

Republic of South Sudan

RSS/PO/J/02/2012 Ref: Jan.9th, 2012 Date:_____

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THE REPUBLIC OF SOUTH SUDAN (RSS)

Presidential Order N0. 02/2012 for the Establishment of the Constitutional Review Commission and the Appointment of its members 2012 A.D

1. TITLE AND COMMENCEMENT

This Order shall be cited as "The Presidential Order N0.02/2012 for the Establishment of the National Constitutional Review Commission and the Appointment of its members, 2012A.D" and shall come into force on the date of its signature by the President of the Republic.

THE ORDER

In exercise of the powers conferred upon me under Article 202 of the Transitional Constitution of the Republic of South Sudan, 2011 A.D, I General Salva Kiir Mayardit, President of the Republic of South Sudan, do hereby issue this presidential Order for the establishment of the Constitutional Review Commission and the appointment of its members as follow:

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ESTABLISHMENT OF THE COMMISSION

The Commission is hereby established to be known as the National Constitutional Review Commission (NCRC) (hereinafter called "the Commission") with its composition, terms of reference, functions and powers as hereinunder.

The President

2. DURATION OF THE COMMISSION

The duration of the Commission shall be one year counted from Commission's submission of its report to the President of the Republic which shall not be later than January 8, 2013.

3. Terms of Reference of the Commission

- (1) The Commission shall discharge its functions and duties as set out under Article 202 of the Transitional Constitution and in so doing it shall:
 - (a) seek the views of stakeholders on the Transitional Constitution;
 - (b) review the Transitional Constitution;
 - (c) Conduct consultation with key stakeholders and the public on the Permanent Constitution
 - (d) conduct a nation-wide public information programme and civic education on constitutional issues;
 - (e) prepare a Draft Constitutional Text and Explanatory Report taking into account views and suggestions for revisions from stakeholders;
 - (f) prepare a comprehensive report of its activities;
 - (g) submit the Draft Constitutional Text and Explanatory Report to the President; and
 - (h) prepare and manage its budget.
- (2) The Commission shall discharge its functions and duties in accordance with the provisions of Article 202 of the Transitional Constitution and the provisions of this instrument of appointment herein.
- (3) In preparing the Draft Constitutional Text, the Commission shall ensure that it is compatible and in conformity with:

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- (a) the Principles of decentralization and devolution of power;
- (b) the international human rights standards;

- (c) the establishment of South Sudan as a multi-ethnic democratic state based on the rule of law; and
- (d) the aspirations of the people of South Sudan
- (4) The Commission shall undertake all its activities in accordance with the principles of inclusiveness, transparency and equitable participation.
- (5) In the discharge of its functions, the Commission shall be independent and shall not be subject to the control and or authority of any person other than the President of the Republic.

4.MEMBERSHIP OF THE COMMISSION

- 1) The Commission shall consist of a Chairperson, Deputy Chairperson and 43 other Commissioners appointed by the President of the Republic in accordance with the provisions of Article 202 of the Transitional Constitution as per annex 1 to this Order.
- 2) The Chairperson, Deputy Chairperson and seven (7) Commissioners shall serve in the commission on a full time basis, and Forty three (43) Commissioners shall be on a part time basis.
- A full time Commissioner shall not hold other active public employment when serving as Commissioner.
- 4) Part time Commissioners may hold other active employment.
- 5) All Commissioners shall not engage in any activities that would conflict with the interest of their responsibilities as Commissioners and they shall be bound by the Code of Conduct as set out in the attached Schedule.

5. Chairperson and Deputy Chairperson

- 1) There shall be a Chairperson and Deputy Chairperson of the Commission, appointed by the President.
- 2) The Chairperson shall be the head of the Commission and shall chair all the meetings of the Commission. In the event that the Chairperson cannot be present or is unable to serve as Chair of a meeting, the Deputy Chairperson shall act as the Chair.

- 3) The Chairperson shall, on behalf of the Commission:
 - (a) supervise and coordinate the activities of the Commission;
 - (b) be the link between the Commission and the President; and
 - (c) undertake other duties as the Commission may require.
- 4) The Chairperson may delegate any of his or her responsibilities to another member of the Commission with that Commissioner's agreement.
- 5) If the position of the Chairperson becomes vacant, the Deputy Chairperson shall assume the position and to act as the Chairperson until such time as the President of the Republic appoints a new Chairperson. Under such circumstances, the Deputy Chairperson shall revert and relegate to his or her position as Deputy Chairperson.
- 6) In the event that neither the Chairperson nor Deputy Chairperson is unable to perform his or her functions and duties of as a Chairperson of the Commission, a Commissioner chosen by a majority vote of the Commissioners, sitting and voting shall act as a Chairperson until such time as the President appoints a new Chairperson.

