1. Syria shall guarantee equal rights and obligations for women and men and shall ensure reasonable and proportionate representation and participation of women in all public authorities and commissions. In all public authorities and commissions of the federal state, of the regions and of the municipalities, women shall comprise a minimum of thirty percent of the members.

2. The public authorities and administrative bodies at

ARTICLE 4.2 Representativity increases the democratic legitimacy of the public

all levels of the state shall be inclusive and shall, to the greatest extent possible, represent all groups in accordance with the proportion of the total population. Overrepresentation of extremely small and widely dispersed groups shall be permitted.

authorities and administrative bodies. Paragraph 2 therefore ensures that administrative bodies, the police and education authorities, too, represent the diversity of the country. In doing so, it also realises the entitlement of all citizens to equal access to all public services in the country (UN Covenant II, Article 25). Overrepresentation of extremely small and widely dispersed groups shall be permitted as they would otherwise never be represented, particularly in small committees.

ARTICLE 5 (SUPREMACY OF THE CONSTITUTION, VALIDITY OF INTERNATIONAL LAW)

1. All public authorities and individuals who exercise state powers shall be bound to respect and protect this constitution and to act within the meaning and the spirit of the constitution.

2. This constitution shall override all federal, regional and local provisions.

ARTICLE 5.2 The supremacy of the constitution shall ensure that the principles and rules of the constitution permeate the entire Syrian legal system. Regions and municipalities shall be granted the right to legislation and self-administration, but may not violate this constitution. This applies in particular to the regional constitutions, which, for this reason, shall be preventatively reviewed by the federal constitutional court. There are two restrictions on the supremacy of the constitution.

3. Obligations under international law which Syria has lawfully entered into shall form part of Syrian law. The federal state, the regions and the municipalities shall respect international law and shall be bound to enforce all obligations under international law. The peremptory norms of international law, as well as the international human rights treaties, shall have priority over this constitution.

ARTICLE 5.3 This provision stipulates that international law shall constitute a part of the Syrian legal system (monism) as long as this law was agreed in compliance with the powers, responsibilities and proceedings of national law. See also Article 18 on human rights treaties and Article 9 Paragraph 4 Appendix on the revision of existing obligations under international law.

The peremptory norms under international law comprise norms from which no derogation by any state is lawfully permitted. In other words, these are the

fundamental principles of international law (for example the law of war and the prohibition of torture and genocide).

The international human rights treaties shall also take precedence over the constitution, which also means that this constitution must be interpreted in accordance with these obligations.

Any amendments to this constitution which would contradict these two limits shall be inadmissible (see Article 110 Limits of Constitutional Amendments).

ARTICLE 6 (DEMOCRACY)

1. The state shall respect and protect political rights as well as freedom of expression, the freedom of the media and freedom to demonstrate. Hate speech shall be prohibited.

ARTICLE 6.1 Mention is made of these fundamental rights because they are indispensable for the functioning of democracy. They are addressed in greater detail in Chapter II. Hate speech which incites violence and discrimination shall be prohibited. Conversely, expressions of opinion and demonstrations which criticise the government, other public authorities or this constitution shall be permitted. The understanding of free communication should therefore comply with the definition used by the European Court of Human Rights: "Freedom of expression [...] is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'."

2. The parties shall participate in the process by which the people forms opinions and political will, and shall be protected by freedom of political parties. Political parties which incite hate, violence or discrimination shall be prohibited.

ARTICLE 6.2 Political parties are addressed in greater detail in Article 43. Should the question of a potential prohibition of political parties lead to a dispute, the federal constitutional court shall decide (see Article 92).

3. Anyone who has been finally and conclusively convicted of war crimes or crimes against humanity may not hold any office in the Syrian state.

ARTICLE 6.3 Other criminal convictions, particularly political convictions by previous governments, shall not constitute an obstacle to holding public office.

4. The state shall be bound to pursue the objective of a strong and diverse civil society.

ARTICLE 7 (RULE OF LAW)

1. All state action shall be based on and limited by the law, by public interest and by the principle of proportionality.

ARTICLE 7.1 The principle of lawfulness prohibits the state from engaging in any unlawful conduct. In addition, it requires a legal basis for every decision and therefore strengthens the parliament. The principle of lawfulness also protects individuals because it enables them to anticipate state action.

The principle of public interest requires all state action to comply with the principle of the common good and to be conducive to the implementation of the constitution and laws. State powers must not be misused in the pursuit of personal interests.

The principle of proportionality stipulates that state measures shall always be commensurate to the purpose pursued. If various measures are viable, the measure chosen should always be the measure which results in the least intrusion for citizens. Disproportionate decisions which exceed the purpose in question shall be unconstitutional.

2. Retroactive laws shall be prohibited. An exception may be made for transitional justice measures.

ARTICLE 7.2 The rule against retroactivity prevents citizens from being taken by surprise by new laws. People cannot be retroactively prosecuted for actions that were legal when committed. However, the rule against retroactivity only prohibits the genuine retroactive effect. Genuine retroactive effect consists in the application of a new law to a situation which has already concluded. For example, if a minor entered lawfully into a marriage, this marriage shall remain valid even if the marriage of minors is prohibited under the new mar-

riage law. In contrast, non-genuine retroactive effect is permitted; this consists in the application of a new law to a situation which has not concluded. For example, if the marriage law is amended to simplify the divorce process, the new provisions shall also apply to existing marriages.

Lex mitior shall always apply in criminal law.

The provision also stipulates that the rule against retroactivity shall not prevent transitional justice measures. For example, it should therefore be possible to overturn expropriations enacted by previous governments.

3. State action shall be open to public inspection. Laws, rulings and decisions shall be published both in the official journal and electronically. The official journal shall be available and publicly accessible without payment throughout the country.

ARTICLE 7.3 A public information law must ensure that the public has access to state information. Public information on state action does not mean that the state provides the public with information (e.g. via state media), but rather that outside parties (e.g. journalists) have direct and immediate access to state action (court proceedings, files, records, etc.).

4. All state players shall be bound to observe the principle of good faith. They shall behave in a fair, accountable and reliable manner at all times. Chicanery and the arbitrary exercise of power shall be prohibited.

5. Anyone who has a personal interest in a matter must recuse himself or herself.

ARTICLE 7.5 Recusing himself or herself means that a person abstains from voting and does not participate in the preparation of the decision. Personal interests exist when, for example, the decision concerns a close relative. A conflict of interests must always be assumed if it appears that a person could give precedence to their personal interests owing to the circumstances. It is not required that the person in fact be biased for this assumption to be made. In the event of a dispute, the decision shall be made by the public authority of which the person concerned is a member. This authority

can seek a judicial review of the decision.

ARTICLE 8 (ACCOUNTABILITY)

1. The state shall be liable for any damage arising in the performance of its functions and attributable to unlawful acts or failure to act.

ARTICLE 8.1 State liability is a central principle of the rule of law. Anyone who suffers damage as a result of state action (for example, due to an unlawful arrest) shall be entitled to financial reparations. State liability therefore also has a preventative effect and creates incentives for the state to prevent unlawful acts or failures to act. Anyone who has suffered damage can apply to the courts without being concerned with which player caused the damage.

2. All forms of abuse of power and all forms of corruption shall be prohibited.

ARTICLE 8.2 Greater detail will have to be provided in the criminal code.

3. All individuals who take public office shall take the following oath: "I swear that I will comply scrupulously and incorruptibly with the provisions of the constitution and protect and defend the rights and freedoms of all persons."

ARTICLE 8.3 All individuals elected, nominated or appointed to office must take the oath; however, persons employed by the state in order to fulfil a certain function shall not be required to take the oath.

4. It shall not be permitted to take legal action against anyone for statements made in parliament. Presidents and members of parliaments, of governments and of courts shall enjoy immunity.

ARTICLE 8.4 There shall be no consequences under criminal or civil law for statements made in parliament (parliamentary/absolute immunity). Outside parliament, the legal system shall also apply for holders of public office. However, immunity prevents holders of public office from being hindered in their duties by malicious or improper proceedings. Before proceedings can take place, parliament must therefore approve the lifting of immunity (see Article 73 Para. 2).

5. Anyone who exercises state power shall be accountable for his or her actions. Anyone who causes harm, whether intentionally or through negligence, shall be personally liable.

ARTICLE 8.5 Paragraph 1 sets forth the principle of general state liability. If the state has rendered financial reparations to the victim, then it is entitled to recourse against the person responsible for the damage. If the person acted culpably, then he or she shall be personally liable.

6. Decisions concerning the accountability of the state shall be made by independent and impartial courts. Holders of public office may only invoke immunity insofar as the constitution provides for this.

ARTICLE 8.6 See Paragraph 3.

ARTICLE 9 (FEDERAL STATE)

1. Powers and responsibilities shall be assigned to the federal state, the regions and the municipalities in accordance with this constitution and with the principle of subsidiarity.

ARTICLE 9.1 In accordance with the principle of subsidiarity, powers and responsibilities shall be located at the lowest state level possible. Functions shall only be assigned to a higher level if they exceed the capacity of the lower level or if a unified solution is indispensable.

2. The regions shall establish their own regional constitutions and shall dispose of their own resources. They shall be responsible for all functions which fall within the sole or concurrent jurisdiction of the regions. They may assign themselves additional functions.

ARTICLE 9.2 The regions shall have the right and the obligation to establish their own constitutions. They shall decide autonomously on the process of drawing up a constitution; however, they shall be bound by the principles of democracy and inclusivity.

The constitutional court shall be responsible for taking preventative action to ensure that the regional constitutions conform with this constitution and international law. Regional constitutions must be presented to the constitutional court before their entry into force.

3. The municipalities shall administer themselves within the scope of their powers and responsibilities and shall dispose of their own resources. They shall be responsible for all functions which fall within the sole or concurrent jurisdiction of the municipalities. They may assign themselves additional functions.

4. All levels of the state shall be bound to provide one another with information, to collaborate in a fair and open manner and to resolve conflicts peacefully.

ARTICLE 9.4 For the smooth functioning of a state with multiple levels of governing authority, it is imperative that all levels provide one another with information. This means, for example, that different players shall inform each other at an early stage of legislative initiatives or important government plans. They shall work together and not against each other. Conflicts shall be settled through dialogue and negotiation; if this

fails, the courts shall decide. The unilateral assertion of a particular position shall violate the principles of fair collaboration.

ARTICLE 10 (WELFARE STATE)

1. The state shall promote general welfare and shall ensure the highest possible standard of social security.

2. It shall ensure that the entire population is reasonably provided with public services.

3. It shall help persons in need and shall endeavour to create equality for the socially deprived and disadvantaged.

ARTICLE 11 (OFFICIAL SEAT)

1. The parliament and the government of the federal state shall have their official seat in Damascus, and the constitutional court shall have its official seat in Aleppo. Parliament shall decide on the official seats of the other public authorities and commissions.

2. The regions shall determine the seats of their public authorities and commissions.

ARTICLE 12 (FLAG, ANTHEM, OFFICIAL HOLIDAY)

1. The official name of Syria shall be “Republic of Syria (RS)”.

2. Parliament shall determine the flag, the national anthem, other symbols and the official holidays of the Republic of Syria. In doing so, it shall take proper account of the diversity of its population.

ARTICLE 12.2 The symbolism used to represent a state is of great importance for the cohesion of the country. It is not easy to find shared symbols, but other states are testament to the fact that it is possible. As the four official languages of Switzerland complicated the choice of an official name for the country, the decision was taken to call it Confoederatio Helvetica (Latin, a language that nobody speaks).

3. The regions may determine their flag, their anthem and official regional holidays. The municipalities

shall have the right to establish official municipal holidays.

ARTICLE 13 (LANGUAGES)

1. At federal level, Arabic, Kurdish, Turkmen and Assyrian shall be recognised as official languages with equal value.

2. The working language shall be Arabic; important decrees and decisions shall be translated into the other official languages. Account shall be taken of the needs of other linguistic groups.

3. The regions may establish one or more additional languages as official languages, or as working languages, alongside Arabic. They shall take account of linguistic diversity and of all linguistic groups in the region.

4. Everyone shall have the right to speak their language and to use proper names and traditional place names.

ARTICLE 13.1 According to this provision, Syria shall recognise multiple languages as official languages and thereby commit itself to linguistic diversity, which has great symbolic value. Nonetheless, Arabic shall be the sole working language at the federal level in order to simplify the functioning of public authorities and administrative bodies and to lower costs.

The regions shall be bound to provide for Arabic as the official language; however, they may decide to operate using multiple languages. This provision shall, among other things, facilitate collaboration and the provision of information.

ARTICLE 14 (STATE AND RELIGION)

1. Syria shall be a secular state.

ARTICLE 14.1 This provision enshrines the separation of state and religion, but does not prevent regions and municipalities from maintaining religious and denominational practices. With regard to religious schools and religious education, see Article 36.

2. This constitution shall respect and protect freedom of belief and freedom of conscience for all; these freedoms shall be guaranteed for the entire population at all levels of the Syrian state.

3. The state shall treat all religious and denominational groups with respect and shall remain neutral in religious and denominational matters; it shall also recognise the religion of the Yazidis in constitutional law.

ARTICLE 14.3 The third paragraph stipulates that secularism shall not be considered hostile to religions.

The explicit mention of the Yazidis is due to the fact that in the past they were denied recognition as an independent religion.

4. Religious groups shall also respect freedom of thought, freedom of conscience and freedom of religion.

ARTICLE 14.4 This paragraph obliges religious communities to respect the rights and freedoms of their members and of non-members. A requirement for societal and religious tolerance shall therefore also apply.

ARTICLE 15 (NATURAL RESOURCES)

1. Natural resources shall belong to the federal state and to the regions.

2. All natural resources which are not privately owned shall be public property of the state and shall be used in a sustainable manner for the good of the people.

ARTICLE 16 (INDIVIDUAL AND SOCIETAL RESPONSIBILITY)

1. Everyone shall take responsibility for himself or herself and shall contribute to the fulfilment of state and societal functions in accordance with his or her abilities.

2. Everyone shall, in accordance with his or her economic capacity, fulfil his or her obligation to pay charges and taxes.

CHAPTER II — FUNDAMENTAL RIGHTS AND HUMAN RIGHTS

CHAPTER II All players in the Syrian state, i.e. the legislators, governments and administrative bodies, courts, police, education authorities etc. of the federal government, regions and municipalities, shall be bound to uphold the fundamental rights and human rights enshrined in Chapter II. Chapter II therefore also stands for the unity and cohesion of the entire Syrian people, as it lays down the rights and freedoms to which all persons are entitled — regardless of their location and the group or groups to which they belong.

Fundamental rights and human rights that apply and are implemented throughout the country are particularly important in federal states, as they ensure that the regions do not misuse their autonomy to discriminate against

minorities or individuals. Part A establishes the general provisions which are relevant for all fundamental rights and human rights; part B comprises the catalogue of guaranteed rights of freedom as well as political, procedural and social rights.

ARTICLE 17 (HUMAN DIGNITY)

ARTICLE 17 Human dignity, which forms the basis of all fundamental rights and human rights and determines their interpretation, is at the forefront of the catalogue. Human dignity protects the essence of what it means to be a human being and is inviolable, i.e. there are no circumstances under which human dignity may be violated by the state. Many constitutions designate the protection of human dignity as absolute, thereby expressing that human dignity may not be qualified in any way. Human dignity requires every person to be perceived and treated as valuable and acknowledged in their uniqueness at all times. Persons shall be considered intrinsically valuable and may never be degraded to mere objects.

1. Human dignity shall be inviolable.

2. All state powers shall be based on and limited by the principle of human dignity.

ARTICLE 17.2 The principle that all state powers shall be based on human dignity means that human dignity shall be the definitive benchmark against which all actions of the state are measured. Such actions shall be justified by the fact that they promote the protection of all human dignity.

A. GENERAL PROVISIONS

ARTICLE 18 (HUMAN RIGHTS CONVENTIONS)

1. Syria shall respect, protect and implement internationally recognised civil, political, economic, social and cultural fundamental rights and human rights.

