

Appendix- Egyptian Constitutional Amendments Comparative Chart

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The following comparative chart lists the relevant texts of the Egyptian Constitution, followed by the amendments proposed by the Harvard Law School Study Group¹ and the amendments adopted by the Supreme Council of the Armed Forces on February 27,² and announced on 4 March 2011 as the basis for a referendum to be held on March 19.³

Of note is the convergence of the two sets of amendments on the two most important areas of change: under amended Art.77, the term-limit on the presidency (two consecutive terms maximum of four years each); and under Arts. 76, 88 and 93, the full entrusting of presidential and elections supervision to a high judicial committee. Art.179 is also abolished under both proposals. A number of suggestions to streamline the Constitution in the HLS Study Group in a section named “Tier two” were not addressed. The SCAF notes the suggestion by Dr Tareq al-Bishri, the head of the Constitutional Amendments Committee, that the Constitution might be eventually replaced by a Constituent Assembly.⁴

The amendment of Art.75 restricting the right to the presidential candidacy is unfortunate and unnecessary. In addition to the *ad hominem* character of the added restrictions, the prohibition of a candidate “married to a non-Egyptian” is plainly unconstitutional, and was declared so by the Supreme Constitutional Court in its decision of 18 March 1995.⁵ It is also poorly drafted, and does not specify whether a spouse who has acquired Egyptian nationality after marriage would still be considered “non-Egyptian”.

8 March 2011

¹ http://www.harvardilj.org/2011/02/online_52_mallat/ in English, http://www.righttononviolence.org/images/PDF/20110227_revising%20egypts%20constitution%20ar.pdf, in Arabic.

² <http://www.sis.gov.eg/Ar/Story.aspx?sid=44395>

³ http://www.sis.gov.eg/Ar/LastPage.aspx?Category_ID=1638

⁴ http://www.sis.gov.eg/Ar/LastPage.aspx?Category_ID=1638

⁵ In English, summarized in Kevin Boyle and Adel Omar Sharif, HUMAN RIGHTS AND DEMOCRACY- THE ROLE OF THE SUPREME CONSTITUTIONAL COURT OF EGYPT (1996) 235-37. Published in Arabic in the Official Gazette, 6 April 1995.

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Article 75 Qualifications for President	HLS Study Group Proposed Revisions Article 75	Constitutional Amendments Committee Art.75
The person to be elected President of the Republic must be an Egyptian born to Egyptian parents and enjoy civil and political rights. His age must not be less than 40 Gregorian years.	[Not necessary]	The elected president must be Egyptian and has Egyptian parents and enjoys civil and political rights. Any of his parents should not have obtained the nationality of any other country. He should not be married to a non-Egyptian and his age must not be less than 40 years.
Article 76(1) Presidential Elections	HLS Study Group Proposed Revisions Article 76(1)	Constitutional Amendments Committee Art.76(1)
The President shall be elected by direct, public, secret ballot. For an applicant to be accepted as a candidate to presidency, he shall be supported by at least 250 elected members of the People's Assembly, the Shoura Council and local popular councils on governorate level, provided that those shall include at least 65 members of the People's Assembly, 25 of the Shoura Council and ten of every local council in at least 14 governorates. The number of members of the People's Assembly, the Shoura Council and local popular councils on governorate level supporting candidature shall be raised in pro rata to any increase in the number of any of these councils. In all cases, support may not be given to more than one candidate. Procedures related to this process shall be regulated by the law. Political parties, founded at least five consecutive years before the starting date of candidature and have been operating uninterruptedly for this period, and whose members have obtained at least 3% of the elected members of both the People's Assembly and the Shoura Council in the latest elections or an equivalent percentage of such total in one of the two assemblies, may each nominate for presidency a member of their respective higher board, according to their own bylaws, provided he has been a member of such board for at least one consecutive year. As an exception to the provisions of the afore-mentioned paragraph, the afore-mentioned political parties whose members obtained at least one seat in any of the People's Assembly or the Shoura Council in the	The President shall be elected BY THE PEOPLE by direct, public, secret ballot.	The president is elected through direct public secret ballot. The nomination for presidency must be supported by at least 30 elected members of the People's Assembly or Shura Council, or at least 30,000 eligible voters in at least 15 governorates so that the number of supporters in any of these governorates should not be less than one thousand. In all cases, support should not be for more than one candidate.

