

# **Presidential Decree No 26 for the year (2014) on the establishment of a Constitution Drafting Commission**

## **President of the Republic**

Following perusal of the Constitution of the Republic of Yemen;

With reference to the Gulf Cooperation Council (GCC) Initiative and its Implementation Mechanism, both of which were signed on 23 November 2011;

Presidential Decree No. 5 (2013) establishing the General Secretariat for the Comprehensive National Dialogue Conference (NDC);

Presidential Decree No. (10) for the year 2013 on the Rules of Procedures of the NDC;

Presidential Decree No. (11) for the year 2013 on the formation of the NDC;

Presidential Decree No. (2) for the year 2014 for the establishment of the Commission on the Regions;

The NDC document;

And in an embodiment of the will of the Yemeni people in the drafting of a new social contract that responds to their aspiration and ambitions;

It is hereby decreed:

## **Chapter One**

### **Objectives and Principles**

**Article (1).** This Decree provides the legal framework for the drafting of the new constitution of the Republic of Yemen including the establishment of the Constitution Drafting Commission (CDC), organization of public consultations and possible review of the draft Constitution and referral to a referendum for the people to vote on.

**Article (2).** The Constitutions drafting process should lead to the drafting of a new constitution for the Republic of Yemen as a federal state comprising six regions pursuant to the report by the Commission on the Regions and in a manner that ensures the following:

1. That it responds and is aligned with the aspiration of the people of Yemen as reflected in the recommendations and decisions of the NDC included in the final outcomes document.
2. Takes into account the views on the draft Constitution that the CDC may receive from the National Authority for Monitoring the Implementation of the NCD outcomes and from the citizens during the public consultation period referred to in article (25) of this Decree.
3. Shall provide a foundation for a lasting peace, democratic pluralism, human rights and good governance in Yemen.

## **Chapter Two**

The CDC and the General Secretariat shall be established.

**Article (3).**

- a. A CDC is to be established to draft the new Constitution comprising of 17 members to be named by a presidential decree. With respect to the NDC, due consideration should be made to the following:
  1. Representation of the South and women with respect to the criteria set forth in this article on the selection of members.
  2. The membership of the CDC should reflect the broad diversity of Yemeni society.
- b. As a condition, members of the CDC should have the following:
  1. A Yemeni national and fully eligible.
  2. At a minimum, should have a university degree from a recognized university with practical experience of at least ten years in any area of specialization.
  3. Should be known for their honesty and integrity and should not have been convicted of any integrity or honor-related crime unless exonerated.

**Article (4).** If it has been proven that any member is incapable or is not interested in working in the commission or in the event a member is dismissed as per clause (24) of this Decree, the President of the Republic is to appoint a replacement member within one week and in accordance with the criteria set forth in Article (3) of this Decree.

**Article (5).** The Committee and its members should work independently of the executive authorities and should focus solely on the interest of the Yemeni people and their ambitions. It is unlawful, under any circumstances, that members receive guidance or are subjected to instructions from a body or a person, a political organization of party in contravention of the provisions of this Decree or any other relevant decree on the constitutional drafting process.

**Article(6).** On the basis of the outcomes document of the NDC, the Constitution should be drafted and offered on a referendum during a period not to exceed one year from the date of issuance of the Presidential Decree naming the members of the Commission.

**Article(7).** The General Secretariat of the NDC shall continue to function as a General Secretariat for support of the outcomes of the NDC, to promote them, provide technical , administrative, financial and media support to the CDC and the National Authority for Monitoring the Implementation of the Outcome of the NDC.

**Article (8).** The General Secretariat should restructure its activities and reduce its staffing to a size suitable for its new functions.

**Article (9).** Executive Authorities should ensure that the GS receives appropriate resources and support to enable it to efficiently discharge its functions. This may include support and assistance from the UN through the Trust Fund for Supporting the Dialogue Process and Constitutional Reforms or from other donors for the activities mentioned in this Decree.

**Article (10).** It is imperative that all State-owned audio-visual and printed media outlets mobilize their full resources for the following:

1. Provision of regular media coverage of the Constitution drafting process and all relevant activities.
2. Provide opportunities for access to implement public information campaigns on the Constitution drafting process.