ARTICLE 18.1 This provision stipulates that Syria shall observe the fundamental rights and human rights enshrined in

2. Anyone who claims to have been the victim of a violation of an international safeguard shall be entitled to an effective remedy before a court.

3. All public authorities and persons exercising state powers shall be bound — individually and using inter-national assistance and collaboration, and to the best of their abilities — to take measures to fully implement international safeguards over time using all appropriate means, in particular relying on legislative measures.

international law. This refers on the one hand to all international treaties ratified by Syria, and on the other hand to customary international law on human rights. See Article 5 Paragraph 3 and Article 9 Paragraph 4 on the validity and supremacy of international human rights treaties.

The core legislation comprises the two UN covenants (UN Covenant I on Economic, Social and Cultural Rights and UN Covenant II on Civil and Political Rights). The internationally recognised fundamental rights and human rights also include the Convention against Torture, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of Discrimination Against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

There are three types of state duty in international law and also in constitutional law:

The duty to respect: This prohibits the state from infringing on the rights and freedoms of individuals without justification.

The duty to protect: This commands the state to take all reasonable measures, legislative and otherwise, required to protect rights and freedoms from violations by third parties (e.g. employers, spouses) or resulting from other dangers (e.g. epidemics, natural catastrophes).

The duty to fulfil: This obliges the state (i.e. all vehicles of state powers) to use all available means to work towards ensuring that all persons can take full advantage of all rights and freedoms, not only in law but also in practice. In other words, this duty concerns the comprehensive realisation of equality of opportunity (e.g. in the education system) and the implementation of economic and social rights (work, living space, health). The state is not obliged to directly guarantee this outcome (duty of result) but

must do everything in its power to work towards attaining this outcome (duty of best efforts).

4. Syria shall ratify the fundamental international human rights conventions and shall impose only those provisos which comply with this constitution and have been approved by both chambers of parliament. Parliament shall regularly review the existing provisos and adapt the legal system as soon as possible such that said provisos are no longer required. Syria shall collaborate closely with international organisations, with treaty bodies and with the UN Human Rights Council and shall support their activities. In interpreting and further developing the fundamental rights and human rights, public authorities shall be guided by the international legal conventions established by the United Nations and its special organisations as well as by their comments and recommendations.

ARTICLE 18.4 The constitution obliges the competent authorities to ratify the most important conventions. This refers to the International Bill of Human Rights, which currently consists of approximately ten agreements but is in a constant state of further development. In this connection, the public authorities may not impose any and all desired provisos (i.e. restrict the obligations of international law). Provisos must both comply with this constitution (i.e. they may not be of a general nature, or prize culture, religion or tradition over the safeguards) and acquire democratic and federal legitimation, which is granted through the approval of both chambers of parliament. See also Article 9 Paragraph 4 on repealing existing provisos. The constitution obliges the public authorities to participate in international collaboration; this entails in particular the regular submission of complete national reports to the UN treaty enforcement bodies and the implementation of recommendations without delay. Accession to the European Convention on Human Rights is not possible for a non-European state. Like many other states, however, Syria shall undertake to collaborate with the Council of Europe and the European Court of Human Rights.

ARTICLE 19 (BINDING EFFECT)

1. Anyone who performs state functions shall be bound to observe the fundamental rights and human rights established in this constitution as well as the international guarantees of human rights and shall be obliged, within the scope of his or her powers and

ARTICLE 19.1 Article 19 stipulates that anyone who performs state functions is subject to the duty to respect, the duty to protect and the duty to fulfil. In other words, it is “only” the state, not private parties, which is bound to observe fun-

responsibilities, to contribute to their implementation. The legal system shall be designed in such a manner that the fundamental rights and human rights also apply to private parties, insofar as these rights are suitable for such application.

damental rights and human rights. However, the state may not use privatisation as a mechanism to evade the binding effect of these rights. Private players who take on state functions shall also remain bound to observe the catalogue.

Labour law and civil law in particular shall be designed (or redesigned) such that they comply with the fundamental rights and human rights.

2. The safeguarding of human dignity and the essence of the fundamental rights and human rights shall also apply to private parties. Anyone who provides goods or services to the general public may not withhold these arbitrarily and is bound by the prohibition of discrimination.

ARTICLE 19.2 The safeguarding of human dignity and the essential rights (e.g. the prohibition of torture, see Article 22 Paragraph 1) shall also apply directly to private parties. It shall also be prohibited for private parties to treat human persons inhumanely or degradingly, or in a manner which otherwise strips them of their dignity. In all other cases, the validity of the fundamental rights and human rights between private parties shall be derived from legislation, e.g. labour law, criminal law or antidiscrimination law. For religious groups, Article 14 Paragraph 4 shall also apply.

Beyond legislation and the essential rights, the decisions of private parties shall be covered by the protection of personal freedom, protection of privacy, etc. A private party can, for instance, freely choose with which persons he or she would like to interact privately, or whom he or she would like to employ at home (e.g. as a babysitter). However, anyone who provides goods or services to the public (e.g. transport companies, hotels and restaurants, organisers of cultural or sporting events) may not refuse to provide said goods or services without objective grounds and may not discriminate against any customers.

3. The federal state, the regions and the municipalities shall take all necessary measures to comprehensively implement fundamental rights and human rights for all persons. These measures shall include, in particular, the revision of existing laws, the adoption of new laws to safeguard fundamental rights

and human rights in all areas of the law and all areas of life, the provision of the necessary financial resources, and the creation of plans of action for the progressive improvement of the human rights situation.

ARTICLE 20 (POSSESSION OF FUNDAMENTAL RIGHTS AND HUMAN RIGHTS)

1. All natural persons shall possess fundamental rights and human rights from the time of birth until the time of death. The only valid exceptions shall be those which are provided for in this constitution.

ARTICLE 20.1 This constitution stipulates certain age restrictions, for example (e.g. for freedom of marriage and for political rights). Legislators shall not be permitted to establish exceptions to the universal possession of fundamental rights and human rights. However, while in principle all persons are and shall remain in possession of all fundamental rights and human rights, excluding the exceptions allowed by the constitution, this does not preclude the restriction of these rights and freedoms in a constitutional manner (see Article 22).

2. Fundamental rights and human rights shall also apply to legal entities insofar as appropriate.

ARTICLE 20.2 Most fundamental rights and human rights shall also protect legal entities such as associations or limited companies. The possession of fundamental rights shall only be reserved for persons when said rights concern natural characteristics (health, family, etc.).

ARTICLE 21 (IMPLEMENTATION)

ARTICLE 21 See Article 23 on the consequences of violations of fundamental rights and human rights.

1. All state authorities shall collaborate with the commission for human rights and shall report regularly on their progress in implementing fundamental rights and human rights and on the measures taken. They shall provide information upon request at any time.

ARTICLE 21.1 See Article 94 and Article 95 on the commission for human rights. See Article 23 on the consequences of violations of fundamental rights and human rights.

2. Each court shall designate a human rights representative to advise the court in cases of claims concerning violations of fundamental and human rights. Each ministry shall designate a human rights representative, who shall act as a point of contact internally and externally and who shall ensure that all

ARTICLE 21.2 This provision shall ensure human rights mainstreaming and guarantee that human rights considerations are taken into account and observed at all times. The designation of a human rights representative will also simplify

state actions take proper account of fundamental rights and human rights. The human rights representatives of the various courts and ministries shall collaborate and coordinate their activities.

information-sharing and collaboration. See Article 80 on the ministries.

3. The state shall foster an active culture of human rights. This shall include education on human rights for anyone who exercises state authority, regular awareness-raising activities for all members of public authorities and all state employees active in human rights affairs, general human rights education, and school education.

ARTICLE 21.3 The complete realisation of the fundamental rights and human rights for all necessitates an unwavering commitment. Only regular action on the part of all public authorities will enable a new culture of human rights which pervades the legal system and society, and which facilitates and complements the implementation of rights by the courts.

4. The state shall collaborate closely with civil society in order to comprehensively implement fundamental rights and human rights. The competent public authorities shall ensure that lawyers and other human rights representatives are able to perform their work freely and safely and have access to persons and information at any time.

ARTICLE 22 (RESTRICTION OF FUNDAMENTAL RIGHTS AND HUMAN RIGHTS)

ARTICLE 22 Fundamental rights and human rights express the most important values in the constitution and society. Nonetheless, they can be restricted under certain circumstances. This provision sets forth the requirements which must be met in order for restrictions to be permitted and not to violate fundamental rights and human rights. As soon as one of the following requirements fails to be met, the restriction shall be considered to violate the constitution. In the event of a dispute, the courts shall decide.

1. The essence of fundamental rights and human rights shall be inviolable.

ARTICLE 22.1 Some fundamental rights and human rights are guaranteed essential rights and are accorded absolute protection. This applies, for example, to human dignity or the prohibition of torture — they are inviolable. All inalienable safeguards of international law are also inviolable. Other fundamental rights and human rights can be restricted but have a core principle, the essence, which is accorded absolute

protection and may not be violated under any circumstances. For example, under certain circumstances, the state can prohibit religious practices which cause severe harm to other persons, but it cannot interfere in personal beliefs. The essence must be determined individually for each fundamental right and human right. Human dignity shall be the measure for this (Article 17).

2. Restrictions of fundamental rights and human rights must have a legal basis. Severe restrictions must have their basis in a law; minor restrictions may have a different legal basis. Cases of serious, unforeseeable and imminent danger shall be excepted from this provision.

ARTICLE 22.2 Any severe restrictions of fundamental rights and human rights must have a legal basis which is stipulated by the parliament of the state or regions, depending on the jurisdiction. This shall ensure that severe interventions have a high level of democratic legitimacy. Minor interventions can be imposed by other regulatory bodies (e.g. governments and administrative bodies). This shall guarantee that these are applied equally to all persons and are not implemented arbitrarily. Imprisonment or expropriation, for example, would constitute a severe intervention; interrogation or a fine would constitute a minor intervention.

In the case of serious, unforeseeable and imminent danger, the general police clause allows public authorities to take measures without a legal basis where said measures are urgent and indispensable in the public interest or for the protection of the fundamental rights of others. The state may only invoke this clause if it is impossible to establish a legal basis due to lack of time on account of a new and unexpected danger to the population (e.g. new epidemics or toxins). The state may not invoke the general police clause in order to take any exceptional measures which are unlawful.

3. Restrictions of fundamental rights and human rights shall only be permitted if they are necessary to protect public interests or to protect the fundamental rights and human rights of third parties.

4. Restrictions of fundamental rights and human rights must be fair and reasonable. These restrictions may not exceed the necessary scope. They must be appropriate and reasonable.

ARTICLE 22.4 In addition to having a legal basis and serving the public interest, restrictions of fundamental rights and human rights must also be designed and implemented in a reasonable and proportionate manner. The principle of proportionality requires the verification of three elements:

Necessity means that the state may always take only the mildest measure necessary to protect public interests or the fundamental rights and human rights of third parties. For example, the state may not prohibit a demonstration if safety can also be ensured by imposing conditions regarding time or location, or through an increased police presence.

Measures which are not at all appropriate to serve the public interest shall be prohibited. For example, it shall not be permitted to prohibit the wearing of headscarves in public in order to achieve gender equality or combat extremism.

Finally, any measures taken must be reasonable for the persons concerned in each individual case. This shall depend on their personal situation and circumstances. For example, family and health circumstances shall be taken into account in the case of a prison sentence.

5. Derogation from these provisions shall only be permissible insofar as the emergency provisions from Article 83 allow it.

ARTICLE 23 (CONSEQUENCES OF VIOLATIONS OF FUNDAMENTAL RIGHTS AND HUMAN RIGHTS)

1. Anyone who claims to have been the victim of a violation of fundamental rights or human rights shall be entitled to an effective remedy before an independent court. Access to the court shall be guaranteed for all; anyone who requires it shall be entitled to the administration of justice without payment, and to representation by a qualified attorney without payment.

ARTICLE 23.1 Claims concerning violations of fundamental rights and human rights can be asserted before any civil, criminal and administrative court. The typical powers and responsibilities, deadlines and instances of appeal shall apply. The federal constitutional court shall be the deciding body in the last instance; see Article 90 Paragraph 4 (leap-

frog appeal) and Article 92 Paragraph 5 (individual appeal).

See Article 21 Paragraph 2 on human rights representatives and Paragraph 3 on continuing education.

2. Violations of fundamental rights and human rights must be redressed. The court shall order all necessary measures for restitution, compensation and prevention.

ARTICLE 23.2 The first objective of redress shall be the rectification of the violation of fundamental rights and human rights. Restitution means, for example, that the unlawfully imprisoned person shall be immediately released and unlawfully seized property shall be returned. As this usually does not constitute full redress, compensation shall also be given for the injustices suffered. Compensation shall usually constitute indemnification and amends for damages (e.g. a certain financial sum for each day of unlawful imprisonment), but it can also include a public statement or apology under certain circumstances. Finally, public authorities can be obliged to take preventative measures to prevent the same or similar violations from occurring again. This may require legislative action or, for example, training or awareness-raising for the police or education authorities.

These measures shall apply to claims concerning current violations of fundamental and human rights. For handling past injustices, the rules of transitional justice shall apply (Article 11 Appendix).

3. The state authorities shall investigate violations of fundamental rights and human rights and shall take measures to prevent similar violations.

4. They shall inform the independent commission for human rights of the findings of such investigations and the measures taken.

B. CATALOGUE OF FUNDAMENTAL RIGHTS AND HUMAN RIGHTS

ARTICLE 24 (RIGHT TO LIFE)

1. The right to life shall be guaranteed.

2. The death penalty shall be prohibited.

ARTICLE 24.2 The prohibition of the death penalty constitutes a guaranteed essential right; the threat or enforcement of the death penalty is therefore banned outright. International law presently does not prohibit the death penalty absolutely. The majority of states have abolished it and others no longer enforce it. It is still enforced in around 60 states. International law rules that, in states in which the death penalty has not been abolished, a death sentence may only be imposed for the most severe crimes and may only be enforced on the basis of a final and conclusive ruling which has been issued by an independent court.

The prohibition of the death penalty shall not mean that serious crimes will not be punished to the fullest extent of the law. There is no evidence that the death penalty acts as an effective deterrent. It is also problematic because miscarriages of justice can never be entirely precluded. Moreover, numerous forms of the death penalty have been prohibited because their enforcement constitutes inhumane treatment. The death penalty shall therefore be renounced, including during the transition. A reliable procedure of taking evidence cannot be guaranteed during the transition in particular. Additionally, indiscriminate retributive justice can complicate the processing of past injustices by causing important witness information, for instance concerning accomplices or the whereabouts of victims, to be irrevocably lost. War crimes and crimes against humanity should therefore be processed in accordance with international criminal law.

ARTICLE 25 (RIGHT TO FREEDOM FROM HARM)

1. The right to freedom from physical, psychological and sexual harm shall be guaranteed.

2. Torture, inhumane and degrading treatment, and forced participation in scientific, medical and other experiments shall be prohibited.

ARTICLE 25.2 Article 25 Paragraph 2 constitutes a guaranteed essential right.

ARTICLE 26 (RIGHT TO PERSONAL FREEDOM)

1. Personal freedom shall be guaranteed.

2. Everyone has the right to the free development of his or her own personality and to freedom of movement.

ARTICLE 27 (PROHIBITION OF ARBITRARY TREATMENT)

Everyone shall be entitled to be treated in a non-arbitrary manner by state authorities.

ARTICLE 28 (EQUAL RIGHTS AND PROHIBITION OF DISCRIMINATION)

1. All persons shall be equal before the law and shall be entitled to equal protection before the law.

ARTICLE 28.1 The principle of equality shall be observed in the application of law (administrative bodies, courts), and shall also be observed by legislators. In the creation and application of laws, what is equal must therefore be treated equally according to its equality and what is unequal must be treated unequally according to its inequality. The pursuit of equal rights may also necessitate unequal treatment (e.g. specific regulations for persons with disabilities).

2. Nobody may be discriminated against, in particular on the basis of ethnicity, skin colour, religion, denomination, ideology, language, sex, gender, sexual orientation, way of life, economic or social status, political conviction, age, or physical or mental health.