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latest elections may nominate in any presidential elections to be held within ten years starting from May 1, 2007, any member of its higher board, according to their own bylaws, provided he has been a member of such board for at least one consecutive year.		
Article 76(2)	HLS Study Group Proposed Revisions Article 76(2)	Constitutional Amendments Committee Art.76(2)
Candidature applications shall be submitted to an independent committee, named the Presidential Elections Committee.	Candidature applications shall be submitted to an independent committee, named the NATIONAL Elections Committee.	Any political party whose members obtained at least one seat by voting in the People's Assembly or Shura Council can nominate one of its members for presidency.
Article 76(3)	HLS Study Group Proposed Revisions Article 76(3)	Constitutional Amendments Committee Art.76(3)
The committee shall be composed of the head of the Supreme Constitutional Court as a chairman and the head of the Cairo Court of Appeal, the most senior deputy of the head of the Supreme Constitutional Court, the most senior deputy of the head of the Court of Cassation, the most senior deputy of the State Council and five public figures, recognized for impartiality. Three of the afore-mentioned public figures shall be selected by the People's Assembly and the other two by the Shoura Council upon a recommendation of the bureaus of both houses for a period of five years. The law shall determine who will act on behalf of the chairman or any member of the committee, should there be some reason for their absence. This committee shall exclusively have the following competences: 1- To declare the initiation of candidature and supervise procedures for declaring the final list of candidates; 2-To generally supervise balloting and vote-counting procedures; 3- To announce elections results; 4- To decide on all appeals, challenges and all matters related to its competences, including conflict of jurisdiction; 5- To draw up by-laws regulating its modus operandi and method of practising its	The NATIONAL ELECTIONS COMMITTEE shall be composed of the head of the Supreme Constitutional Court as a chairman and the head of the Cairo Court of Appeal, the most senior deputy of the head of the Supreme Constitutional Court, the most senior deputy of the head of the Court of Cassation, the most senior deputy of the State Council and five public figures, recognized for impartiality chosen by the above ad hoc members by a majority. They will serve on the NATIONAL ELECTIONS COMMITTEE for a non-renewable period of five years MEMBERS OF GENERAL AND FURTHER ELECTIONS COMMITTEES MAY NOT BE MEMBERS OF POLITICAL PARTIES DURING THEIR TENURE AND MAY NOT STAND FOR NATIONAL ELECTIONS WITHIN THREE YEARS FROM THE DATE THEIR TERM HAS ENDED OR THE DAY THEY HAVE RESIGNED FROM THE COMMITTEE IN WHICH THEY SERVE. THE NATIONAL ELECTIONS COMMITTEE shall exclusively have the following competences: 1- To declare the initiation of candidature and supervise procedures for declaring the final list of candidates; 2- To generally supervise balloting and vote-counting procedures;	A judicial commission, called the Presidential Elections Commission, is to supervise the presidential elections starting from the announcement of candidacy until the results of voting. The committee is to be chaired by the head of the Supreme Constitutional Court and comprises the head of the Cairo Court of Appeal, the eldest Supreme Constitutional Court deputy, the eldest head of the Court of Cassation deputy and the eldest deputy of the State Council. The commission's decisions are to be final and binding and non-liable to any appeals. They must not be halted or cancelled. The law is to define the other powers of the commission. The Presidential Elections Commission is to form committees that supervise the balloting and counting as stated in Article No. 88. The presidential elections organization bill is to be referred to the Supreme Constitutional Court to decide whether it complies with the Constitution. The Supreme Constitutional Court is to announce its decision within 15 days of the date of reference. If the court decides that one or more articles are unconstitutional, its decision shall be binding. In all cases, the court's decision is to be binding. The decision is to be published in the official gazette three days after its issuance.