6. Oath of Office

The Chairperson, Deputy Chairperson and the Commissioners before assumptions of their offices shall take the following oath or affirmation:

"I, [name], do solemnly swear/affirm that as a Member of the National Constitutional Review Commission, I shall discharge my functions and duties faithfully, conscientiously and impartially, in accordance with the Transitional Constitution and the terms of my appointment."

7. Loss of membership of the Commission

(1) Membership of the commission shall be loss by a decision of the President of the Republic if a commissioner:-

- (a) is unable to discharge his or her functions and duties;
- (b) is convicted of a crime, for an offence involving honesty or moral turpitude;
- (c) breaches the Code of Conduct as provided in section 21 of this Order;
- (d) fails to attend to the work of the Commission or misses more than three consecutive meetings without reasonable excuse;

- (e) tendering of his or her resignation in writing to the President of the Republic;
- (f) is guilty of gross misconduct in relation to the work of the commission; or
- (g) death

(2) The President may remove a Commissioner from office on the recommendation of Chairperson of the Commission supported by a majority of the members of the Commission in accordance with (1) above.

8. Filling of vacancy in the Commission

A vacancy on the Commission shall be filled by the President of the Republic in accordance with the procedure for appointing Commissioners under Art. 202 of the Transitional Constitution.

9. Remuneration and Privileges of the Members

The remunerations and privileges of the Chairperson, Deputy Chairperson and members of the Commission, shall be equated and akin with those accorded to Chairperson, Deputy Chairperson and members of the Anti-Corruption and Human Rights Commissions.

10. MEETINGS AND RULES OF PROCEDURE of the Commission

(a) Meetings of the Commission

- 1) The Commission shall hold its regular meetings as required for the discharge of its functions and duties.
- 2) The first meeting of the Commission shall be convened by the Office of the President within two weeks of its establishment by the President. Until the Commission adopts its own rules of procedure, all decisions are to be taken by consensus, failing which shall consequently be by a majority vote.
- 3) Each Commissioner shall have one vote.
- 4) The quorum for the first meeting of the Commission shall be two thirds of its members. The quorum shall remain in effect until the Commission adopts its own rules of procedure.
- 5) The Chairperson shall provide adequate notice to other Commissioners in advance of meetings.

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(b)Rules of Procedure

The Commission shall adopt its rules of procedure as soon as practicable. The rules may be modified by the Commission whenever it deems necessary.

11. Sub-committees

- 1) The Commission may establish sub-committees as it deems fit to facilitate its work.
- 2) The final drafting of the Constitutional Text shall be undertaken by a sub-committee consisting of constitutional experts as may be selected by the Chairperson.

12. FUNCTIONS OF THE COMMISSION

As requirement under Article 202 of the Transitional Constitution, 2011, the Commission shall:-

- (1) review the Transitional Constitution;
- (2) seek the views of all stakeholders on the Transitional Constitution;
- prepare a Draft Constitutional Text and Explanatory Report taking into account views and suggestions for revisions from stakeholders;
- (4) conduct a nation-wide public information programme and civic education on constitutional issues;
- (5) prepare a full report of its activities;
- (6) submit the Draft Constitutional Text and Explanatory Report to the President; and
- (7) prepare and manage its budget.

13. POWERS OF THE COMMISSION

The Commission shall exercise all powers necessary for the discharge of its functions and duties including but not limited to the following:-

(a) determine the staffing structure of the Secretariat;

- (b) employ and dismiss staff consistent with law and procedures;
- (c) recruit or invite experts whenever required, to assist it in its work;
- (d) Manage its budget and may accept any financial or technical assistance from any lawful source;
- (e) conduct workshops, public meetings, seminars, and civic education;
- (f) develop and publish civic education materials; and
- (g) determine and adopt its rules of procedure.

14. SECRETARIAT OF THE COMMISSION

- 1) There shall be established a Secretariat of the Commission, headed by a Secretary appointed by the President of the republic on the recommendation of Minister of Justice.
- 2) The Secretary shall oversee and manage the Commission's staff.
- 3) The Secretary shall not be a member of the Commission.
- 4) The Secretary shall
 - a) manage and oversee the financial, administrative and logistical work of the Commission;
 - b) report to the Chairperson of the Commission;
 - c) serve as the Secretary to the Commission;
 - d) attend meetings of the Commission;
 - e) be appointed and removed by the President; and
 - f) Shall nominate the members of the Secretariat with the approval of the Chairperson and his or her deputy.
- 5) The Secretariat shall keep all the minutes of the meetings of the Commission, including all resolutions, which shall be approved by the Commission at a subsequent meeting.
- 6) The Secretariat shall assist the Commission in achieving its mandates.
- 7) The secretariat may seek technical support from international partner organizations such as IDLO, PILPG, UNMISS or any other organization as necessary.

8) The Government of South Sudan shall provide the Commission with a budget and support the Commission by seconding personnel to the Secretariat of the Commission to assist in fulfilling its legal, technical and administrative functions as may be requested.