ARTICLE 28.2 The prohibition of discrimination consists in a qualified requirement for equal rights. It shall prohibit different treatment of persons on the basis of certain characteristics. Exceptions to this shall only apply when justified by compelling reasons (e.g. in the case of pregnancy and birth).

3. The state shall be bound to take action against all forms of discrimination and make any and all legislative or other provisions necessary for effectively combatting discrimination on the state level and within society. Affirmative action in the interest of

the equality of affected persons shall be permitted in order to compensate for past and present discrimination.

4. Discrimination against persons with disabilities shall be prohibited. The state shall be bound to ensure equal standards of life for persons with and without disabilities.

5. The state shall be bound to combat all forms of youth and age discrimination.

6. It must be ensured that vulnerable persons and persons subjected to discrimination or disregard by society are effectively protected from violence, neglect, discrimination and oppression.

ARTICLE 29 (EQUALITY OF RIGHTS FOR WOMEN AND MEN)

1. Women and men shall have equal rights. The state shall be bound to repeal any and all laws which result in discrimination against women or are intended to do so, and to establish and safeguard equality and the equal participation of women and men in all areas of societal, economic and political life. Equality shall also pertain to personal, family and inheritance law.

ARTICLE 29.1 This provision takes up the central obligations of the UN Convention on the Elimination of all Forms of Discrimination Against Women.

2. All state authorities shall condemn all forms of discrimination against women and take all appropriate measures to effect change in social and cultural patterns of behaviour and to aid in the elimination of prejudices and traditional practices which oppress women.

ARTICLE 30 (CULTURAL SELF-DETERMINATION)

1. The state shall be bound to establish and safeguard equality and the equal participation of all ethnic, religious, denominational and linguistic groups in all areas of societal, economic and political life.

ARTICLE 30.1 The right to cultural self-determination shall complement the federal rules and protect the members of small and widely dispersed groups in particular. The safeguards in Article 30 shall reduce the significance of internal borders (Article 2 and Article 6 Appendix) insofar as all groups maintain the right to cultural self-determination in all circumstances.

2. Ethnic, religious, denominational and linguistic groups shall, regardless of their location, enjoy the right to cultural self-determination, specifically the right to self-determination in matters of school education, of the exercise of religion, and of the fostering of culture.

3. The right to cultural self-determination shall be exercised within the scope provided for by this constitution and the regional constitutions as well as in compliance with obligations under international law.

ARTICLE 31 (MARRIAGE AND FAMILY)

1. Marriage and family shall be given special protection.

2. Freedom of marriage shall be guaranteed. Marriage shall be concluded with the consent of both spouses and without any coercion. Polygamy shall be prohibited.

ARTICLE 31.2 All state authorities and institutions shall be bound to observe the constitutional prohibition of polygamy — as in the case of all fundamental rights and human rights. They shall therefore take all necessary measures to prevent polygamy and to take action against traditions which permit polygamy. This may comprise education and awareness-raising programmes, as well as criminal law measures. The status of persons who have already entered into polygamous marriages shall be protected, though they shall have the option to dissolve the marriage.

The UN Convention on the Elimination of all Forms of Discrimination Against Women does not expressly prohibit polygamy, but it does dictate that women and men shall enjoy the same rights in every aspect of marriage law. If polygamy were permitted, it would thus need to be available to both women and men (polyandry and polygyny). A general comment on the UN Convention on the Elimination of all Forms of Discrimination Against Women stipulates that polygamy is irreconcilable with women's rights. Various states which do not prohibit polygamy only permit it in accordance with religious law and, on a state level, only acknowledge one wife, or

they regulate polygamy strictly (e.g. the woman married first must consent to her spouse's entering a second marriage, etc.).

3. The minimum age for marriage shall be eighteen years.

ARTICLE 31.3 The status of minors who have already entered into marriages shall be protected, though they shall have the option to dissolve the marriage.

4. Parents shall have the right and the duty to care for and educate their children with a view to their well-being. Children shall be consulted and shall make their own decisions within the scope of their power of judgment.

ARTICLE 31.4 This provision complies with the stipulations in the UN Convention on the Rights of the Child. Children and young persons shall have the right to be informed and heard whenever they are affected by a decision. If they have acquired the required power of judgment, they shall make their own decisions, and parental authority shall not apply. Young persons shall thus decide for themselves within the scope of their power of judgment with which parent they would like to live in the case of separation, how and with whom they spend their leisure time and which occupation they would like to enter. The power of judgment shall be deemed to exist if a child or young person is capable of assessing a situation independently and forming his or her own views. Whether this is the case or not must be assessed on an individual basis and shall depend on the child's age and the complexity of the matter in question. In the event of a dispute, the court shall decide (see also Article 32).

5. Anyone who raises children or cares for others within a household shall merit protection and support.

6. It must be made possible for women and men to reconcile childrearing, domestic care activities, gainful employment and participation in public life.

7. Women during pregnancy and after childbirth, as well as single mothers and single fathers, shall be entitled to special protection and support.

ARTICLE 32 (PROTECTION OF CHILDREN AND YOUNG PERSONS)

1. Minors shall have the right to the free development of their personality, to a nonviolent upbringing and to special protection. The state shall safeguard age-appropriate living conditions.

ARTICLE 32.1 This duty to provide children and young persons with special protection shall apply to all areas of state activity. It shall require, for example, a specific system of criminal law for minors which focuses on education as well as social and professional integration and does not rely on repression (see Paragraph 4).

2. Minors shall exercise their rights independently within the scope of their power of judgment. Minors shall have the right to be consulted in all matters which affect them.

ARTICLE 32.2 See also Article 31 Paragraph 4. See Article 51 Paragraph 3 on the prohibition of child labour.

3. Children born out of wedlock shall be treated as equal to children born in wedlock.

4. Minors and young persons shall be subject to special juvenile criminal law.

ARTICLE 32.4 The majority of juvenile criminal laws shall apply not only to minors, but also to young adults up to 25 years of age. They shall therefore account for the fact that young persons who commit a criminal offence, in contrast to adults, tend to do so due to recklessness or mischief.

ARTICLE 33 (FREEDOM OF OPINION AND FREEDOM OF THE MEDIA)

1. Everyone has the right to form his or her own opinion and to freely express and disseminate this opinion in word, writing and images.

ARTICLE 33.1 See also Article 6 Paragraph 1 and the commentary.

2. Everyone has the right to freely obtain information. Everyone shall be entitled to unrestricted access to all sources in the public domain.

ARTICLE 33.2 See also Article 7 Paragraph 3 on public information on state action.

3. The freedom of the media shall be guaranteed. Media workers shall be entitled to protect their sources.

ARTICLE 33.3 Freedom of the media is indispensable for the freedom of individuals and for democracy. It means that, alongside the state media, there shall be private media which are free to organise themselves and produce independent reports. State controls (e.g. approval requirements, licences, controls

or fees) shall only be permitted under the stringent requirements set forth in Article 22.

Freedom of the media shall apply to all print media, to radio and television and to all new media.

Since the activities of private media are shaped by the principle of freedom of the media, a law on the media is generally not necessary. The activities of state media can be regulated in the public information law (see Article 7 Paragraph 3).

4. Censorship shall be prohibited. Systematic regulation of media products prior to publication or release is absolutely inadmissible. Retroactive revision of any form of expression may only occur in individual cases and shall only be conducted by a court.

ARTICLE 33.4 Systematic pre-censorship would violate guaranteed essential rights. It shall therefore be inadmissible for public agencies to regularly check or regulate media products prior to publication or release.

ARTICLE 34 (FREEDOM OF SCIENCE AND FREEDOM OF ART)

1. The freedom of science and the freedom of art shall be guaranteed.

2. Creators of scientific, literary and artistic works have the right to reasonable and proportionate protection of their intellectual and material interests.

ARTICLE 35 (FREEDOM OF ASSEMBLY AND FREEDOM OF ASSOCIATION)

1. Freedom of assembly shall be guaranteed.

ARTICLE 35.1 See also Article 6 Paragraph 1 and the commentary.

2. Everyone has the right to form, to join or to leave associations.

ARTICLE 35.2 The associations accorded protection as a fundamental right shall also include legal entities with religious, denominational, political, social or economic purposes. Freedom of association is therefore also conducive to the realisation of the right to cultural self-determination and the free formation of parties, trade unions, other interest groups and civil society organisations.

3. The state shall protect and promote the free founding of associations.

ARTICLE 35.3 See also Article 6 Paragraph 4.

4. Associations which pursue a constitutional objective shall be entitled to prompt registration with the competent court.

ARTICLE 35.4 Jurisdiction over registration is thereby assigned to the judiciary, in order to ensure that the assessment of the constitutional objective takes place independently and no administrative body has the opportunity to prevent or delay the activities of unwanted associations.

ARTICLE 36 (FREEDOM OF THOUGHT, FREEDOM OF CONSCIENCE AND FREEDOM OF RELIGION)

1. Everyone has the right to freedom of thought, freedom of conscience and freedom of religion. This right shall include the freedom to have, adopt or reject a religion or ideology of one's own choosing and to acknowledge this religion or ideology alone or in the company of others in public or in private.

2. The state shall remain neutral in religious and denominational matters. This shall apply in particular to public-law institutions, which shall be made available to everyone equally and shall respect and protect the freedom of religion.

3. Any religious and denominational groups shall have the right to take religion as an academic subject regardless of their location. Religious and denominational education classes shall also be subject to state supervision. This shall ensure that the instruction complies with the values and basic principles of the constitution and with Syria's obligations under international law.

ARTICLE 36.3/ 36.5 This provision on religious education shall work to supplement the fundamental right to education (Article 50). The constitution shall allow religious schools as well as religious education; however, it shall oblige the state to exercise supervision.

4. Religious and denominational education classes may be attended on a voluntary basis.

5. Religious private schools shall be subject to state supervision. This shall ensure that educational objectives on the state level are achieved.

ARTICLE 37 (ECONOMIC FREEDOM)

1. Economic freedom shall be guaranteed. This right shall include the freedom to select and perform an economic activity.

2. Forced labour shall be prohibited.

ARTICLE 38 (FREEDOM OF ESTABLISHMENT)

1. Everyone has the right to freely choose his or her place of residence and abode.

ARTICLE 38.1 Freedom of establishment shall apply to the entire territory of the Syrian state. Natural persons and legal entities shall therefore be free to choose the region or municipality in which they would like to reside or work at any time.

2. Collective resettlements shall be prohibited.

ARTICLE 38.2 See also Article 10 Appendix and Article 11 Appendix.

ARTICLE 39 (RIGHT TO ASYLUM AND TO PROTECTION FROM EXTRADITION)

1. Any person who is subject to discrimination or persecution shall be entitled to protection.

2. Foreign citizens who are subject to persecution shall have the right to asylum.

3. Nobody may be extradited or deported to a region where he or she would face the risk of the death penalty, of torture, or of inhumane or degrading treatment.

ARTICLE 40 (RIGHT TO PROTECTION OF PRIVACY)

1. The protection of privacy, secrecy and confidentiality shall be guaranteed.

ARTICLE 40.1 Privacy shall apply to everything which is not open to general public inspection. Secrecy shall be afforded greater protection; this shall apply to all personal information and activities which are only shared with close family members or close friends. Confidentiality, which covers sexuality, for example, constitutes the innermost core of privacy and is accorded absolute protection (guaranteed essential right).

2. Everyone has the right to determine the disclosure and use of his or her personal data himself or herself. The state shall provide protection against the misuse of personal data.

3. The secrecy of communications shall be guaranteed.

ARTICLE 40.3 This safeguard, previously known as secrecy of correspondence, shall also apply to modern forms of communication.

4. The protection of residential and business premises shall be guaranteed. Such premises may only be searched by court order or in the event of immediate danger. Measures taken without a court order must be authorised by a court within forty-eight hours.

5. Professional secrecy and attorney-client privilege shall be guaranteed.

ARTICLE 41 (RIGHT TO PROPERTY)

1. The right to property shall be guaranteed. Everyone has the right to acquire property and to possess, to use and to dispose of the property that he or she has lawfully acquired.

ARTICLE 41.1 Lawfully acquired property is, for example, property which a person has purchased or inherited. If evidence of lawful acquisition cannot be produced, uncontested possession for a specified number of years can be cited. An exception may be made for the transitional justice measures. See Article 11 Appendix.

2. Expropriation shall only be permitted on a legal basis, for the benefit of a public interest which is recognised by this constitution and in exchange for full and immediate compensation.

ARTICLE 41.2 See Article 10 Appendix and Article 11 Appendix. Full compensation means that the market value of something is paid.

ARTICLE 42 (POLITICAL RIGHTS)

1. The right to the free formation and expression of political will and the right to vote in free and fair elections shall be guaranteed. State propaganda shall be prohibited.

ARTICLE 42.1 The prohibition of state propaganda shall not preclude state information.

2. All citizens shall have the right to vote at the national level. Further rights to vote, in particular the political rights of the foreign population, shall be regulated by law.

ARTICLE 42.2 See Article 8 Appendix (Census and voter registration) and Article 7 Appendix (Specifications for the first elections).

3. The regions shall grant the right to vote in regional and municipal elections to all citizens who are permanent residents of the region. They may also grant the right to vote to foreign citizens who are permanent residents of the region, and to Syrian citizens who originate from the region but live in the diaspora.

4. Any person who has attained the age of eighteen may exercise these political rights and run for public office.

ARTICLE 42.4 Every person who has reached the age of majority is therefore guaranteed the right to vote and to stand for election.

5. The municipalities shall have the right to extend the right to vote in municipal elections to other persons who are resident in the municipality, and to persons who have attained the age of sixteen.

ARTICLE 42.5 The municipalities shall also be free not to make use of this option.

ARTICLE 43 (FREEDOM OF POLITICAL PARTIES)

1. Freedom of political parties shall be guaranteed.

ARTICLE 43.1 See also Article 6.

2. Parties which pursue a constitutional objective shall be entitled to prompt registration with the competent court. Their foundation shall not require approval and their activities shall not be subject to monitoring.

ARTICLE 43.2 However, see Article 6 Paragraph 2.

3. Parties shall participate in the process by which the people form opinions and political will.

ARTICLE 43.3 The political parties shall promote citizens' participation in political life. The parties shall inform citizens, provide critical commentary on developments and empower citizens to assume public responsibility. Political parties shall take part in elections by recruiting candidates and supporting them in their campaigns. Political parties shall also assume the role of mediator between state and populace, and they shall be tasked with explaining or criticising state decisions. The performance of these functions can differ greatly depending on whether a party is represented in the government or forms part of the opposition.

4. The state shall promote a multiplicity of parties, and fair competition between different political views.

5. The parties shall be entitled to financial support. They shall be obliged to disclose their finances. The acceptance of anonymous party donations shall be prohibited.

ARTICLE 43.5 All lawfully registered parties shall be fundamentally entitled to financial support for their activities. Party financing by the state must uphold equal rights and promote a multiplicity of parties. A law on political parties shall set forth the criteria for financing and the amount thereof; this shall be dependent on the size of the party and its electoral success. The duty of disclosure shall apply to donations or membership contributions from within Syria and abroad. The amount of these donations and contributions can be restricted by law.

ARTICLE 44 (CO-DETERMINATION IN EDUCATION AND IN THE WORKPLACE)

1. School pupils, apprentices and students shall have the right to co-determination in educational institutions.

ARTICLE 44.1 This provision shall ensure that persons have access to information at their places of education and work and are able to take part in decisions which affect them in these places. This means, for example, that students may create organisations and are represented in university bodies.

Co-determination in schools, e.g. via election of a student council or collaboration in decisions concerning the organisation of the school environment, shall also allow pupils to practise democratic coexistence and shall strengthen civil society. See Article 21 Paragraph 3 and Article 6 Paragraph 4.

2. Employees shall have the right to co-determination in the workplace.

3. The right to strike shall be guaranteed.

ARTICLE 45 (RIGHT OF PETITION)

Everyone has the right to address written or oral petitions to state authorities alone or jointly with others. The state authorities shall be bound to acknowledge petitions and to respond to them within a reasonable time.