competences. The committee's resolutions shall be passed with a majority of at least seven members. Its resolutions shall be final, self-enforcing and incontestable by any means or before any authority whatsoever. Its resolutions may not be challenged through construing or stay of execution. The law regulating presidential elections shall determine other competences for the committee. The law shall also determine regulating rules governing the nomination of a candidate to replace another one who has vacated his seat for some reasons other than assignment within the period between the starting date of candidature and before the termination of voting. Voting shall be conducted in one single day. The presidential elections committee shall establish committees to administer stages of the voting and ballot-counting process. The committee shall establish main committees to be composed of members of the judiciary to supervise the process in accordance with such rules and regulations as may be decided by the committee. Election of the president shall be declared when candidates have obtained an absolute majority of the number of valid votes. In the event that none of the candidates has obtained such majority, election shall be repeated, at least after seven days, between the two candidates who have obtained the largest number of votes. Should another candidate obtain a number of valid votes equal to those of the second, he shall take part in the re-election. In this case, the candidate who has obtained the largest number of votes will be declared winner. Voting for electing the president shall be effected, even though one single candidate has applied or even if he was the only candidate remaining due to assignment of the rest of candidates or due to failure to field another candidate in lieu of the one vacating his seat. In this case, the candidate who has obtained the	3- To announce elections results; 4- To decide on all appeals, challenges and all matters related to its competences, including conflict of jurisdiction; 5- To draw up by-laws regulating its modus operandi and method of practising its competences. The committee's resolutions shall be passed with an absolute majority. Its resolutions shall be final, self-enforcing and incontestable by any means or before any authority whatsoever. Its resolutions may not be challenged through construing or stay of execution. A candidate who has vacated his seat for some reasons other than assignment within the period between the starting date of candidature and before the termination of voting SHOULD BE REPLACED THROUGH AN ELECTION TO BE HELD IN A REASONABLE PERIOD AFTER THE SEAT IS VACATED, UNDER THE SUPERVISION OF THE NATIONAL ELECTIONS COMMITTEE. Voting shall be conducted in one single day. The NATIONAL ELECTIONS COMMITTEE shall establish FURTHER committees to administer stages of the voting and ballot-counting process. The NATIONAL ELECTIONS COMMITTEE shall establish main committees to be composed of members of the judiciary to supervise the process in accordance with such rules and regulations as may be decided by the NATIONAL ELECTIONS COMMITTEE. Election of the president shall be declared BY THE NATIONAL ELECTIONS COMMITTEE when candidates have obtained an absolute majority of the number of valid votes. In the event that none of the candidates has obtained such majority, election shall be repeated AFTER SEVEN DAYS. In this case, the candidate who has obtained the absolute majority of the number of valid votes shall be declared winner BY THE NATIONAL ELECTIONS	
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absolute majority of the number of valid votes shall be declared winner. The law shall regulate procedures to be followed in the event the candidate has failed to obtain this majority. The President shall submit the draft law regulating the presidential elections to the Supreme Constitutional Court following endorsement by the People's Assembly and before promulgation, to determine compliance with the Constitution. The Court shall return its ruling in this connection within fifteen days from date of submission thereto. Should the court decide that one or more provisions of the draft law are unconstitutional; the President shall return it to the People's Assembly to put this ruling into effect. In all cases, the court's ruling shall be binding to all parties and all state authorities. The law shall be published in the official gazette within three days from date of issuance.	COMMITTEE.	
Article 77 Presidential Terms	HLS Study Group Proposed Revisions Article 77	Constitutional Amendments Committee Art.77
The term of the Presidency is six Gregorian years starting from the date of the announcement of the result of the plebiscite. The President of the Republic may be re-elected for other successive terms.	The term of the Presidency is six FOUR Gregorian years starting from the date of the announcement of the result of the ELECTIONS. The President of the Republic may be re-elected for A SECOND term.	The term of the Presidency is four Gregorian years starting from the date of the announcement of the result of the plebiscite. . The President of the Republic may be re-elected only for a second successive term. .
Article 88 People's Assembly Elections	HLS Study Group Proposed Revisions Article 88	Constitutional Amendments Committee Art.88
The necessary conditions stipulated in the members of the people's assembly shall be defined by law which shall set out the provisions of the election and referendum. Balloting shall be conducted in one day. An independent and impartial higher committee shall supervise elections in the manner regulated by the law. The law shall set out the functions, method of formation and guarantees for the committee, which shall include current and former members of judicial bodies. This committee shall form general committees to supervise elections at the level of constituencies as well as committees to administer the balloting process and	ELECTIONS SHOULD BE CONDUCTED ON A FREE AND FAIR BASIS. Balloting shall be conducted in one day WITH OVERSIGHT OF THE NATIONAL ELECTIONS COMMITTEE. THE NATIONAL ELECTIONS COMMITTEE shall generally supervise elections and form sub-committees to supervise elections at the level of constituencies as well as sub-committees to administer the balloting process and votes counting. The general committees shall be composed of FORMER AND CURRENT members of judicial bodies and votes counting shall be made under the	The necessary conditions stipulated in the members of the people's assembly shall be defined by law which shall set out the provisions of the election and referendum. Balloting shall be conducted in one day. An independent and impartial higher committee shall supervise elections in the manner regulated by the law. The law shall set out the functions, method of formation and guarantees for the committee, which shall include current and former members of judicial bodies. This committee shall form general committees to supervise elections at the level of constituencies as well as committees to administer the balloting process and

