

In the Name of Allah, the Gracious, the Merciful

Regulation of Popular Consultation to
Southern Kordofan and Blue Nile
States Bill ٢٠٠٩

Be it here by passed by the National Legislative and signed by the President of the Republic of the Sudan, in accordance with the provisions of the Interim constitution of the Sudan ٢٠٠٥, the following Act :-

Chapter I

Primary provisions

Title and Commencement

١. This Act may be cited as " Regulation of Popular Consultation to Southern Kordofan and Blue Nile States Act ٢٠٠٩ " , and shall come into force as from the date of signature .

Source and application

٢. (١) This Bill is enacted in accordance with s. ١٨٢(٢) of the Interim National Constitution ٢٠٠٥ .
- (٢) The provisions of this Act shall apply in order to regulate and effectuate the rights of the people of Southern Kordofan and Blue Nile States through their respective democratically elected Legislative Council, to achieve the Constitutional, Political, administrative and economical aspirations of their people .

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Regulation of Popular Consultation in Northern Kordofan and
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Explanatory Note

First : the Position of the Bill in the Constitution

As it is mentioned in Section ١٨٢ (the Agreement on the resolution of conflict in South kordofan and blue Nile States shall be subject to the popular Consultation by the People of the two states, through their democratically elected legislative councils in accordance with the Provisions provided for). This Bill was enacted by the approval of the parties of the comprehensive peace Agreement.

Second : Bill

The bill comes in five chapters as follows :-

١. Chapter I :

Deals with the Preliminary Provisions , comes in it the title source, application, interpretation included the interpretation (Popular Consultation) , then definition of the Blue Nile and Southern Kordofan their the constitutional political, and administrative arrangements. Section ٤ dealt with the references of the popular Consultation, section ٥ dealt with the objectives of the exercise to the popular consultation, then the establishment of the commissions and the Seat - terms of membership - financial resources.

٢. Chapter V (note that from chapter I there is no sequence of chapters and directly comes to chapter V so the chapters shall be numbered)
This chapter deals with the supervision of the popular consultation, then specifies the bodies of supervision, then the competence of enlightenment regarded the consultation – then it deals with choices and procedures of the exercise of the popular consultation, the powers and jurisdictions of the councils and commissions of the two states then it comes to the result of the popular consultation and finally comes the powers to issue rules and regulations .

Hence the accompanying Bill.

Department of Legislation

Interpretation

٣. In this Act unless the context otherwise require :-

" Popular Consultation ", means the democratical right and mechanism to ascertain the views of the people of Southern Kordofan and Blue Nile States, each about the Comprehensive Peace agreement that reached by the Sudan government and the Sudan People Liberation Movement (provision of Paragraph ٣-١.

" Comprehensive Peace Agreement ", means the Comprehensive Peace Agreement respectively signed by the Sudan People liberation movement and Sudan government ;

" Constitution ", means the Interim National Constitution of the Republic of the Sudan ٢٠٠٥ ;

"Government", means the National Government;

" Protocol ", means the Protocol on the Resolution of the conflict in Southern Kordofan and Blue Nile States ;

"Commission", means the Commission established under section ٧ of this Act ;

" Constitutional Political Commission " means the Commission established presidential by Decree in ٢٠٠٧ ;

"Economic Arrangements" means the Constitutional, political, and and economical arrangements related to the Economical structure and levels of decenterlized governance, the institutions, powers the relationship between state and centre the executive and legislative powers and share of thee two states in wealth and national power detailed in the Comprehensive Peace Agreement;

"Parties", means the Governments of Southern Kordofan and Blue Nile and the National government.

The Popular Consultation references

٤. The right of the Popular Consultation emanates from the following references :-
 - (a) The comprehensive Peace Agreement ;
 - (b) The Interim National constitution ٢٠٠٥ ;
 - (c) The Interim Constitution of Southern Kordofan State ٢٠٠٥ ;
 - (d) The Interim Constitution of Blue Nile State ٢٠٠٥ ;
 - (f) principles of the international law and the regional and international Charter ratified by the Republic of the Sudan.

The Objectives of exercising the Popular Constitution

٥. The Popular constitution objects to :-
 - (a) ascertain the views of the people of the two states as regards the Comprehensive Peace Agreement in respect of the each of the two states, and to the achievement of their aspirations ;
 - (b) final settlement of the political conflict in each of the two states and establishment ;
 - (c) rectify the shortcomings in the constitutional, political, administrative of and economical arrangements within the frame work of the Comprehensive Peace Agreement, as regards the two states .

Establishment of the commission

٦. (١) Each legislative Assembly in the two states shall establish a parliamentary commission in accordance with the protocol on the resolution of the conflict in Southern Kordofan and Blue Nile States.

Constitution of the commissions

٧. The parliamentary commission for the two states, shall consist of the chairperson and rapporteur and number of members in conformity with a the resolution of the concerned legislative Assembly, taking into consideration the representation of woman and specialized committees of the Assembly.

Seat of the commissions

8. The seat of each parliamentary commission shall be in the capital of the concerned state .

Conditions of membership of the commissions

9. The chairperson and members of the parliamentary commission shall be an elected member of the legislative Assembly of the concerned state .