ARTICLE 45 This right shall promote communication between state authorities and citizens. It shall ensure that citizens who do not understand or do not agree with a state action or failure to act can address questions and requests to

the state and receive an answer from the state at any time. The right of petition burdens the state, but it shall ensure that the state knows at all times whether its decisions are met with approval by the populace or if they are met with incomprehension or indignation.

ARTICLE 46 (GENERAL RIGHTS WITH RESPECT TO STATE AUTHORITIES)

1. All citizens whose rights and obligations are subject to decisions by state authorities shall be entitled to fair and equal treatment. State authorities shall be bound to respond to inquiries, applications and complaints within a reasonable time. They may not improperly or disproportionately apply formal or procedural requirements and must afford applicants the opportunity to improve or supplement their applications. They shall be bound to advise citizens and to support them in asserting their rights.

2. Persons whose rights and obligations are to be the subject of a decision shall be entitled to be heard. They shall have the right to make motions for the admission of evidence, to participate in the procedure of taking evidence and to make statements on evidence.

3. The right to inspect files shall be guaranteed.

4. State authorities may charge fees for their services if this is provided by law. Said fees may not exceed the expense actually incurred. Anyone who does not possess the necessary resources shall be entitled to exemption from the fees.

ARTICLE 46 The general rights with respect to state authorities from Article 46 shall apply in all situations in which citizens have dealings with state authorities, whether voluntarily or involuntarily. This shall apply if they bring an issue (e.g. an inquiry or application) to the attention of state authorities and if state authorities assert a claim or impose a ban.

The general rights with respect to state authorities shall regulate the state's conduct towards the populace in a broad sense and shall ensure that everyday bureaucracy works in accordance with constitutional state principles. The general rights are important for ensuring that natural persons and legal entities trust in the reliability of the state and are crucial for the implementation of fundamental rights. They shall guarantee, for instance, that state authorities promptly process applications to register a political party or to visit detained persons as well as applications for the approval of construction projects or demonstrations. To enable the populace to keep the state in check, it is also crucial that citizens have the opportunity to receive information at any time concerning proceedings which affect them personally.

The fundamental rights cannot be enforced without general safeguards and those safeguards which apply in the presence of the court (Article 47 et seq.). They shall ensure that people can effectively defend themselves against measures such as unlawful imprisonment or censorship, and that their inquiries and complaints do not go unanswered or encounter delays.

ARTICLE 47 (RIGHTS IN JUDICIAL PROCEEDINGS)

ARTICLE 47 If proceedings take place in court, the special legal safeguards shall apply in addition to the general rights with respect to state authorities laid down in Article 46.

1. All persons shall have the right to submit disputes to an independent and impartial court.

ARTICLE 47.1 Organisational, institutional and personal independence is a requirement of the rule of law (see Article 1 Paragraph 2 and Article 7) and is explained in greater detail in the chapter on the judiciary (Article 87 et seq.). The principle of impartiality shall ensure that judges have no involvement in cases in which they have a personal interest or in which they have already been involved.

2. The court shall decide in fair proceedings and within a reasonable time.

ARTICLE 47.2 Fairness means that the parties involved shall be informed about the proceedings and treated equally at all times. The court shall give consideration to parties who are inexperienced in proceedings and shall prevent their becoming overwhelmed. Courts shall be bound to hold proceedings promptly and may not claim an overload of work to justify excessively long proceedings. The individual nature, complexity and urgency of each case shall determine what amount of time is fair and reasonable. The courts shall be bound by the requirement of rapid action to work to ensure a prompt settlement of all cases, including disagreeable and difficult cases, and to inhibit any use of delaying tactics by the opposing party. Urgent cases must be brought forward; special proceedings and shorter time limits shall be arranged for such cases. See also Article 90.

3. Court proceedings shall be public. The law shall regulate any exceptions.

ARTICLE 47.3 Exceptions may be made to protect victims of violence or to keep state and business secrets confidential, for example. Proceedings involving children and young persons shall not customarily be public.

4. Nobody may be removed from the jurisdiction of the legally competent court. Extraordinary courts shall

be prohibited.

5. Anyone who does not possess the necessary resources shall be entitled to legal assistance free of charge, if necessary in the circumstances.

ARTICLE 47.5 Circumstances which justify legal representation free of charge include cases which could particularly severely affect the person concerned (e.g. criminal proceedings) or those which pose particularly complex legal questions.

ARTICLE 48 (RIGHTS IN CRIMINAL PROCEEDINGS)

ARTICLE 48 For persons facing criminal proceedings, the rights laid out in Article 48 shall apply in addition to the general and legal safeguards.

1. Anyone charged with an offence shall be entitled to legal assistance at every point of the proceedings.

2. Nobody may be sentenced under criminal law without a legal basis ("no punishment without law"). Anyone charged with an offence shall be considered innocent until he or she has been sentenced by final judgement before a court on the basis of the law. Nobody may be punished multiple times for the same offence.

3. Confessions made under duress may not be used.

4. Civilians may not be sentenced by military courts.

5. Crimes against humanity may be punished at any time.

ARTICLE 48.5 This regulation excludes limitation periods in cases of war crimes and crimes against humanity. Provisions or concessions which offer the prospect of impunity or immunity shall not be valid in this case.

ARTICLE 49 (RIGHTS IN THE CASE OF IMPRISONMENT)

ARTICLE 49 The safeguards in Article 49 shall additionally apply to persons who have been imprisoned by the state (whether within the scope of custody on remand or for other reasons).

1. A person may only be imprisoned in the cases provided for by the law and in a lawful manner.

ARTICLE 49.1 Reasons that shall justify imprisonment include custody on remand (in the case of urgent suspicion of a severe criminal offence and simultaneous risk of absconding or danger of suppression of evidence), enforcement of sentencing (in the case of sentencing by final judgment), and involuntary

commitment in cases of severe, otherwise unavertable dangers to oneself or others due to illness.

2. Anyone who is imprisoned shall be entitled to be informed of the reasons for his or her imprisonment within twenty-four hours in a language which he or she understands.

3. He or she shall have the right to be brought before the competent court and to receive a decision regarding the lawfulness of imprisonment, within forty-eight hours. He or she shall be entitled to the services of an interpreter if necessary.

4. He or she shall have the right to inform a person rendering legal assistance and other trusted persons without delay.

5. Imprisonment may only take place in institutions designated for this purpose. These must ensure humane conditions and medical care and shall be subject to state supervision.

ARTICLE 49.5 The guidelines of the anti-torture commission shall govern the reification of this regulation.

6. Fundamental rights and human rights may only be restricted to the extent required by imprisonment.

ARTICLE 49.6 See also Article 22.

ARTICLE 50 (RIGHT TO EDUCATION)

ARTICLE 50 On account of this justiciable entitlement to education, the federal state, the regions and the municipalities shall be bound to provide the educational system with substantial public resources. In accordance with Article 92 Paragraph 6, the constitutional court may adjust budgets which are in manifest violation of this fundamental duty (a substantial and unjustified curtailment, for example, shall be assumed to constitute such a violation).

1. Everyone shall have the right to education. The state shall enable and promote access to public educational institutions for everyone. Attendance at these institutions shall be free of charge.

ARTICLE 50.1 The right to education refers to all educational levels, from preschool to university education, and also covers professional training and continuing education. In the education sector, equality of opportunity is paramount, as

is the obligation to treat all human persons equally, in particular in regard to gender.

2. Education shall be mandatory until the completion of basic schooling.

ARTICLE 50.2 Basic schooling currently comprises nine school years.

3. Every child shall be entitled to education which is bound to take account of fundamental rights and human rights, of cultural diversity and of the peaceful coexistence of all human persons. Obligatory education shall also include ethics education.

ARTICLE 50.3 See Article 36. Ethics education shall ensure that all children and young persons learn about other religions in addition to their own and confront ethical questions together. Parents and children shall additionally be entitled to religious and denominational education (Article 36 Paragraph 3).

ARTICLE 51 (RIGHT TO WORK)

1. Everyone has the right to work in fair and reasonable conditions; in particular, all persons shall have reasonable working hours and sufficient pay. The state shall determine a minimum wage.

ARTICLE 51.1 In implementing the right to work, public authorities shall be guided by the stipulations of international law, specifically the relevant conventions of the International Labour Organization.

2. Women and men shall be entitled to equal treatment in all areas of labour law, particularly to equal access to continuing education and promotions, as well as to equal pay for equal work. State and private employers shall be bound to take measures to prevent and punish sexual harassment in the workplace.

ARTICLE 51.2 Contrary to most other fundamental rights, the entitlement to equal pay for equal work shall be binding not just for state functionaries, but also for private employers.

3. Child labour shall be prohibited. Young persons 16 years of age or older may work if the work is not dangerous and does not jeopardise their development.

ARTICLE 51.3 Child labour shall be defined as any labour performed by children and young persons before the end of their compulsory education. Marginal employment shall be excepted. Dangerous and harmful labour may only be performed by persons of legal age.

4. The state shall foster an environment which promotes the professional and social integration of all persons. It shall support people in their search for appropriate work or employment and shall endeavour to ensure the continuous improvement of working conditions. It shall be responsible for an effective system of labour inspection.

5. State and private employers shall be bound to the equal treatment of persons with disabilities and must take their specific needs into consideration.

ARTICLE 52 (RIGHT TO MEDICAL CARE)

Everyone shall have the right to medical care and treatment. Basic medical care shall be free of charge.

ARTICLE 52 On account of this justiciable entitlement to medical care, the federal state, the regions and the municipalities shall be bound to provide the healthcare system with substantial public resources. In accordance with Article 92 Paragraph 6, the constitutional court may adjust budgets which are in manifest violation of this fundamental duty (a substantial and unjustified curtailment, for example, shall be assumed to constitute such a violation).

Basic medical care shall comprise all medically necessary examinations and treatments.

ARTICLE 53 (RIGHT TO A REASONABLE STANDARD OF LIFE)

1. Everyone shall have the right to a reasonable standard of life, specifically to living space, food, water, clothing and hygiene, and to equal access to public infrastructure.

2. The state shall be bound to ensure, to the best of its ability, that the right of all human persons to a reasonable standard of life is implemented in a secure and sustainable manner.

ARTICLE 53.2 The right to a reasonable standard of life shall be implemented progressively. In this connection, every form of discrimination shall be avoided (see Article 28) and account shall be taken of particularly indigent and vulnerable groups. In contrast, the right to social security (see Article 54) shall be directly binding and justiciable.

ARTICLE 54 (RIGHT TO SOCIAL SECURITY)

ARTICLE 54 On account of this justiciable entitlement to social security, the federal state, the regions and the municipalities shall be bound to provide the social security scheme with substantial public resources. In accordance with Article 92 Paragraph 6, the constitutional court may adjust budgets which are in manifest violation of this fundamental duty (a substantial and unjustified curtailment, for example, shall be assumed to constitute such a violation).

1. Anyone who is unable to secure a reasonable standard of life for himself or herself shall be entitled to state benefits.

ARTICLE 54.1 See Article 1 Paragraph 4 and Article 10. The competent state authorities (of the federal state, the regions and the municipalities) shall be bound to guarantee a social security scheme which provides benefits in particular in the case of old age, survivorship, accident, disease, disability, unemployment and motherhood.

2. Anyone who is in a situation of acute distress shall be unconditionally entitled to those state benefits which are indispensable for a dignified life.

ARTICLE 54.2 See Article 17.

CHAPTER III — POWERS AND RESPONSIBILITIES OF THE FEDERAL STATE, THE REGIONS AND THE MUNICIPALITIES

CHAPTER III This chapter regulates the vertical distribution of powers and responsibilities. The following provisions establish whether the federal state, the regions or the municipalities have jurisdiction over a particular state function. In this connection, jurisdiction over legislation shall be differentiated from jurisdiction over enforcement of laws. Which players within each level of the state are responsible for the fulfilment of a function shall be determined by Chapter IV for the federal state and by the respective regional constitutions for the regions and municipalities. While this chapter concerns the Syrian state in its entirety, Chapter IV only concerns the federal level.

ARTICLE 55 (PRINCIPLES OF THE DISTRIBUTION OF POWERS AND RESPONSIBILITIES)

1. The federal state shall have power and responsibility over the functions which are assigned to it by this constitution. The regions and municipalities shall have power and responsibility over all other functions.

ARTICLE 55.1 The federal state may only take action in individual cases if it is able to demonstrate that this constitution specifically authorises it to do so. The regions shall have subsidiary jurisdiction (see Article 59). Should legislative powers and responsibilities previously held by the regions be reassigned to the federal level, a constitutional amendment shall be required (see Article 109).

2. Should the federal state hold exclusive powers and responsibilities, it shall be accountable for planning, legislation and enforcement.

3. Should the federal state and the regions hold concurrent powers and responsibilities, the federal state shall be responsible for national planning and adopting national legislation. Within the scope of the national stipulations, the regions shall be responsible for regional planning, adopting regional legislation and regulating its enforcement.

4. Should the regions and the municipalities hold concurrent powers and responsibilities, the regions shall be responsible for regional planning and adopting regional legislation. Within the scope of the regional stipulations, the municipalities shall be responsible for municipal planning, adopting municipal legislation and regulating its enforcement.

ARTICLE 56 (COLLABORATION BETWEEN THE FEDERAL STATE, THE REGIONS AND THE MUNICIPALITIES)

1. In performing their functions, the federal state, the regions and the municipalities shall take their respective interests into consideration, provide each other with information and work together.

2. The regions shall actively participate in federal legislation, and the municipalities in regional legislation. They shall have the right to be consulted when their interests are affected.

3. Within the scope of their powers and responsibilities, the regions and municipalities shall be able to collaborate with other regions and municipalities. In the fields of infrastructure, development, and the provision of services to the population, they may also collaborate with international players.

4. The federal state, the regions and the municipalities shall be bound to resolve conflicts via peaceful negotiation and mediation. If this is unsuccessful, the competent court shall be the deciding body.

ARTICLE 56.1 See also Article 9 Paragraph 4.

ARTICLE 57 (FINANCING STATE FUNCTIONS)

1. The federal state, the regions and the municipalities shall be responsible for financing their functions.

ARTICLE 57.1 See Article 102 et seq. on the treasury, particularly Article 105 on financial transfers.

2. If the regions contribute to the performance of national functions, the federal state shall be responsible for the financing. If the municipalities contribute to the performance of regional functions, the regions shall be responsible for the financing.

ARTICLE 58 (EXCLUSIVE POWERS AND RESPONSIBILITIES OF THE FEDERAL STATE)

The exclusive powers and responsibilities of the federal state shall be:

a. the military, defence and the intelligence agency;

b. the federal police;

ARTICLE 58 B. The federal police shall be responsible for all police functions requiring a harmonised approach. Their powers and responsibilities shall include international policing collaboration in particular.

c. currency and the independent central bank;

d. citizenship, residence law and asylum law;

e. airspace and international waters;

f. infrastructure of importance to Syria as a whole;

ARTICLE 58 F. While the regions shall be responsible for the planning and execution of regional infrastructure projects (see Article 60), this provision empowers the federal state to plan and execute projects in Syria's interest (such as larger dams, airports and cross-border traffic networks). Since these projects affect individual regions in particular, the federal state shall collaborate with said regions (see also Article 62 Paragraph 6).

g. foreign relations.