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votes counting. The general committees shall be composed of members of judicial bodies and votes counting shall be made under the supervision of the general committees in accordance with the rules and procedures stipulated by the law	supervision of the NATIONAL ELECTIONS COMMITTEE.	The law specifies preconditions for eligible People's Assembly members and sets the rulings of elections and referendum.
Article 93 People's Assembly Election Challenges	HLS Study Group Proposed Revisions Article 93	Constitutional Amendments Committee Art.93
The People's Assembly shall be the only authority competent to decide upon the validity of its members. A Court of Causation shall be competent to investigate the validity of contestation presented to the Assembly, on being referred to it by the President of the Assembly. The contestation shall be referred to the Court of Cassation within fifteen days as from the date on which the Assembly was informed of it, while the investigation shall be completed within ninety days from the date on which the contestation is referred to the Court of Cassation. The result of the investigation and the decision reached by the Court shall be submitted to the Assembly to decide upon the validity of the contestation within sixty days from the date of submission of the result of the investigation to the Assembly. The membership will not be deemed invalid except by a decision taken by a majority of two-thirds of the Assembly members.	THE JUDICIARY shall be the only authority competent to decide upon LEGALITY OF A CONTESTED ELECTION OF A MEMBER OF THE PEOPLE'S ASSEMBLY. The contestation shall be referred to the Court of Cassation within fifteen days from the date on which the Assembly was informed of it, while the investigation shall be completed within SIXTY days from the date on which the contestation is referred to the Court of Cassation. THE COURT OF CASSATION SHALL INVESTIGATE THE VALIDITY OF THE CONTESTATION AND RENDER A DECISION WITHIN SIXTY DAYS FROM THE DATE ON WHICH THE CONTESTATION WAS REFERRED TO THE COURT. THE INVESTIGATION AND THE DECISION REACHED BY THE COURT SHOULD BE SUBMITTED TO THE NATIONAL ELECTIONS COMMITTEE FOR APPROVAL WITHIN 15 DAYS. ANY DECISION APPROVED BY THE NATIONAL ELECTIONS COMMITTEE SHALL BE ENFORCED IMMEDIATELY.	The Supreme Constitutional Court is in charge of deciding the validity of membership of the People's Assembly MPs. Challenges are lodged with the court within a period that does not exceed 30 days since the announcement of election results. The court passes a ruling on the challenges within 90 days as of the time of receiving the challenges. The membership of any MP is considered null as of the date of notifying the PA with the court ruling.
TIER 2 RECOMMENDATIONS		
Article 55 Right to Form Societies	HLS Study Group Proposed Revisions Article 55	
Citizens shall have the right to form societies as defined in the law. The establishment of societies whose activities are hostile to the social system, clandestine or have a military character is prohibited.	Citizens shall have the right to form associations. Associations whose activities incite violence, discrimination on the basis of race, region, religion, ethnicity or gender are prohibited.	
Article 87 Apportionment of Districts	HLS Study Group Proposed Revisions Article 87	
The law shall determine the constituencies into which the State shall be divided and the number of elected	The number of elected members of the People's Assembly must be at least 350 persons, and not more	