### **Chapter Three**

#### **Mechanism of work for the CDC**

**Article (11).** The CDC should convene its meetings within seven days from the date of issuance of the Presidential Decree on its establishment. Thereafter, it should work daily and quickly. Before commencing their tasks, members of the CDC should perform the following Oath before the President of the Republic:

*In the Name of God, the Most Merciful, the Most Compassionate*

**I solemnly swear by God, the most magnificent that I will adhere to the book of God and the tradition of his Prophet in performing my obligations in the Commission in all honesty, ethics, sincerity and full impartiality removed from favoritism or bias towards any party, political party or organization, group, sect, region, category or bloodline. I shall, with all sincerity, preserve the republican system and territorial integrity, independence and sovereignty of the nation and adhere to the interest, rights and freedoms of the people in full and abide by the outcomes of the NDC.**

**And the Almighty God is my witness**

**Article (12).** In their first day of business, members of the Commission shall select a chairperson and two deputies, on condition that one of the deputies shall be a woman. A rapporteur for the Commission shall also be selected.

**Article (13).** The General Secretariat should assume the media responsibilities of the CDC.

**Article (14).** A quorum is achieved by two third of the members. The CDC can establish groups or sub-committees from amongst its membership to carry out specific tasks.

**Article (15).** At all time, It is imperative for the CDC to seek consensus when making decisions. In the event that the chairperson of the Commission or the member presiding over a meeting is convinced that no consensus can be achieved on a given issue or matter, a decision shall be adopted through a vote of a three fourth majority of the members of the Commission.

**Article (16).** If the Commission is unable to reach a decision in accordance with Article (15) of this decree on:

1. Any issue relevant to the content of the Constitution, it shall be referred to the National Authority for Monitoring the Implementation of the Outcomes of the NDC to take a decision on it.
2. On other issues, a decision is to be made through majority of more than 50% of the members of the Commission.

**Article (17).** The Commission can develop appropriate rules of procedures for its work in addition to rules included in this Decree. It shall develop a scheduled plan for the completion of the draft Constitution.

**Article (18).** The Commission, through the General Secretariat, shall maintain a complete archive of its activities, meetings and decisions including the drafts and other working documents. It shall deposit such documents in the National Documentation Centre upon completion of the Commission work to make them accessible to researchers.

**Article (19).** The Commission can receive any technical support for all aspects of its work, including legal advice and expertise on drafting. The GS shall carry out all correspondence and coordination to ensure the provision of such support based on requests from the Commission.

**Article (20).** The General Secretariat shall execute all necessary tasks to support the CDC and the National Authority for the Monitoring of the Implementation of the Outcome of the NDC through directives by their chairpersons.

**Article (21).** The functions of the GS referred to in articles (18,19) of this Decree and the development and implementation of awareness programs before the CDC completes the drafting of the Constitution, presents the draft Constitution for public consultations referred two in articles (30, 31) of this Decree. It shall arrange public awareness activities on the draft Constitution during the public consultations period. All submissions by the public shall be arranged and presented to the Commission to carry out a potential review. Thereafter, it shall organize public awareness campaigns on the content of the proposed draft before the organization of the referendum.

**Article (22).** Members of the Commission shall attend all meetings and the meetings of working groups or sub-committees they have been assigned to by the Commission. If a member cannot attend, the member shall submit a justification for his/her absence. The chairperson shall send a justification to one of the deputies. If a member is absent from more than three consecutive meetings or seven meetings in total without prior permission or acceptable justification, the chairperson of the Commission shall submit a report to the President of the Republic. If the Chairperson is absent from the meetings, one of the deputies should submit the report to the President of the Republic.

**Article (23).** Members of the Commission shall behave in a decent and straight manner at all times. They should refrain from any act that may influence their work in the Commission. The Chairperson of the Commission and the deputies shall review any claims of misbehavior or any attempt to influence members of the Commission. If the Chairperson of the Commission determines that the claims are true, the matter should be reported to the President of the Republic. However, if the claims are against the chairperson of the Commission or any of the deputies, the claim should be examined by the two other members of the chair and another member to be chosen by the Commission.

**Article (24).** Within one week of receipt of any of the reports referred to in articles (22, 23) of this Decree, the President of the Republic shall issue a decree of dismissal of the concerned member of the Commission or give notice to the Commission of his intentions to not to take any action. If the matter related to the chairperson of the Commission, the President should give notice to the one of the deputies of the chairperson.