ARTICLE 59 (CONCURRENT POWERS AND RESPONSIBILITIES OF THE FEDERAL STATE)

The concurrent powers and responsibilities of the federal state shall be:

a. criminal law;

b. civil and commercial law;

c. national healthcare provision;

ARTICLE 59 C. Legislative power and responsibility over national healthcare provision shall empower the federal state to create a federal law to regulate free basic medical care and to set national standards to be met by the regions and municipalities as a minimum (see Article 52). The federal state may also regulate medical research and protection from dangerous and contagious diseases and ensure care at specialised health centres. Regulations on the approval of medications, on medical education and on international collaboration may also be a part of the legislation on national healthcare provision.

d. the safeguarding of high-quality education and comparability and recognition of educational qualifications;

ARTICLE 59 D. The education system shall be among the most important powers and responsibilities of the regions (Article 60). However, the federal state is empowered to take and support measures for the promotion of the quality of education and to safeguard social and geographical mobility (see also Article 62 Paragraph 6).

e. the underlying conditions for economic development, environmental protection and social security;

ARTICLE 59 E. Regional development, use and management of natural resources, environmental protection and social security shall as a matter of principle belong to the powers and responsibilities of the regions (Article 60). However, the federal state is empowered to set legislative goals and national standards to be met by the regions and municipalities as a minimum (see also Article 62 Paragraph 6).

f. border protection;

ARTICLE 59 F. The federal state shall take decisions on border protection, particularly on the permeability of borders. The border regions shall have power and responsibility over the enforcement of border protection (see Article 60).

g. the implementation of this constitution, of obligations under international law, and of federal laws by the regions and municipalities.

ARTICLE 59 G. The federal state must be capable of implementing overriding law state-wide. To this end, it shall dispose of supervisory powers. The courts shall be the deciding bodies in any dispute. This shall be a case of concurrent jurisdiction since the regions themselves shall also be responsible for compliance with overriding law.

ARTICLE 60 (POWERS AND RESPONSIBILITIES OF THE REGIONS)

ARTICLE 60 Since the regions have subsidiary jurisdiction, this list of powers and responsibilities is not conclusive. The regions may assume other functions via their constitutions and laws.

The powers and responsibilities of the regions shall specifically include:

a. the organisation and subdivision of each region and the regional budget;

ARTICLE 60 A. The regional constitutions shall regulate the regional institutions and public authorities (e.g. the regional constitutional court), and the powers and responsibilities of the municipalities.

b. security and border protection, the police, the prisons and disaster control;

ARTICLE 60 B. The federal police shall be responsible for all domestic security functions requiring a harmonised approach, e.g. punishing terrorist activities and combatting international crime. The regional police, who shall be primarily responsible for domestic security, shall assume all other functions. Regional police laws shall establish the specific powers and responsibilities, for instance those of criminal investigation agencies and traffic police.

c. the education system;

ARTICLE 60 C. The powers and responsibilities of the regions shall include, for example, the management of vocational colleges, universities and secondary schools.

d. healthcare provision;

e. social security;

f. economic development;

ARTICLE 60 F. This includes in particular agriculture, industry, services and tourism.

g. the use and management of natural resources and of public property;

h. regional infrastructure and regional space planning;

i. the protection of the environment, nature and the landscape as well as of cultural assets.

ARTICLE 61 (POWERS AND RESPONSIBILITIES OF THE MUNICIPALITIES)

The powers and responsibilities of the municipalities shall specifically include:

a. the organisation of the municipality and the municipal budget;

b. the municipal police, the fire brigade, and emergency relief in the event of catastrophes;

ARTICLE 61 B. The municipal police shall assume subsidiary functions concerning domestic security (e.g. traffic regulation in towns and cities).

c. municipal healthcare provision;

d. the management of pre-schools and primary schools until the end of mandatory education;

e. municipal development;

f. the planning, construction and maintenance of municipal infrastructure, and municipal space planning;

g. the protection of the environment, nature and the landscape as well as of cultural assets;

h. municipal social security;

i. the registration of the resident population and of legal entities, as well as the maintenance of the electoral and tax registers.

CHAPTER IV — FEDERAL AUTHORITIES

CHAPTER IV This chapter lays down which public authorities shall hold the powers and responsibilities assigned to

the federal state in Chapter III of this constitution. It is bound to the general provisions of democracy, rule of law — in particular the horizontal separation of powers — and inclusivity. The regional authorities and their powers and responsibilities shall be derived from the corresponding regional constitution.

A. PARLIAMENT

ARTICLE 62 (BICAMERALISM)

1. Parliament shall comprise two chambers.

ARTICLE 62.1 In addition to the division of powers and responsibilities and resources, federalism includes regional collaboration in decisions at the federal level. The second chamber of the federal parliament shall safeguard this collaboration.

2. The entirety of the Syrian people shall be represented in the first chamber. It shall comprise 360 members.

3. Each region shall be represented by five delegates in the second chamber.

ARTICLE 62.3 All regions, independent of their size and population, shall be represented with an equal number of votes in the second chamber. The principle of regional equality shall apply to their collaboration. They shall send five representatives — not two, as is often the case — so that the diversity within the regions can be represented in the second chamber.

4. Women shall constitute at least thirty percent of representation in each of the chambers.

5. Unless otherwise stipulated by this constitution, the decisions made by parliament shall require a simple majority of the attending members in both chambers.

ARTICLE 62.5 On principle, both chambers shall have equal rights. However, exceptions to this principle can be found in Article 62 Paragraph 6 and Article 12 Paragraph 2 Appendix.

6. Decisions pertaining to regional powers and responsibilities or their special interests shall require approval by the first chamber and approval by two

ARTICLE 62.6 This concerns for instance plans in the interests of Syria as a whole (e.g. the construction of an airport or

thirds of the attending members in the second chamber.

the damming of international waters) or the conclusion of an international treaty (e.g. on the exploitation of natural resources) which would have particular effect on one or more regions (see Article 58).

ARTICLE 63 (ELECTION TO THE FIRST CHAMBER)

1. Every four years, citizens shall elect members to the first chamber in a general, direct, free, equal and confidential election. The regions shall serve as constituencies.

ARTICLE 63.1 The regions shall serve as constituencies for the election of the first chamber so that it also represents Syria's regional diversity. The number of representatives per region shall be determined by the total population. While all regions shall have an equal weighting of votes in the second chamber, more populous regions shall be represented more strongly in the first chamber.

2. The election shall take place following the principle of proportional representation.

ARTICLE 63.2 Following the principle of proportional representation, it is presupposed that parties or other groupings stand for election with party lists. The seats shall be distributed to the lists in accordance with the respective electoral success in order to promote political diversity.

3. Should a member of the first chamber become a member of the government, he or she shall resign from parliament. The vacant seat shall go to the person who appears next on the list of candidates ("succession").

ARTICLE 63.3 This provision shall ensure that the separation of powers between the legislative and executive bodies is upheld and that parliament is able to function as a strong counterbalance to the government.

ARTICLE 64 (ELECTION TO THE SECOND CHAMBER)

1. The regions shall decide in their respective constitutions how their representation is to be elected.

ARTICLE 64.1 The regions are bound to the general principles, in particular the principle of democracy. However, they may decide, for example, on the type of elections they wish to arrange: either direct or indirect elections conducted by the regional parliament, or first-past-the-post or proportional representation voting.

2. The Armenian, Syrian/Assyrian, Ismaili, Yazidi, Cir-

ARTICLE 64.2 This provision shall ensure that small groups or groups spread

cassian and Turkmen groups shall each be additionally entitled to a representative in the second chamber; these representatives shall be elected directly by their respective group. The list of these groups may be expanded in the election law.

across multiple regions are represented in the second chamber. It requires that these groups organise themselves democratically so that they are able to hold free and fair elections.

3. Should a member of the second chamber become a member of the government, he or she shall resign from parliament. The respective region or group shall determine who is to occupy the vacant seat.

ARTICLE 65 (ELECTION OF THE CHAMBER PRESIDENT)

1. Both chambers shall elect a chamber president and a representative from their midst by secret ballot.

2. The chamber president shall lead the sessions. In the event that the chambers of parliament hold a joint meeting, the chamber president of the first chamber shall chair the session.

ARTICLE 66 (POSITION OF THE MEMBERS OF PARLIAMENT)

1. Members of parliament may not practise any other profession during their term of office and must adjourn other official positions as well as religious or military posts.

ARTICLE 66.1 Members of both chambers of parliament shall be explicitly prohibited from holding a leadership position in companies, foundations and/or religious organisations. This provision ensures on the one hand that members of parliament have the required time for their parliamentary work and, on the other hand, safeguards a separation of state and societal spheres of influence.

2. Members of parliament shall be reasonably remunerated. The remuneration may not be reduced during a given parliamentary term.

ARTICLE 66.2 The goal of this paragraph is to make parliamentary work more appealing and contribute to combatting corruption.

3. Members of parliament shall be bound to disclose any membership, office or employment contract and any other interests.

ARTICLE 67 (FUNCTIONING)

1. Unless otherwise stipulated by this constitution,

both chambers shall meet separately.

2. They shall be quorate if the absolute majority is present.

3. The chambers may establish parliamentary committees.

ARTICLE 67.1 Both chambers shall meet separately from each other, which may lead to differing dynamics in each chamber. There shall be 360 seats of representation in the first chamber, while fewer seats are planned for the second chamber (dependent on the number of regions). Differing political configurations in the two chambers shall influence political decision-making processes in a positive manner by strengthening mutual supervision between the chambers.

If both chambers hold a joint meeting, for instance for the election of the prime minister, they shall be called the united chambers.

4. The sessions of parliament shall be public. The law shall regulate any exceptions.

5. Laws and decisions shall be adopted by a simple majority of the attending members, unless the constitution stipulates another majority.

ARTICLE 67.5 See also Article 62 Paragraph 5.

6. In the case of a parity of votes, the decision shall lie with the chamber president.

ARTICLE 68 (POWERS AND RESPONSIBILITIES)

1. Parliament shall fulfil any powers and responsibilities of the federal state which are not assigned to another state authority by this constitution.

ARTICLE 68.1 Parliament shall have subsidiary jurisdiction within the federal authorities.

2. It may not relinquish its legislative, electoral and supervisory powers to other state authorities.

ARTICLE 68.2 This provision shall prevent parliament from disempowering itself through delegations.

ARTICLE 69 (LEGISLATION)

1. Five members of one chamber are required to propose a law or decision.

2. Bills shall be published in good time and at least thirty business days before being debated, both in the official journal and electronically.

ARTICLE 69.2 This provision shall ensure that not only members of parliament are involved with legislation and that

3. Before a law is adopted, those interested shall be granted the opportunity to make a statement. Laws shall come into force thirty days after publication at the earliest.

collaborative opportunities are made available to other interested parties. Requesting and taking into consideration statements raises democratic legitimacy and typically also the quality of the legislative process since statements also allow for the incorporation of particular specialist knowledge. In addition to the regions and municipalities, political parties, civil societal organisations, trade unions and other interest groups, science and individual persons are all regarded as interested parties.

ARTICLE 70 (URGENT LEGISLATION)

ARTICLE 70 Urgent legislation is provided for in the constitution to ensure that parliament can continue to make policy-related decisions in situations of crisis and the executive body does not assume power. Only in a state of emergency so severe that urgent legislation is no longer possible may the government enact measures to uphold constitutional order without the collaboration of both chambers (see Article 83).

1. A law may enter into force at the time of its publication should it require immediate entry into force.

ARTICLE 70.1 Urgent legislation shall also require approval from both chambers. However, parliament shall be permitted to renounce prior hearings, statements and publications.

2. Parliament shall decide on the urgency with two thirds of the attending members in both chambers.

ARTICLE 71 (ELECTORAL POWERS)

ARTICLE 71 Joint election by both chambers shall strengthen the head of government's democratic and federal legitimation. However, due to the proportion of members in each chamber, the first chamber would carry more weight. The two-thirds majority shall ensure that the prime minister has extensive support in parliament — politically as well as ethnically, linguistically, religiously and denominationally as necessary. The qualified majority shall also have the effect of helping to elect consensus-oriented individuals who are willing to make compromises to lead the executive body rather than extreme or

1. For election, the prime minister shall require two thirds of the votes of the united chambers of parliament submitted by secret ballot. They shall give the remaining members of the government a vote of confidence.

2. The united chambers of parliament shall elect the president of the court of accounts.

3. The first and second chambers shall elect one member each to the commission for human rights, the commission for elections and the commission for the

election of judges respectively. They shall elect two members each to the commission for finance.

polarising persons. In accordance with Article 81, the prime minister shall appoint the remaining members of the government. In a simple majority, the united chambers shall give this government a vote of confidence.

However, the two-thirds majority also presents the risk of a delay in forming the government as well as the potential for re-elections. Yet this risk in particular should add pressure on the parties represented in parliament to reach a consensus on a candidate (see Article 73 on dismissal).

ARTICLE 72 (SUPERVISORY POWERS AND POWERS OF INSPECTION)

1. Parliament shall supervise the government and the administrative bodies.

2. The military, the security agencies and the police shall be controlled by the civilian authorities and shall be accountable to parliament. The defence minister shall provide information regarding all military matters. The intelligence agency shall be supervised by a parliamentary committee composed of an equal number of members from both chambers.

3. This supervision shall comprise the right to request information at any time, conduct inspections and demand accountability. Responses shall be produced in a timely manner.

4. Both chambers of parliament may request investigation committees. This shall occur upon the motion by at least one fourth of the members of a given chamber.

ARTICLE 72.4 Investigation committees shall serve parliament in investigating specific topics or accusations more closely. Should a part of parliament question whether the administrative body is organised usefully and appropriately and handles funds economically, it may clarify salient allegations. This frequently refers to the clarification of political responsibilities. The courts shall have jurisdiction to investigate legal accountabilities.

5. The judiciary, the commission for human rights and

ARTICLE 72.5 The government and all of the administrative bodies shall be under

the commission for the election of judges shall be under the superintendence of parliament. This shall be limited to external business operations.

the supervision of parliament, but only the independent public authorities shall be under its superintendence. They shall also answer to parliament as a democratic requirement. Their independence shall also be protected from parliamentary interference. Thus, superintendence shall refer to the question of how the public authority uses its resources, for example, but not to how it is organised internally or with which topics it is concerned.

ARTICLE 73 (POWERS OF DISMISSAL)

1. The united chambers of parliament may dismiss the prime minister with a two-thirds majority of attending members. They may withdraw their vote of confidence in the remaining members of the government with the same majority.

ARTICLE 73.1 The head of government may be dismissed by the joint chambers provided the same majority is reached as was required to have elected him or her. While only a simple majority shall be needed to give the remaining members a vote of confidence (see Article 71 Paragraph 1), in the best interests of stability, a qualified majority shall be required to dismiss the prime minister.

2. Parliament shall be entrusted with the decision to lift immunity and allow the criminal prosecution of its members.

ARTICLE 73.2 See Article 8.

ARTICLE 74 (FURTHER POWERS)

1. Parliament shall approve the government plan, the budget, financial transfer, public expenditure and the revenue and expenditure report.

2. Legislative and other important international legal agreements require the approval of parliament.

ARTICLE 74.2 Legislative agreements shall require the approval of parliament because, as laws do, they shall establish rights and obligations (e.g. the safeguarding of human rights or the obligation to eliminate customs duties).

The other important international treaties shall concern legal agreements — meaning decisions in individual cases — which also require the approval of parliament if they are of relevant political

significance, e.g. the leasing of large territories to foreign states or the imposition of sanctions.

Insignificant international treaties (e.g. settlement on the maintenance of a cross-border road) shall be concluded by the government alone.

ARTICLE 75 (DISSOLUTION OF PARLIAMENT)

1. The first chamber of parliament may be dissolved with the approval of the absolute majority of its members. In such a case, the president shall order a re-election which must take place not later than ninety days after the dissolution.

ARTICLE 75.1 If the first chamber of parliament should deem itself incapable of action, it may trigger re-election by dissolving itself. It shall remain in office until the new parliament meets. The president, who would otherwise perform primarily representative functions, shall be responsible for the re-election.

There is no provision for a dissolution of the second chamber because each region shall decide autonomously on the election of representatives (see Article 64). The differing dynamics of both chambers shall also contribute to political stability.

2. The chamber shall be dissolved if it has not held a quorate session within sixty days after confirmation of the election.

ARTICLE 75.2 During the transition, it may be necessary to arrange for a longer period of time.

B. PRESIDENT

B. PRESIDENT The president shall hold strong democratic legitimacy since he or she shall be elected directly. However, this does not mean that the president's powers are extensive. In this constitutional draft, the president shall perform primarily representative functions, i.e. he or she shall have little influence in day-to-day political decisions.

ARTICLE 76 (ELECTION)

1. The president shall be elected directly. He or she shall be elected to office if he or she receives the majority of votes from the entire population and the majority of votes in more than half of the regions.

