

statement



The Syrian Regime's President Appoints and Dismisses the Supreme Constitutional Court Judges in a Blatant Embodiment of Dictatorship

Throughout the Rule of Hafez and Bashar al-Assad, the Supreme Constitutional Court Did Not Challenge the Constitutionality of Any Legislation, Decree, or Law

I. The Syrian Regime Legitimizes Complete Control of the Constitutional Court Through a 'Constitutional' Text

In February 2012, the Syrian regime unilaterally instituted a 'constitution,'¹ whose very essence violates all recognized constitutional legal standards because it contains articles that violate human rights. The most prominent of these texts is Article 141, which

¹ Syrian People's Assembly, Decree No. 94 of 2012, Constitution of the Syrian Arab Republic.
<http://www.parliament.gov.sy/arabic/index.php?node=201&nid=15740&RID=-1&Last=1&First=0&CurrentPage=0&Vid=-1&Mode=-1&Service=-1&Loc1=0&Key1=&S-Date=&EDate=&Year=2012&Country=&Num=94&Dep=-1&>

stipulates the terms of the establishment of the Supreme Constitutional Court²: “The Supreme Constitutional Court is composed of seven members, at least one of whom is a Head, named by the President of the Republic by a decree.” Two years later, the Supreme Constitutional Court Law³ No. 7 of 2014 was issued containing the details of the court’s establishment and provisions, determining the number of its members at eleven, all to be appointed by the President of the Republic by decree, for a period of four years, subject to renewal.

The appointment of all members of the Constitutional Court by the President of the Republic is an embodiment of absolute autocratic rule, which undermines the principle of the independence of the judiciary and the separation of powers. In addition, the Syrian regime has deliberately made these court officials’ terms of office shorter than that of the President of the Republic.

Democratic countries, which respect the principle of separation of powers, establish their Constitutional Courts with the participation of the three powers, namely the judicial (the Supreme Judicial Council), the legislative (Parliament), and the executive authority, with the proportions varying from one country to another; their terms of office are relatively long, ranging from 9 to 12 years up to life. The dismissal of judges is also carried out jointly by the three powers, with the procedures for this differing between one democratic country and another.

II. Three Reasons Make the Constitutional Court under the Syrian Regime’s Rule a Mere Facade to Complete the Appearance of a Formal Constitutional Structure

1. The appointment of the Court’s members by the President of the Republic and their swearing of the oath before him contradict the principle of the separation of powers, strip the Court of its independence, turn the Court members into employees of the executive authority, and completely nullify the Court’s independence.
2. The fact that the power to dismiss judges lies in the President of the Republic’s hands means they are careful not to challenge any law or decree he issued.

² Syrian People’s Assembly, Decree No. 94 of 2012, Constitution of the Syrian Arab Republic, Article 141.

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³ Syrian People’s Assembly, Decree No. 7 of 2014, Supreme Constitutional Court Law.

<http://www.parliament.gov.sy/arabic/index.php?node=201&nid=4226&RID=-1&Last=80&First=0&CurrentPage=1&Vid=-1&Mode=-1&Service=-1&Loc1=0&Key1=&S-Date=&EDate=&Year=2014&Country=&Num=&Dep=-1&Dep=1&Page=1>

3. There is a fundamental structural defect in the powers granted to the court, as they are restricted by conditions that hinder any serious work. This obstruction, set forth in its founding articles, is intentional and engineered by the Syrian regime.

For these three main reasons, throughout the rule of Hafez and Bashar al-Assad, the Constitutional Court has never objected to or invalidated any decrees/laws, no matter how contrary to the constitution and the spirit of the law these are and how blatantly they violate human rights treaties and agreements, including those ratified by Syria, such as the law establishing the Counter-Terrorism Court, the Military Field Court, or the laws that give the security services immunity from accountability, or even the law to reduce the previously mandated minimum age for the president to match that of Bashar al-Assad from 40 to 34 years which enabled his ascension to power following his father's death.

III. Decree No. 127 of 2022, Issued by Bashar al-Assad Dismissing Four Judges and Appointing Four Others to Their Positions is an Embodiment of Autocratic Rule

In Decree No. 127 of 2022, issued by the Syrian regime's President, he dismissed four court members, appointed four new members to their positions,⁴ and retained seven others, including the head of the court. This shows the enormous powers that Bashar al-Assad possesses, granted to him by a constitutional text that he put in place in 2012. There will be no independence of the judiciary and no separation of powers for as long as the dictatorship in Syria remains in power, and it is impossible to reform it. The international community must help the Syrian people to obtain their fundamental rights and achieve a political transition towards democratic rule that respects the principle of law, the Constitutional Court, and the judiciary.

⁴ Syrian People's Assembly, Decree No. 127 of 2022, decree renews naming a head and six members of the Supreme Constitutional Court and appointing four new members.

<http://www.parliament.gov.sy/arabic/index.php?node=201&nid=22999&RID=-1&Last=17&First=0&CurrentPage=0&Vid=-1&Mode=-1&Service=-1&Loc1=0&Key1=&S-Date=&EDate=&Year=2022&Country=&Num=&Dep=-1&>