15. HEADQUARTERS OF THE COMMISSION

The Government shall provide the Commission with office space in Juba as its Headquarters. The Commission may establish other offices in other parts of the country to conduct its work.

16. CODE OF CONDUCT AND OBLIGATIONS OF COMMISSIONERS

- 1) Every member of the Commission shall serve impartially and professionally and perform the functions of the Commission in good faith and without fear, favour or prejudice.
- 2) Every member of the Commission shall read and understand the provisions of the Transitional Constitution and the Terms of Reference herein.
- 3) A commissioner shall exercise his or her functions without regard to any improper influence, direct or indirect, from any source.
- 4) A Commissioner shall at all times act in the best interests of the people of South Sudan and may at no time afford any undue preferential treatment to any group or individual, discriminate against any group or individual, or otherwise abuse the power vested in him or her.
- 5) No commissioner may by virtue of his or her membership, association, statement, or in any other manner, jeopardize the credibility, impartiality, or integrity of the constitutional commission.
- 6) Commissioners in the performance of their mandate shall be guided by the higher interest of the country and shall respect and uphold its unity, peace, harmony, integration, democracy, human rights and good governance.
- -7) Commissioners shall make every effort to carry out their duties with diligence and attend every meeting of the commission.

Issued under my Hand and Seal of the Republic South Sudan in Juba, this 9th Day of January in the year 2012 A.D.

General Salva Kiir Mayardit, President, Juba

ANNEXTURE: CHAIRPERSON, DEPUTY CHAIRPERSON AND MEMBERS OF THE COMMISSION

Members of the Commission

The following persons are appointed as members of the National Constitutional Review Commission:

- (1) Prof. Akolda Ma'an Tier, Chairperson
- (2) Dr. William Othwon Awer, Deputy Chairperson
- (3) Margaret Mathew Deng, Member (Full time SPLM)
- (4) Alan Lochul Teko, Member (Full time SPLM)
- (5) Ambrose Ring Thiik, (Full time SPLM) Member
- (6) Julia Lado Kakuki, Member (Full time SPLM)
- (7) James Aniceto Batikayo, (Full time NDF) Member
- (8) Henry Danima Odu, Member (UDF), Member
- (9) Margret Smauel Aru Bol Member (Full time-SANU)
- (10) Telar Ring Deng, Member (Part time-SPLM)
- (11) John Luk Jok, Member (Part time-SPLM)
- (12) Michael Makwei Lueth, Member (Part time-SPLM)
- (13) Atara Sisto, Member (Part time-NJMP)
- (14) Andrew Kuong Ruay Jany, Member (Part time-Democratic Forum)
- (15) Lawrence Korbandy Kody, Member (Part time-SPLM)
- (16) Majok Mading Dier, Member (Part time-UDSF)
- (17) Paulino Wanawila Unango, Member (Part time-SPLM)
- (18) John Gatwech Lul, Member (Part time-SPLM)
- (19) Gabriel Nehemiah Aciek, Member (Part time-ANC)
- (20) Canon Clement Janda, Member (Part time-SPLM)
- (21) Rosa Santino Bol, Member (Part time-SPLM)
- (22) Robert Lado Lwoki, Member (Part time-SPLM)
- (23) Peter Adwok Nyaba, Member (Part time-SPLM)
- (24) Aldo Ajo Deng, Member (Part time-SPLM)

- (25) Ajang Bior Duot, Member (Part time-USAP)
- (26) William Kon Bior, Member (Part time-SPLM)
- (27) NCP Member to be appointed (Part time)
- (28) George Bureng Nyombe, Member (Part time-SPLM)
- (29) Dudu Sabit Abdallah, Member (Part time-UDSF-M)
- (30) Mary Agool John Deng, Member (Part time-SPLM)
- (31) Florence Nighty Otto, Member (Part time-SPLM)
- (32) Yoannes Yor Akol Ajawin, Member (Part time-SPLM-DC)
- (33) Jemma Nunu Kumba, Member (Part time-SPLM)
- (34) Popular Congress Party (PCP) Member to be appointed (Part time)
- (35) Ann Kima Hoth, Member (Part time-SPLM)
- (36) Communist Party Member to be appointed (Part time)
- (37) David William Tut, Member (Part time-UDF)
- (38) Tor Deng Mawin, Member (Part time-SPLM)
- (39) Beatrice Achieng, Member (Part time-SPLM)
- (40) NUDF Member to be appointed (Part time)
- (41) George Andrea Juma, Member (Part time-SPLM)
- (42) Kuong Danhier Gatluak, Member (Part time-SPLM)
- (43) Manoah Aligo Donga, Member (Part time-UDP)
- (44) Dong Samuel, Member (Part time-Civil Society)
- (45) Faith based groups representative to be appointed (Part time)