The requirement of election by both the entire population and the regions shall ensure that the head of state is a consensus-oriented person who has won the support of most of the country's groups.

2. The president shall be elected for a term of five years. He or she may be re-elected once.

The period in office of five years shall deviate from that of the first chamber. This shall have the effect that elections

take place more frequently, but it shall also increase political stability.

The possibility of a second term shall allow for the re-election of an experienced and trusted person while preventing a long-term concentration of power.

ARTICLE 77 (POWER AND RESPONSIBILITY)

1. The president shall represent Syria in domestic and foreign affairs.

2. He or she shall mandate the party with the most votes to form a government. Should this party fail to do so, the president shall issue this mandate to the second-largest party.

ARTICLE 77.2 The president shall thus be bound to the result of the parliamentary election and shall not be free in forming the government. The winning party of the election shall thereby have the opportunity to propose one person for the position of prime minister, who shall then have the chance to gain the support of two thirds of the united chambers. The president shall have a crucial leading function in the coalition negotiations.

3. The president shall set and confirm the election dates and call the inaugural meeting of parliament.

ARTICLE 78 (COLLABORATION IN LEGISLATION)

1. The president may propose a constitutional amendment to parliament.

2. He or she shall sign the laws and decisions of parliament.

3. He or she may veto laws and decisions, whereby they are returned to parliament. The subsequent decision of parliament shall be final.

4. If the president refuses to sign a valid law or decision, it shall be deemed signed after a period of fourteen days.

ARTICLE 79 (VACANCY)

1. If the president resigns, is removed from office, dies or is no longer able to perform his or her function, the commission for elections shall mandate a re-election within ninety days.

2. The foreign minister shall assume the function of the president for as long as the office remains vacant.

C. GOVERNMENT

ARTICLE 80 (COMPOSITION)

ARTICLE 80 The limitation on the number of ministries shall prevent government inflation, nepotism and creeping centralisation. For example, the following ministries may be provided for: Defence, Judiciary, Foreign Affairs, Economy and Development, Environment and Infrastructure, Social Security and Healthcare, Domestic Affairs, Finance, Women's Rights, Equality and Inclusivity.

1. The prime minister and a maximum of ten other members of the government shall constitute the government.

2. Half of the members of the government shall comprise representatives of the Sunni-Arab people and the other half shall comprise representatives of other groups.

ARTICLE 80.2 This provision shall implement the requirement of inclusivity on the governmental level. It shall ensure that the government reflects the country's ethnic, religious and denominational diversity and that it is broadly supported, which shall in turn increase its democratic legitimacy and prevent marginalisation. Diversity in the government as a whole shall be necessary for the additional reason that it requires the approval of the united chambers of parliament (see Article 71). The drawback that persons must thereby be identified on an ethno-religious basis shall be accepted.

3. Women must comprise a minimum of thirty percent of the members of the government.

ARTICLE 81 (APPOINTMENT)

1. The prime minister shall appoint the remaining members of the government.

2. The members of the government shall assume their

ARTICLE 81.2 See Article 71.

seats as soon as parliament has given them its vote of confidence.

ARTICLE 82 (POWER AND RESPONSIBILITY OF THE GOVERNMENT)

1. The government shall draft the government plan and the budget.

2. The prime minister shall decree the general policy for implementing the government plan. Each member of the government shall independently and autonomously head his or her task area in accordance with this policy.

3. The court of accounts shall be under the superintendence of the government. This shall be limited to external business operations.

4. The government shall propose constitutional amendments and submit bills to the parliament as well as adopt the ordinances necessary for their enforcement.

5. The government shall be responsible for foreign affairs and for the coordination between federal and regional public authorities and for the supervision of the regions.

ARTICLE 82.5 Supervising the regions shall not permit the government to interfere with their powers and responsibilities. However, it shall ensure that regions comply with the overriding law in exercising their jurisdiction and enforcing federal legislation. Thus, the responsibility of supervision shall refer to controlling not whether the regions' actions are fair and reasonable, but rather if they are lawful.

6. It shall be accountable to parliament for the income and expenditure of the federal state.

7. It shall be responsible for enforcing the final and conclusive rulings of the judiciary.

ARTICLE 82.7 The judiciary shall be independent (see Article 1, Article 7 and Article 87 et seq.). The government is thus bound to enforce the judiciary's final and conclusive decisions on all state levels. This shall bind the government, for example, to redress violations of human rights, to prevent the enforcement of unconstitutional regulations and to initiate the adoption of lawful acts.

ARTICLE 83 (STATE OF EMERGENCY)

1. In the event of a state of emergency, the government shall ensure the safety of the population as well as the maintenance or reintroduction of constitutional order.

2. Only a serious threat to the state and its population through war or catastrophe constitutes a state of emergency.

3. Should insurmountable conditions prevent the government from convening, the prime minister shall decree any decisions that may not be delayed. They shall be submitted to the government for approval at the earliest possible date.

4. In like circumstances, the prime minister, with the approval of both chamber presidents, shall decree temporary emergency ordinances limited to six months. They shall be submitted to parliament for approval at the earliest possible date.

5. The state of emergency shall allow only those measures which are indispensable for the safety of the population on account of war or catastrophe. The essence of the fundamental rights and human rights, the inalienable guarantees of human rights and the independence of the judiciary may not be restricted.

ARTICLE 83 In situations of crisis, the provisions on urgent legislation shall come into effect first (see Article 70). Should these steps prove insufficient in fairly and reasonably reacting to an emergency situation, the government may take state of emergency measures. These measures may be enacted solely to serve the security of the population and the protection or reintroduction of constitutional order. In other words, they shall transfer the decision-making power from parliament to the government, but they shall not allow for any violations of fundamental rights and human rights. Article 83 shall prevent the government from annulling the constitution in the event of war or catastrophe. In accordance with Article 92 Paragraph 8, the constitutional court shall verify compliance with emergency legislation. Significant elements of emergency legislation shall be, firstly, that the courts may not be overridden and, secondly, that the state of emergency must be restricted to a specified, temporary timeframe.

D. ADMINISTRATIVE BODIES, MILITARY AND POLICE

ARTICLE 84 (ADMINISTRATIVE BODIES)

1. The administrative bodies shall be bound to the principles of public information and proximity to the public.

2. The government shall be bound to ensure that the administrative bodies, including the federal police, be as inclusive as possible.

ARTICLE 85 (MILITARY)

1. The military shall protect the country and its external borders.

2. The defence minister shall be responsible for the lawful action of the military. In particular, through military leadership and training, he or she must ensure that the defence forces respect and protect fundamental rights and human rights and that they comply with their obligations under international law.

3. In times of peace, the defence minister shall head the military; in a state of war, the defence minister and the prime minister shall have joint supreme command.

4. Enrolment in the defence forces is voluntary and only possible from the age of nineteen.

5. Any armed groups which do not have a legal basis in this constitution shall be prohibited.

ARTICLE 86 (POLICE)

1. The leadership of the federal police shall be the responsibility of the government. It shall oversee the regional police.

2. The government shall appoint the police commissioner for a term of seven years with the possibility of reappointment.

3. The police commissioner shall be accountable to parliament and the government.

4. He or she shall be responsible for the lawful action of the federal police. In particular, through leadership and training, he or she must ensure that the police respect and protect fundamental rights and human rights.

E. JUDICIARY

ARTICLE 87 (INDEPENDENCE OF THE JUDICIARY)

the regional courts shall in turn be accountable for revising this implementation. They shall dispose of trial and appellate courts. However, the revision of the uniformity of federal laws by a federal judiciary shall be indispensable. The federal judiciary shall thus dispose of a civil, a criminal and an administrative court which shall preside in dispute cases from the regions in the last instance. The federal constitutional court shall ensure that the constitution is implemented throughout the country.

2. The members of the judiciary shall constitute the judges; they are bound to independence and may not engage in any other political or professional activities.

ARTICLE 88.2 This refers to the members of the federal judiciary. The appointment of regional judges shall be regulated by the regional constitutions.

3. They shall elect six members to the commission for the election of judges from their midst for a term of seven years with no possibility of re-election.

4. The establishment of special or emergency courts shall be prohibited.

ARTICLE 88.4 The entry into force of this constitution shall dissolve any existing special, extraordinary, and emergency courts (see Article 9 Appendix).

ARTICLE 89 (APPOINTMENT OF JUDGES)

ARTICLE 89 Article 98 shall regulate the composition of the 12-member commission for the election of judges.

1. The commission for the election of judges shall prepare the election of the constitutional court judges.

2. It shall elect the judges, the attorney general and the other public prosecutors. It shall accept proposals made by members of the government and the president.

3. Legal professionals with five years of professional experience shall be eligible for election.

4. They shall be confirmed by the commission for the election of judges every seven years. This confirmation may only be suspended in cases of breach of duty. The federal constitutional court shall be the deciding body in any dispute.

ARTICLE 90 (CONSTITUTIONAL COURT)

1. The constitutional court shall oversee the respect of and implementation of fundamental rights and human rights, the rights of all ethnic, religious, denominational and linguistic groups, and the distribution of powers and resources, and it shall protect all the values and principles of the constitution.

2. It shall have personal and institutional independence as well as a financial endowment enabling efficient functionality.

3. The constitutional court shall make decisions promptly. It shall conduct a prior examination to ensure that urgent proceedings be handled with the required urgency and misuse of proceedings rejected.

4. If lower courts should unduly delay proceedings, a petitioner may refer to the constitutional court directly.

ARTICLE 90.4 The federal constitutional court shall decide in exceptional cases (abstract judicial review, disputes concerning the extent of the rights and duties of a supreme federal body) as the sole instance, but typically as an appellate instance (see Article 92). It shall decide in the final instance in all cases of dispute surrounding constitutional issues. This provision shall allow for leapfrog actions as an exception to the typical instances of appeal. It shall ensure that the petitioner has direct access to the federal constitutional court should lower instances improperly delay proceedings.

ARTICLE 91 (APPOINTMENT OF CONSTITUTIONAL COURT JUDGES)

1. The constitutional court shall comprise nine judges.

2. They shall be elected by a two-thirds majority of the second chamber for a term of twelve years with no possibility of re-election.

3. Legal professionals with a minimum of twelve years of professional experience shall be eligible for election.

ARTICLE 91.2 Since the federal constitutional court shall also have the important function of deciding in disputes between the federal state and the regions as arbitration court, it shall need to be legitimised both by the federal state and by the regions. This shall be

4. The election shall be prepared by the independent commission for the election of judges, which shall accept proposals from the president, the first chamber, the regions, ethnic, religious and linguistic groups, political parties and lower courts. In preparing the election and during the election itself, it shall be ensured that the different regions of Syria as well as the ethnic, religious, denominational and linguistic groups are reasonably and proportionately represented, and that Arabic, Kurdish, Turkmen and Assyrian are each spoken as a first language by at least one of the constitutional court judges.

5. A minimum of three members of the constitutional court must be women.

ensured by the election conducted by the second chamber. The long term of office of twelve years and the exclusion of re-election shall safeguard the independence of the individual judges.

ARTICLE 92 (JURISDICTIONAL POWERS AND RESPONSIBILITIES OF THE CONSTITUTIONAL COURT)

1. The federal constitutional court shall decide on the constitutionality of any suggested constitutional amendments upon the motion of the president, a member of the government or ten members of parliament.

ARTICLE 92.1 Since this constitution prescribes unamendable provisions (eternity clauses, see Article 110), any constitutional amendment may be unconstitutional. Upon a motion, the federal constitutional court shall decide whether the eternity clauses have been violated or not.

2. Upon the motion of the president, a quarter of the members of the first chamber, a quarter of the members of the second chamber or two regions, it shall review the constitutionality of laws and other decisions made by parliament. The motion must be submitted within thirty days of the adoption of the law or decision. The court shall decide on the suspensive effect of the proceedings. Should the motion be to reject a budget, the suspensive effect shall not apply.

ARTICLE 92.2 This provision shall enshrine abstract judicial review. Upon a motion, the federal constitutional court shall decide as the sole authority on the constitutionality of parliamentary laws and decisions. It provides for a short timeframe to keep the period of uncertainty concerning constitutionality to a minimum.

3. The constitutional court shall review whether the regional constitutions comply with this constitution, obligations under international law, and any other overriding law.

ARTICLE 92.3 See Article 9.2.

4. The constitutional court shall decide in any disputes between federal authorities and their members as well as federal authorities, regional and municipal

authorities and commissions upon their motion.

5. Regions, municipalities and other state authorities as well as natural and legal persons who assert a violation of the constitution may submit a complaint to the constitutional court. The complaint may be directed against any state action or failure to act.

ARTICLE 92.5 This provision shall enshrine concrete judicial review. It shall allow all state players as well as all individual persons to have any state action reviewed for constitutionality. Concrete judicial review shall be crucial for implementing the separation of powers at a federal level and for respecting, protecting and realising fundamental rights and human rights. It shall allow all persons to refer to the highest court in cases of violation of fundamental rights and human rights should the lower courts not effectively provide a remedy.

6. The constitutional court shall repeal any laws and decisions which violate the constitution. It shall correct budgets if they manifestly contradict the stipulations of this constitution.

ARTICLE 92.6 The federal constitutional court shall repeal any law or decision it deems unconstitutional within the scope of abstract judicial review. Should this create a gap in the law, the federal constitutional court shall provide for a replacement regulation. If a concrete judicial review is successful, the federal constitutional court shall correct the decision of the lower instance and settle the effects of the constitutional violation. In this case, correcting an unconstitutional law shall be the responsibility of the legislator of competent jurisdiction.

In principle, the parliaments shall be responsible for adopting the budgets of the federal state and the regions; the parliaments shall have significant political leeway for decision-making. However, should a budget manifestly violate this constitution, for instance by providing for substantial curtailments in the area of economic and social fundamental rights and human rights without justification (see Articles 50 and 52 et seq.), the federal constitutional court shall be authorised to make corrections. It shall set out which corrections are indispensable for the fulfilment of the right to education, healthcare and social security, and shall refer the budget back to the competent parliament.

7. The constitutional court shall decide on any prohibitions of political parties.

ARTICLE 92.7 Political parties shall be protected by freedom of association (Article 43). Due to their explosive nature, prohibitions of political parties shall only be pronounced with great caution. Parties may not be prohibited solely on the grounds that they question this constitution and work toward its amendment (see Article 6), but rather only if they attempt to do so with violence and/or by illegitimate means. The federal constitutional court shall make decisions as sole instance.

8. In the event of a state of emergency, it shall verify compliance with the prevailing emergency legislation.

ARTICLE 92.8 See Article 83.

9. The commissions for finance and elections shall be under the superintendence of the constitutional court. This shall be limited to external business operations.

ARTICLE 93 (PUBLIC PROSECUTION)

1. The public prosecution shall comprise the attorney general and the other public prosecutors.

2. It shall initiate criminal investigations and represent the interests of the state in criminal proceedings. It shall order custody on remand if required by the investigations or should it be absolutely necessary to prevent a criminal offence.

3. It shall oversee the lawful conduct of members of state authorities and commissions, conduct any necessary investigations and table motions for lifting immunity, approving criminal prosecution and removal from office.

ARTICLE 93.3 The public authority responsible for hearing the person concerned shall decide on the lifting of immunity (see Article 8). Courts shall be responsible for the actual criminal prosecution. The normal instance of appeal shall apply.

4. It shall keep the government regularly informed about its activities and shall report back to parliament annually.

F. INDEPENDENT COMMISSIONS

F. INDEPENDENT COMMISSIONS In addition to the three classical powers —

parliament, government and judiciary — this constitution shall also provide for independent commissions. These shall have two important functions: They shall provide specialist knowledge and strengthen the system of checks and balances.

ARTICLE 94 (APPOINTMENT OF THE COMMISSION FOR HUMAN RIGHTS)

ARTICLE 94 The commission for human rights shall oversee the comprehensive realisation of fundamental rights and human rights. It shall thus serve functions of initiative and supervision over the parliaments, the governments and the courts. To safeguard its independence, all three powers shall participate in appointing the commission's members. These members shall appoint the other members, thus ensuring that experts are represented in the commission.