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members of the People's Assembly must be at least 350 persons, of which one half at least must be workers and farmers elected by direct secret public balloting. The definition of the worker and the farmer shall be determined by law. The President of the Republic may appoint a number of members not exceeding ten.	than 400. Seats are apportioned to offer a fair representation of the population.	
Article 108 President's Authority to Issue Laws	HLS Study Group Proposed Revisions Article 108	
The president of the Republic shall have the right, in case of necessity or in exceptional cases and on the authorization of the People's Assembly upon the approval of a majority of two thirds of its members, to issue resolutions having the force of law. The authorization must be for a limited period of time during which the subjects of the resolutions and the grounds upon which they are based, must be determined. The resolutions must be submitted to the People's Assembly in the first meeting after the end of the authorization period. If they are not submitted or if they are submitted and not approved by the Assembly, they shall cease to have the force of law.	In cases of imminent existential threat, the President of the Republic shall have the right to issue resolutions having the force of law. Following a period of sixty days, the People's Assembly must approve such resolutions by a two thirds majority vote in order for the resolutions to be sustained.	
Article 134 Ministers Serving as Representatives	HLS Study Group Proposed Revisions Article 134	
The Prime Minister, his deputies, the Ministers and their deputies may become members of the People's Assembly. Those of them who are not members may attend the sessions and committees of the Assembly.	The Prime Minister, his deputies, the Ministers and their deputies may not become members of the People's Assembly. They may, however, attend the sessions and committees of the Assembly.	
Article 136 President's Authority to Dissolve the People's Assembly	HLS Study Group Proposed Revisions Article 136	
The President of the Republic may not dissolve the People's Assembly unless it is necessary. Should the Assembly be dissolved over a certain matter, the new Assembly may not be dissolved for the same matter. The decision shall include a call to voters for new elections of the People's Assembly latest within sixty days from the date of issuing the decision of dissolution. The new Assembly shall convene during a	The President of the Republic may not dissolve the People's Assembly.	

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period of ten days following the completion of elections.		
Article 139 Appointment of Vice-Presidents	HLS Study Group Proposed Revisions Article 139	Constitutional Amendments Committee Art.139
The President may appoint one or more vice-presidents, define their jurisdiction and relieve them of their posts. The rules relating to the calling into account of the President of the Republic shall be applicable to the Vice- Presidents.	[Not necessary]	The president of the republic must appoint, within 60 days at most since his assumption of power, one or more vice president and set his powers. If the need arises to relieve the VP from his post, he must appoint another. Preconditions and accountability rules applicable to the president of the republic are the same for vice presidents.
Article 147 President's Ability to Issue Decisions with Force of Law	HLS Study Group Proposed Revisions Article 147	
In case it becomes necessary, during the absence of the People's Assembly, to take measures which cannot suffer delay, the President of the Republic shall issue decisions in their respect, which shall have the force of law. Such decisions must be submitted to the People's Assembly within fifteen days from their date of issuance if the Assembly is standing. In case of dissolution or recess of the Assembly, they shall be submitted at its first meeting. In case they are not submitted, their force of law disappears with retroactive effect, without need for issuing a decision to this effect. If they are submitted and are not ratified, their force of law disappears with retroactive effect, unless the Assembly ratifies their validity in the previous period or settling their effects in another way.	[In light of the proposed revisions to Article 136, Article 147 is no longer necessary and should therefore be abolished.]	
Article 148 State of Emergency	HLS Study Group Proposed Revisions Article 148	Constitutional Amendments Committee Art.148
The President of the Republic shall proclaim a state of emergency in the manner prescribed by the law. Such proclamation must be submitted to the People's Assembly within the subsequent fifteen days in order that the Assembly may take a decision thereon. In case the People's Assembly is dissolved, the matter shall be	[In light of the proposed revisions to Article 108 and Article 136, Article 148 is no longer necessary and should therefore be abolished.]	The president of the republic declares a state of emergency according to the law. The declaration must be referred to the People's Assembly within seven days since its announcement to issue a resolution on this score. If the announcement was made while the parliament is in recess, it is required that the parliament