**Article (25).** It is unlawful for members of the Commission to make any statements on the content of the work of the Commission. It is also unlawful to leak out any document or information about the work of the Commission with the exception of those released by the chair through the media department of the General Secretariat.

## **Chapter Four**

### **Formulation and Publication of the Draft Constitution**

**Article (26).** The CDC shall formulate the Constitution on a date to be defined by the CDC.

**Article (27).** During the drafting process of the Constitution, the General Secretariat shall implement a public awareness campaign on the outcomes of the NDC, the Constitution Drafting Process and other relevant issues to the drafting process.

**Article (28).** Upon completion of the draft Constitution:

1. The chairman of the Commission shall submit an approved copy of the draft Constitution to the President of the Republic for perusal.
2. The Chairperson shall submit a copy of the draft Constitution to the National Authority for Monitoring the Implementation of the Outcomes of the NDC for consideration and for developing a report on the draft pursuant to Article (31) of this Decree.
3. The CDC shall present the draft Constitution to the public for comments which shall include a brief introduction and explanation of the draft.

## **Chapter Five**

### **Consultations and amendments**

**Article (29).** Upon publication of the draft Constitution, the National Authority for Monitoring the Implementation of the Outcomes of the NDC shall assign the General Secretariat to launch an immediate public consultation campaign to explain the draft and to collect comments from citizens. Members of the CDC and the National Authority shall be available to provide assistance in explaining the content of the draft Constitution to the citizens through the media and through participation in the public events in various parts of the country.

**Article (30).** Public Consultations on the draft Constitutions shall be completed within a period to be set by the CDC after consultation with the National Authority and coordination with the GS. It shall commence on the date of publication of the draft Constitution.

**Article (31).** The National Authority shall present a report on the draft Constitution to the CDC within a period to be set by the CDC after consultation with National Authority. If, in the opinion of the National Authority, there are certain aspects in the draft that are not aligned with the decisions and recommendations of the NDC to a large extent, the National Authority shall include that in its report. The National



Authority shall enter into discussion with the CDC on the draft during the public consultation period.

**Article (32).** The CDC shall recommence its meetings immediately following the public consultations. It shall review all the comments submitted by the citizens and those included in the report of the National Authority. Subsequently, it shall make the appropriate amendments to the draft in the light of the outcomes and shall finalize the draft during a period to be set by the CDC after consultation with the National Authority. If the draft Constitution is in need of substantial amendments, the National Authority can extend the period for finalizing the amendments for the CDC. The final version of the draft Constitution shall be submitted to the National Authority.

**Article (33).**

- a. If the National Authority deems the draft well aligned with the outcomes of the NDC, and on the basis of the content of the final NDC document, shall refer the final draft to the President of adoption of required constitutional procedures.
- b. However, if it considers that the final draft is, to a large degree, is not aligned with the outcomes of the NDC, it shall outline the issues that require additional review. Following consultations with the presidium of the CDC, the National Authority shall set a new date for the CDC to present a final version after review.
- c. Upon receipt by the National Authority of a copy of the final amended draft of the Constitution pursuant to the outcomes documents of the NDC, shall refer that to the President for adoption of required constitutional measures for approval.

**Article (34).** In case that member of the National Authority do not reach an agreement over the final draft of the Constitution or any part of the draft Constitution, the matter should be raised to the President to make a final decision. The President's decision shall be binding for all.

## **Chapter Six**

### **Concluding Provisions**

**Article (35).** The President of the Republic, in consultation with the National Authority, has the right to assign the CDC to start formulation of relevant legislations to the regions and the elections required for the Post – Constitutional referendum period.

**Article (36).** The CDC and the General Secretariat shall be considered dissolved following the adoption of the Constitution.

**Article (37).** The new Constitution shall come into force following the completion of the referendum. The transition from the existing Constitutional arrangements and current institution to the new system shall be in accordance with Constitution.

**Article (38).** The new Constitution shall replace the 1991 Constitution of the Republic of Yemen as ended in 2001 and the GCC Initiative and Implementation Mechanism for the transition in Yemen signed on November 23, 2011.

**Article (39).** This Decree shall enter in to force on the date of issuance and shall be published in the Official Gazette.

Issued at the Presidency of the Republic, Sana'a

On Jumadi Al-Awal 7, 1435 H

Corresponding to March 8, 2014

Abdu-Rabbu Mansour Hadi

President of the Republic