Additionally, the UN's Paris Principles shall act as a guideline for the appointment and activities of the commission.

1. The first and second chambers, the president and the commission for the election of judges shall each elect two experts to the commission for human rights. These experts shall appoint twelve more members on the basis of proposals made by civil society organisations. Their term of office shall be six years and re-election shall be possible.

ARTICLE 94.1 The commission for human rights shall be established as early as possible and it shall support the work of the commission for transition and reconciliation (Article 10 Appendix).

2. Half of the seats shall be held by representatives of the Sunni Arab people and the other half shall be held by representatives of other groups.

3. Men and women must each comprise a minimum of forty percent of the commission's members.

ARTICLE 95 (POWERS AND RESPONSIBILITIES OF THE COMMISSION FOR HUMAN RIGHTS)

1. The commission for human rights shall be independent; it shall be under the superintendence of parliament.

ARTICLE 95 Parliament shall not be able to supervise the activities of the independent commission for human rights.

2. It shall have the function of comprehensively documenting the human rights situation and drafting reports. Its members shall have the right to demand information from state authorities at any time and shall be allowed access to any buildings in which state functions are performed.

3. The commission for human rights shall draft statements for legislators, governments, administrative bodies and courts. It shall be able to make statements and submit recommendations on all legislative initiatives and decisions involving fundamental rights and human rights. If a public authority does not comply with a recommendation, it must justify this failure to comply.

4. The commission for human rights shall provide support for the implementation of international legal human rights obligations and shall be involved in research, education and continuing education.

5. The commission for human rights shall work closely together with civil society. It shall accept and review complaints and objections from individual persons and organisations and advise those involved.

6. The commission for human rights shall regularly report back to civil society and the general public on its activities, its progress in realising fundamental rights and human rights and any difficulties or obstacles which must be overcome.

7. The commission for human rights shall have the necessary financial resources and shall manage itself. It shall create specialised commissions for human rights, in particular a commission for women's rights, an anti-torture commission and a commission for children's rights, and it shall coordinate their work.

However, parliament shall be responsible for superintendence, as this is a democratic requirement. Superintendence shall be limited to external business operations (e.g. the use of public funds and the number of cases handled). Neither parliament nor any other public authority may involve itself in the subject matter addressed by the commission for human rights, its functioning, its reports or its recommendations.

ARTICLE 96 (APPOINTMENT OF THE COMMISSION FOR ELECTIONS)

1. The constitutional court and the commission for the election of judges shall each elect two members of the independent commission for elections. These

members shall appoint four additional members as well as four members who do not hold Syrian citizenship or that of a neighbouring country.

2. Their term of office shall be six years and may be extended.

3. Women must comprise a minimum of thirty percent of the commission's members.

ARTICLE 97 (POWERS AND RESPONSIBILITIES OF THE COMMISSION FOR ELECTIONS)

1. The commission for elections shall be independent; it shall be under the superintendence of the constitutional court.

2. It shall plan, organise and monitor elections.

3. It may consult internationally for support.

ARTICLE 98 (APPOINTMENT OF THE COMMISSION FOR THE ELECTION OF JUDGES)

1. The commission for the election of judges shall comprise six members elected by the united chambers of parliament and six members elected by the judges.

2. Half of the seats shall be held by representatives of the Sunni Arab people and the other half shall be held by representatives of other groups.

3. Women must comprise a minimum of thirty percent of the commission's members.

ARTICLE 98 The appointment of the members of the judiciary (see Article 88) shall be demanding, because judges shall be responsible for reviewing all other public authorities and correcting their decisions. Thus, there is always the risk that public authorities attempt to influence the judiciary via the appointment of the judges. The commission for the election of judges shall prevent this risk.

ARTICLE 99 (POWERS AND RESPONSIBILITIES OF THE COMMISSION FOR THE ELECTION OF JUDGES)

1. The commission for the election of judges shall prepare the election of the members of the constitutional court.

2. It shall elect all other judges, the attorney general and the remaining public prosecutors.

ARTICLE 99.2 This provision refers to the members of the federal judiciary. The regional constitutions shall decide

on the appointment of the regional judiciaries.

3. It shall decide by secret ballot with the approval of at least eight of its members.

4. Should a constitutional breach be seriously suspected, the commission for the election of judges may remove a judge from office upon the motion of the attorney general. This motion shall be submitted by the justice minister in the case that the suspicion is directed toward a member of the public prosecution. The constitutional court shall be the deciding body in any disputes.

5. The commission for the election of judges shall elect one member of the commission for human rights and two members of the commission for the elections.

ARTICLE 100 (APPOINTMENT OF THE COMMISSION FOR FINANCE)

1. The commission for finance shall be independent. It shall comprise independent experts in public finance and shall be under the superintendence of the constitutional court.

2. The president and the first and second chambers of parliament shall each elect two members of the commission. These members shall in turn appoint six additional members, who shall require the approval of parliament.

3. Their term of office shall be six years and may be extended.

4. Half of the seats shall be held by representatives of the Sunni Arab people and the other half shall be held by representatives of other groups.

5. Women must comprise a minimum of thirty percent of the commission's members.

ARTICLE 101 (POWERS AND RESPONSIBILITIES OF THE COMMISSION FOR FINANCE)

1. The commission for finance shall oversee the state finances and shall compile proposals on the equalization payments between the regions ("horizontal equalisation") as well as between the federal state and the regions ("vertical equalisation") for annual submission to parliament.

2. It shall have the function of combatting corruption, hearing complaints, drafting reports and preparing recommendations for submission to parliament, the governments, the administrative bodies and the courts.

CHAPTER V — THE TREASURY

ARTICLE 102 (FINANCIAL AUTONOMY)

1. The federal state, the regions and the municipalities shall all be financially autonomous and are responsible for their own budgets.

2. They shall provide for a balanced budget, ensure financial supervision and take measures to prevent corruption. They shall provide information to and collaborate with the commission for finance.

3. They shall dispose of any surpluses in their budgets and bear their own debts.

4. Taxes, fees and any other charges require a basis in a federal or regional law or a municipal ordinance.

ARTICLE 103 (CUSTOMS DUTIES AND TAXES)

1. The federal state shall be responsible for customs duties, value-added tax and particular excise duties.

ARTICLE 103.1 The particular excise duties include taxes on petrol, tobacco and alcohol, amongst other things.

2. In collaboration with the local governing authorities, the regions shall impose direct taxes on income generated by natural persons as well as the net profit of legal entities.

3. The municipalities shall impose municipal taxes as

ARTICLE 103.2 There are two reasons why it is the regions which shall impose income, property and corporation taxes: On the one hand, this shall prevent the federal state from collecting the larger portion of finances, causing a financial imbalance, which, from experience, would lead to centralisation; on

well as service fees. This income shall be made available to the municipality for local development.

the other hand, it ensures that the regions have incentives to develop economically and that they create an environment conducive to the development of individual persons and companies alike. However, financial transfers shall be indispensable for balancing out imbalances in economic strength (Article 105). This may also include transfers from the regions to the federal level, particularly since the regions also dispose of natural resources (see Article 104).

ARTICLE 104 (NATURAL RESOURCES)

1. The regions shall manage natural resources in the best interests of the entire state.

ARTICLE 104.1 See Article 15.

2. Income generated from natural resources shall be used to meet the needs of all regions. The region in which a given natural resource is found shall be entitled to a fair and reasonable portion of the income generated by said resource.

ARTICLE 104.2 This provision shall safeguard the solidarity between resource-rich and resource-poor regions. To ensure that the regions in which resources are found still have incentives for efficient use (which may be linked to costs and pollutants), said regions shall receive a fair and reasonable portion of the revenue generated.

3. A fair and reasonable portion of the income generated from the natural resources shall be set aside for social security.

ARTICLE 105 (FINANCIAL TRANSFER)

1. Equalisation payments between the federal and regional levels as well as those at an interregional level shall ensure that the federal state and all its regions dispose of the financial resources required to perform their functions.

ARTICLE 105.1 The commission for finance shall draft proposals for financial transfers; the decision shall be made by the federal parliament (Article 101). If it is strongly believed that said financial transfers manifestly violate this constitution, such issues may be referred to the federal constitutional court (Article 92).

2. The regions shall contribute to financing official functions at the federal level within the scope of their economic capacity. However, they shall also have the right to an equal portion of federal income,

including any international support or loans.

3. For equalisation between the federal state and the regions as well as at an interregional level, the following criteria shall be pertinent: powers, responsibilities and costs associated with the performance of official functions, population, social and economic development status, the need for reconstruction and compensation for past injustices.

4. The regions shall make a fair and reasonable portion of their income available to the municipalities. This distribution shall take place in proportion to the demographic situation and based on equality of opportunity. The distribution shall take into account a municipality's own income as well as its need for development.

ARTICLE 105.4 Particulars as well as powers and responsibilities shall be established by the regional constitutions.

ARTICLE 106 (COURT OF ACCOUNTS)

1. The court of accounts shall be independent; it shall be under the superintendence of the government.

2. It shall be headed by its president. Upon proposal by the government, the president shall be elected by a simple majority of the members of the united chambers of parliament for a term of seven years. A re-election shall be possible. The president shall appoint the remaining members of the court of accounts with the approval of parliament.

3. The court of accounts shall review invoices as well as the economic efficiency and orderliness of the federal budgeting and economic management as a whole. It shall report back to parliament annually.

4. The court of accounts shall conduct investigations upon the motion of the president, a member of the government or ten members of parliament.

CHAPTER VI — EDUCATION SYSTEM

ARTICLE 107 (POWERS AND RESPONSIBILITIES)

1. The federal state, the regions and the municipalities

shall work together to safeguard high-quality education and comparability and recognition of educational qualifications.

2. The regions shall manage vocational colleges, universities and secondary schools.

3. The municipalities shall manage pre-schools and primary schools until the end of mandatory education.

4. The regions and the municipalities shall issue approval for the operation of private educational institutions and shall supervise these institutions.

ARTICLE 108 (LANGUAGES OF INSTRUCTION)

1. Instruction in regional and municipal educational institutions shall take place in the Arabic language.

2. Regions and municipalities may decide on other languages of instruction. Instruction shall be designed in such a manner that graduates are guaranteed bilingualism.

3. All linguistic groups shall be guaranteed recognition of their respective language as a second language of instruction regardless of their location, if made reasonable by the number of pupils. If this is not the case, instruction in the native language shall be made available as an academic subject.

ARTICLE 108.1 The obligation for regional and municipal educational institutions to hold instruction in the Arabic language is closely linked to Article 13. It states that multiple languages shall be recognised as official languages, but the working language at the federal level shall only be Arabic. It is therefore in the best interests of all Syrians and the equality of opportunity to be able to speak the Arabic language.

CHAPTER VII — CONSTITUTIONAL AMENDMENT

ARTICLE 109 (CONSTITUTIONAL AMENDMENT)

1. The president, the government, twenty-five members of parliament or two regions may propose a constitutional amendment.

2. The constitutional amendment shall be incumbent on approval by two thirds of the members in both chambers.

ARTICLE 109.2 The constitution shall be adopted in accordance with the proceedings foreseen in Article 12 Appendix. This provision shall apply to the following constitutional amendments.

3. Should a constitutional amendment affect the rights or the powers and responsibilities of the regions, the approval by an absolute majority of at least half of the regional parliaments shall be required for the amendment to become effective.

4. Should a constitutional amendment affect the existential interests of a region, an absolute majority of the regional parliament must approve the amendment.

ARTICLE 109.4 This would be the case should a region be dissolved or merged with another.

ARTICLE 110 (LIMITS OF CONSTITUTIONAL AMENDMENTS)

1. The following conditions may not be repealed or significantly limited in effect: Articles 1 through 10 as well as Chapter II.

ARTICLE 110.1 This provision establishes so-called eternity clauses. It designates constitutional provisions which may not be lawfully repealed. Changing it (for example by adapting it according to new necessities) shall be permitted, but it shall not be rendered meaningless or profoundly limited. The principles of the constitutional state are covered by the eternity clause: democracy, rule of law, federalism and social justice as well as the entire chapter on fundamental rights and human rights.

2. Any changes which violate the international legal peremptory norms or international human rights treaties shall also be inadmissible.

ARTICLE 110.2 While Article 110 Paragraph 1 stipulates the limits of constitutional amendment in view of national law, Paragraph 2 evokes limits in terms of international law (see Article 5 Paragraph 2).

3. The constitutional court shall decide in disputes regarding the admissibility of constitutional amendments.

ARTICLE 110.3 See Article 92 Paragraph 1.

APPENDIX – PROVISIONS FOR THE TRANSITION

APPENDIX The Appendix shall provide special rules for the time of transition. It shall account for the fact that the establishment of the foreseen public authorities and bodies will require a substantial amount of time, but that many urgent questions must be addressed. Some provisions in this Appendix shall lose

ARTICLE 1 APPENDIX (PRINCIPLES OF THE TRANSITION)

1. The transition must be guided by the values and principles of democracy and the rule of law, in particular human rights.

2. The entitlement of women and of all ethnic, religious, denominational and linguistic groups in Syria to equal participation must be safeguarded.

ARTICLE 2 APPENDIX (TRANSITIONAL GOVERNMENT)

1. The transitional government shall be appointed by negotiation in accordance with UN Resolution 2254.

2. The government, the opposition and the UN shall each appoint six members; of the members appointed by each body, at least two persons must be women and at least two persons must represent a minority group.

3. The transitional government shall decide with a two-thirds majority.

ARTICLE 3 APPENDIX (CONSTITUTIONAL COMMITTEE)

1. The constitutional committee shall be appointed by negotiation in accordance with UN Resolution 2254.

2. The constitutional committee shall decide with a majority of three-quarters of the attending members. Voting shall be confidential.

ARTICLE 4 APPENDIX (TRANSITIONAL CONSTITUTION)

1. At the beginning of its activity, the constitutional committee shall be guided by the Twelve Intra-Syrian Essential Principles published by the UN Special Envoy for Syria.

2. The constitutional committee shall adopt constitutional principles which shall lay down the legally binding framework of the transitional constitution.

3. Once the constitutional committee has agreed on constitutional principles, the transitional government shall be obliged to follow them.

their significance with this constitution's entry into force; others shall remain effective longer. It is anticipated that the commission for transition and reconciliation in particular shall remain active for a certain amount of time in parallel to the permanent public authorities.

4. The constitutional principles shall be made public. Citizens shall have a period of six months to respond with a statement.

5. The constitutional committee shall have six months following the end of the consultation period to compile and adopt the transitional constitution, having regard to the constitutional principles and the statements submitted.

ARTICLE 5 APPENDIX (RIGHT OF RETURN)

Any national or international players involved with the transition shall combine forces to ensure that the situation in Syria as a whole returns to normal as soon as possible and that anyone seeking to return to their home from abroad or other areas of Syria are able to do so under safe, fair and reasonable conditions and that they receive any necessary support. The particular concerns of women shall also be met and their right to effective co-determination shall be respected.

The principles of the constitution (e.g. transparency and democratic collaboration) shall be taken into consideration even in respect to transitional measures. Particular consideration must be paid to minors, persons with disabilities and elderly persons.

ARTICLE 6 APPENDIX (FORMATION OF THE REGIONS)

1. The boundaries of the regions shall be redrawn.

The formation of the regions shall occur before the first elections are held. This is necessary because the members of the second chamber could not otherwise be elected and the qualified majority for the presidential election could not be ascertained.

2. The transitional government shall deploy a commission to redraw the regional borders under the leadership of the UN. It shall take into account historical, geographic, economic, ethnic, religious and linguistic criteria and carry out consultations.

3. The first parliamentary and presidential elections shall be held based on the commission's border demarcation.

The borders may be modified at a later date in accordance with the proceedings laid out in Article 2.

4. Each region shall form a transitional government, which in turn shall appoint the representatives of the second chamber and which shall prepare the regional elections.

ARTICLE 7 APPENDIX (SPECIFICATIONS FOR THE FIRST ELECTIONS)

1. All Syrian citizens who have held Syrian citizenship since at least 2011 shall be eligible to vote. They must register to vote in Syria or abroad before the election is conducted.