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submitted to the new Assembly at its first meeting. In all cases, the proclamation of the state of emergency shall be for a limited period, which may not be extended unless by approval of the Assembly.		convenes immediately to look into the announcement while observing the period mentioned in the previous article. If the parliament is dissolved, the issue is referred to the new parliament at its first session. The issue must pass with the majority approval. In all cases, the declaration of a state of emergency must not be for more than six months that must not be extended except after the approval of the people in a public referendum.
Article 149 President's Ability to Grant Amnesty	HLS Study Group Proposed Revisions Article 149	
The President of Republic shall have the right of granting amnesty or commute a sentence. As for general amnesty, it can only be granted by virtue of a law.	The President of Republic shall have the right of granting amnesty or commuting a sentence in extraordinary circumstances only. As for general amnesty, it can only be granted by virtue of a law.	
Article 152 President's Ability to Call a Referendum	HLS Study Group Proposed Revisions Article 152	
The President of the Republic may call a referendum of the people on important matters affecting the supreme interests of the country.	[Article 152 should be abolished.]	
Article 167 Administration of the Judiciary	HLS Study Group Proposed Revisions Article 167	
The law shall determine the judiciary organizations and their functions, organize the way of their formation	[Article 167 should be amended to remove delegation of this authority to the law and to guarantee the formation of certain courts and certain procedures for judicial appointments.]	
Article 171 State Security Courts	HLS Study Group Proposed Revisions Article 171	
The law shall regulate the organization of the State Security Courts, and prescribe their competencies and the conditions to be fulfilled by those who occupy the office judge in them.	[State Security Courts should be abolished.]	
Article 173 Judicial Independence	HLS Study Group Proposed Revisions Article 173	
Every judicial body shall administer its own affairs. A council, comprising chiefs of judicial bodies and chaired by the President, shall be formed to administer their common affairs. The law shall define its composition, competencies, and working rules.	Every judicial body shall administer its own affairs. A council, comprising chiefs of judicial bodies, shall be formed to administer their common affairs.	

Article 179 The Socialist Public Prosecutor	HLS Study Group Proposed Revisions Article 179	Constitutional Amendments Committee Art.179
The State shall seek to safeguard public security and discipline to counter dangers of terror. The law shall, under the supervision of the Judiciary, regulate special provisions related to evidence and investigation procedures required to counter those dangers. The procedure stipulated in paragraph 1 of Articles 41 and 44 and paragraph 2 of Article 45 of the Constitution shall in no way preclude such counter-terror action. The President may refer any terror crime to any judicial body stipulated in the Constitution or the law.	[Article 179 should be abolished.]	[Article 179 is abolished.]
Article 189 Constitutional Amendment	HLS Study Group Proposed Revisions Article 189	
The President of the Republic, as well as the People's Assembly, may request the amendment of one or more of the Constitution articles. The articles to be revised and the reasons justifying such amendment must be mentioned in the request for amendment. In case the request emanates from the People's Assembly, it should be signed by at least one third of the Assembly members. In all cases, the Assembly shall discuss the amendment in principle, and the decision in this respect shall be taken by the majority of its members. If the request is rejected, the amendment of the same particular articles may not be requested again before the expiration of one year from the date of such rejection. If the People's Assembly approves the principle of revision, the articles requested to be amended shall be discussed after two months from the date of the said approval. If the modification is approved by two thirds of the members of the Assembly, it must be referred to the people for a plebiscite. If the amendment is approved, it shall be considered in force from the date of the announcement of the result of the plebiscite.	[The text as it stands does not need to be amended, but transitional measures are necessary to implement the currently proposed amendments of the Constitution.]	[Last paragraph added:] The president of the republic has the powers, after the approval of the Cabinet, and also half of the People's Assembly and Shura Council have the powers to ask for issuing a new constitution. A Constituent Assembly of 100 members, to be mostly elected by the two houses of parliament at a joint meeting, undertakes outlining the new constitution at a period of time not more than six months since its formation. The blueprint is referred by the president of the republic within 15 days of its drawing to the people for referendum. The new constitution is applicable as of the date of approval by the people in the referendum. [bis] Non-appointed members of the first People's Assembly and Shura Council convene to announce the results of the referendum on constitutional amendments for choosing the constituent assembly in charge of outlining the new constitution within six months of their election. This all comes in line with the last para of article 189. [bis (I)] The first Shura Council exercises its powers after

		announcing the results of the referendum on constitutional amendments. The president of the republic takes over, immediately after his election, completing the formation of the Council with appointing one third of its members. The appointment should be for completing the term of the Council according to the law.
Part Seven: Chapter I: The Shoura Council (Articles 194-205)	[Articles 194-205 should be abolished. In the absence of a federal structure, an additional chamber with legislative powers is unnecessary. References to the Shoura Council in other parts of the Constitution, i.e. Articles 62, 74, and 76, should be amended accordingly.]	