2. Syrians who have had citizenship unlawfully revoked or withheld from them shall also be eligible to vote. This applies in particular to Kurds who have been denaturalised as well as to members of the opposition.

3. If the right to vote cannot be proven by an official document, registration shall occur on the grounds of a statutory declaration, the validity of which shall be confirmed by two witnesses.

4. The transitional government shall be responsible for holding the first elections. The elections shall be planned, held and monitored with the support of international organisations.

ARTICLE 8 APPENDIX (CENSUS AND VOTER REGISTRATION)

1. A census shall be conducted within the first three years after the first elections are held. All Syrian citizens as well as all persons permanently located in Syria at the time at which the census is conducted shall be bound to participate. The census shall gather information at the least on place of residence, age, sex, religious affiliation and first language.

Many questions on the census and voter registration will need to be clarified by a law. One such question is how the different religions shall be recorded and identified. The recognition of the Yazidi religion, too, is provided by Article 14. Since all persons shall enjoy freedom of religion, they shall also be free to refuse to answer questions on religious affiliation.

2. All citizens shall be entered in the electoral register within the same period.

ARTICLE 9 APPENDIX (PROVISIONAL INJUNCTIONS)

1. Laws applying at the time at which the constitution comes into force shall remain valid, unless they contradict this constitution. Any unconstitutional laws, specifically emergency laws, may no longer be implemented. Any and all unconstitutional injunctions shall become ineffective. Special and emergency

Regarding the suspension of special or emergency courts, see also Article 88 Paragraph 4.

courts of any kind shall be suspended.

2. The government shall plan the implementation of this constitution and shall set a schedule and adopt electoral and legislative plans. The government shall present these plans to parliament.

3. The government shall regularly report to parliament on specific events.

4. Parliament shall review the appropriateness of Syria's existing obligations under international law and ensure their conformity with this constitution and shall develop proposals for the conclusion or termination of international treaties.

ARTICLE 10 APPENDIX (APPOINTMENT OF THE COMMISSION FOR TRANSITION AND RECONCILIATION)

1. The transitional government shall appoint an independent commission for transition and reconciliation as early as possible.

2. In composing the commission, it shall be ensured that all ethnic, religious, denominational and linguistic groups are fairly and reasonably represented and that the commission has the required specialist knowledge. The commission shall work closely together with international organisations and may seek advice from transitional justice experts from other countries.

3. Women must comprise a minimum of thirty percent of the commission's members.

From a democratic point of view, it is not ideal that the transitional government (see Article 2 Appendix) shall appoint the commission. Nevertheless, it alone shall instate the commission for transition and reconciliation so that said commission can start work as early as possible and already before the first elections shall have taken place. This is the only way to ensure that the commission can play a part in supporting the return and the election preparations. Other urgent matters shall be the safeguarding of evidence, the interrogation of witnesses and other measures which are indispensable for documentation and comprehensive reparation of past injustices.

ARTICLE 11 APPENDIX (POWERS AND RESPONSIBILITIES OF THE COMMISSION FOR TRANSITION AND RECONCILIATION)

1. The commission for transition and reconciliation shall produce proposals for transitional justice for submission to parliament. It shall arrange any urgent actions which are indispensable for realising the right of return, for ensuring trust in the state authorities and for conducting free and fair elections.

2. The commission shall draft statements and submit recommendations. It shall document past violations of human rights, secure documents and testimonies and produce reparations proposals. It shall collaborate closely with the other national and international players who are involved in transitional justice.

3. It shall settle any disputed name and ownership issues, develop actions and enact actions for name changing, compensation and reparations.

4. The constitutional court shall be the deciding body in any disputes.

5. The commission shall adopt any necessary measures for enabling the punishment of war crimes and crimes against humanity. For this purpose, it shall collaborate with national and international courts.

ARTICLE 12 APPENDIX (FINAL CONSTITUTION)

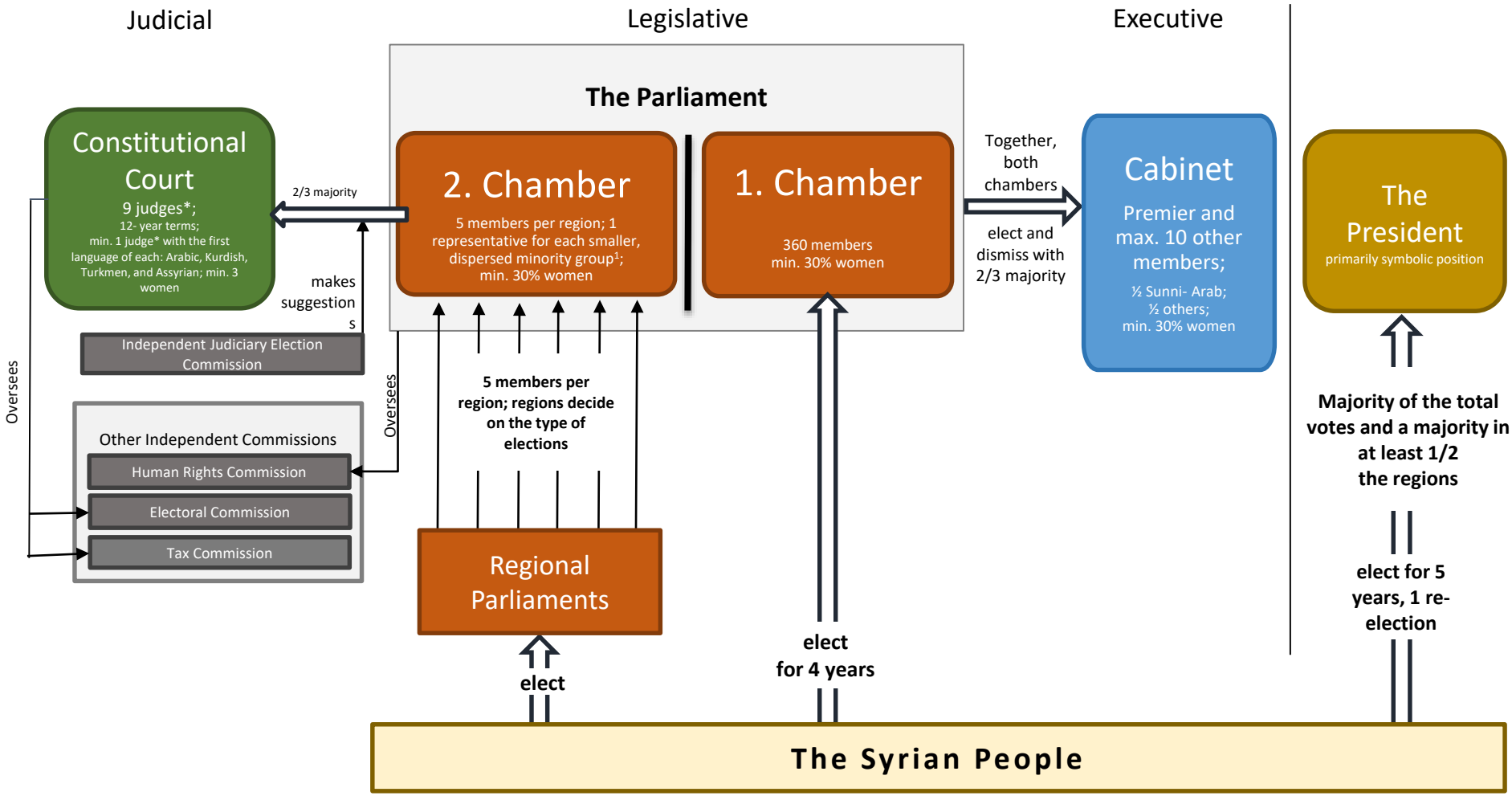
Subsequent constitutional amendments shall occur in accordance with the proceedings provided in Article 110 et seq.

1. Parliament, which shall be formed according to the results of the first elections, shall draft the final constitution on the basis of the transitional constitution. In doing so, parliament shall be bound to the constitutional principles. It shall conduct public consultations and hear statements.

2. Parliament shall be deemed to have adopted the constitution upon its approval by two thirds of the members in both chambers.

3. This constitution shall come into force upon receiving approval by two thirds of the votes cast in a popular referendum.

The Syrian Government System According to the Draft Constitution



[1] Armenian, Syriac/ Assyrian, Ismaili, Yezidi, Circassian and Turkmen groups

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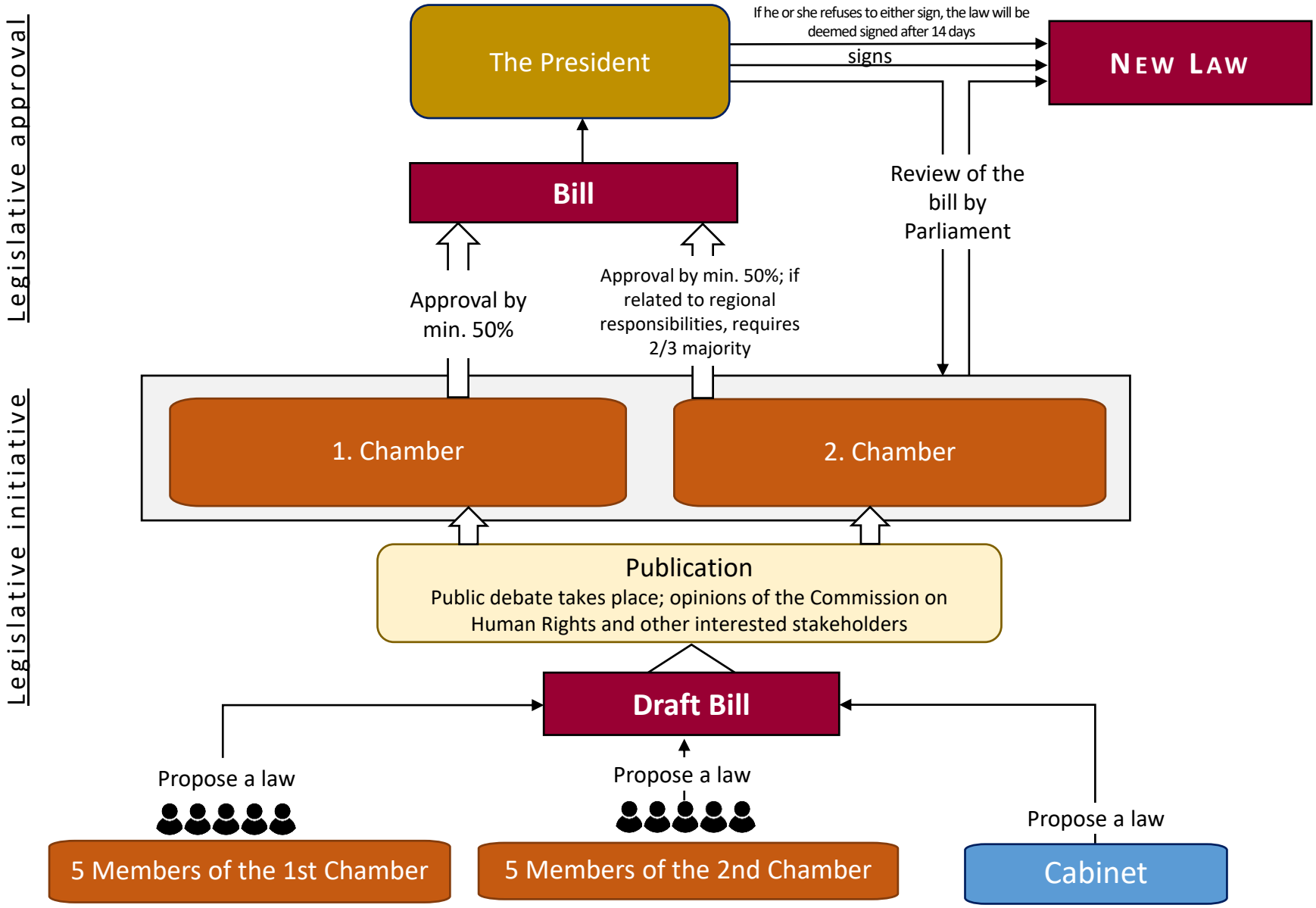
Legislative Process According to the Draft Constitution



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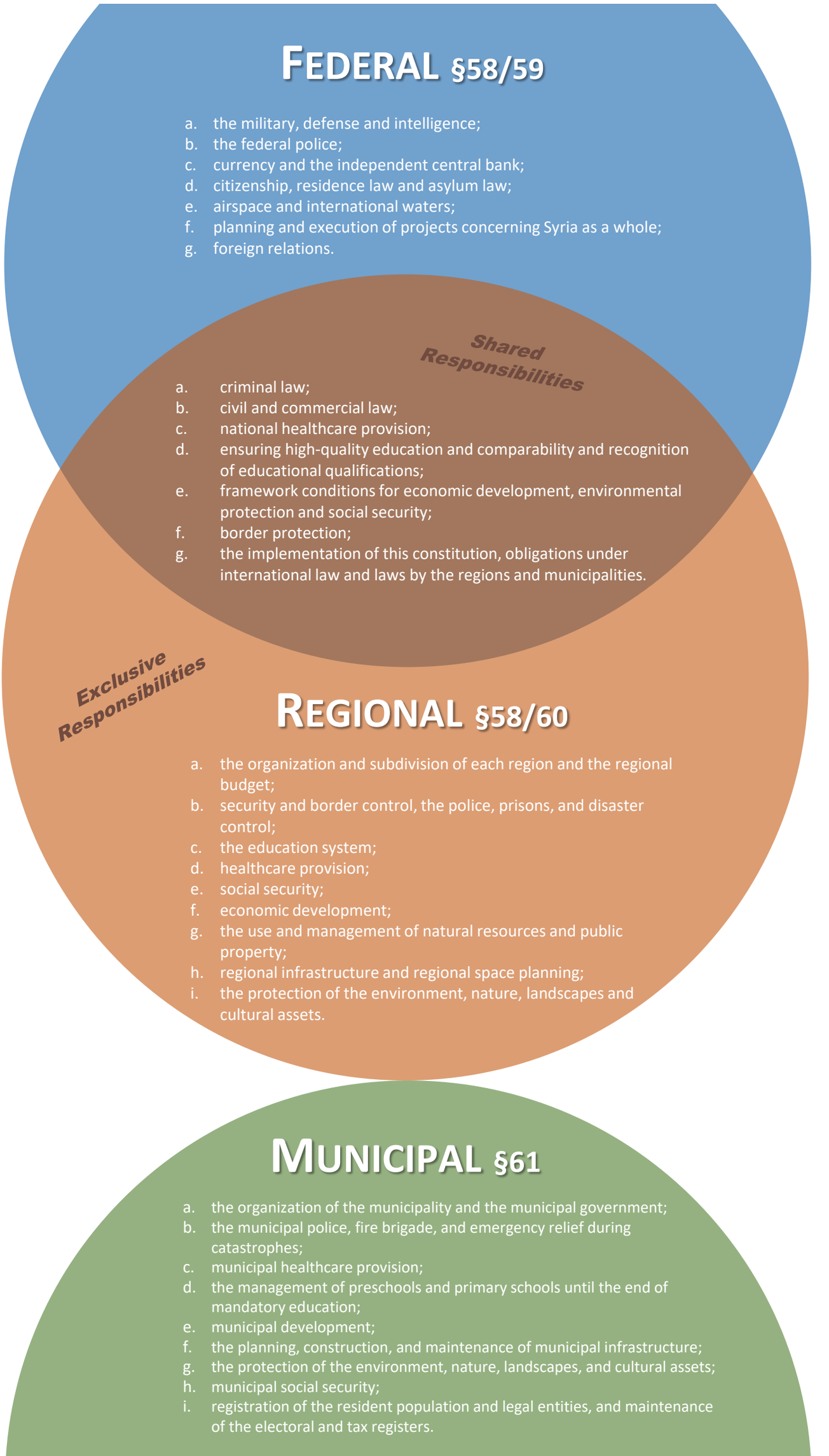
Responsibilities of the Federal, Regional, and Municipal Governments



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