Loss of membership of the commission

10. (1) The member shall lose membership of any the parliamentary commission under the following situation :-
- (a) loss of any condition of acquiring membership ;
 - (b) by a decision from the Assembly or Presidency of the Republic as the case maybe ;
 - (c) resignation;
 - (d) death ;
 - (e) disability for disease.
- (2) In case of loss of membership, selection shall be made by the same method of selection o such member.

Tenure of the Commission

11. The tenure of the Commission shall expire by expiration fo popular consultation process.

Chapter IV

Financial resources sources of the two commission

12. The financial sources of the commissions shall be as follows :-
- (a) whatever allocated by the concerned state ;

- (b) grants from persons or non-Governmental Institutions approved by the state government upon application of the chairman of the commission;
- (c) grants from national and foreign organizations through the government of government of the state concerned;
- (d) finance from donors and friends .;
- (e) any other resources and friends.

Chapter V

Supervision accepted by the Assembly and Awareness

١٣. In addition to the different political forces each state shall invite the following to supervise popular consultation process and results thereof .
- (a) the local, regional, international civil societies organizations ;
 - (b) the united nation organization ;
 - (c) the African union ;
 - (d) IGAD organization ;
 - (e) IGAD participants ;
 - (f) Arab league ;
 - (g) the European union.

Enlightment in respect of the popular consultation

١٤. (١) The government and government of each state shall guarantee and provide chances and equal treatment for the people of the state and different to express their political forces opinions about the popular consultation through the mass media owned by the state and the concerned state.
- (٢) prevent restriction of the right of expression or misuse of authority in order to achieve the same .
- (٣) The mass media of the State or state shall offer free media services and grant equal chances and times for all people in the popular consultation campaign .

- (٤) representatives of local, and foreign media shall have the right to obtain all information in connection with the procedures of the right of popular consultation .
- (٥) The National, regional or private mass media and the civil Society organizations provided for in this Act shall publish the officially declared results of the popular consultation with neutrality, accuracy and honesty .

**choices and procedures to exercise the
popular consultation**

- ١٥. (١) The people of Southern Kordofan and Blue Nile States when they exercise their lawful right of the popular consultation through the commission, shall have the following choices :-
 - (a) approve and endorse the Comprehensive Peace Agreement in respect of the two states and consider the same as a resolution of the political conflict in the concerned state ;
 - (b) consider the Agreement does not meet with their aspirations .
- (٢) The procedures of the exercise of the popular consultation shall be as follows :-
 - (a) the concerned legislative Assembly immediately after the election of the members of the legislative Assembly of each state, shall establish parliamentary commission to evaluate and assess the implementation of comprehensive Peace Agreement, in respect of the two states, through the reports submitted thereto, and State and to government take into consideration the opinions of the people of the state, and the political and national factions and the Civil Society through forums and conferences;
 - (b) where any of the two legislative Assemblies in consideration of the reports of the commission , decide that the Agreement achieves the aspirations of the people of the state, the Agreement shall be deemed to be the final and conclusive settlement of the political conflict thereon ;

- (c) where any of the two legislative Assemblies decides that the Agreement does not achieve the aspirations of the people of the state, according to paragraph (1)(b) above, this Assembly shall engage in deliberation to point out the shortcomings in details and the government of the state then shall engage in negotiations with the national government with the view of rectifying these shortcomings, in the frame work of the Agreement in respect of each of the states, in order to meet the aspirations of the people within one month of the date of the resolution of the concerned legislative Assembly ;
- (d) where there is disagreement between the national government and the concerned legislative council within (two - to three months) of the date of the beginning of the negotiations with the concerned legislative council, the issues of conflict shall be referred to the council of states to take into consideration and issue a decision about that with the majority of --- of the members thereof .
This decision shall be final and binding to the national government and the government of the concerned state ;
- (d)¹ where there is disagreement between the concerned legislative council and the national government within (two – to three months) of the date of the beginning of the negotiations with the concerned legislative council, the issues of conflict shall be referred to the council of states for mediation and conciliation ;
- (d)² According to (a) and (c) above where the mediation of the Assembly failed, the concerned legislative council and the national government 10 days of the beginning of the mediation the legislative Assembly and the National government shall agree upon the establishment of a committee to resolute the issues of conflict within a week;
- (e) the committee shall consist of seven members and each party shall select three members from the Assembly not from the concerned states; and the six members shall agree on the chairman of the committee, and in case of disagreement, the

Assembly shall elect the chairman from its members by the majority of two-thirds;

- (f) the committee shall meet and put a detailed schedule for its proceedings in a period not exceeding two weeks from the date of its formation, and shall take its decision in a period not exceeding one month from the date of start of its sessions;
- (g) the committee shall make open hearing sessions, and the representatives of the government of the concerned state and the government and any parties having interest shall submit bleedings; and the committee may summon whom it thinks appropriate to testify;
- (h) the committee shall take its decision by simple majority, and in case of equality of votes, the chairperson shall have casting vote;
- (i) the committee shall submit its report to the Assembly within one week from the date of the decision, and the Assembly shall take a decision thereon within one week of the date of its submission;
- (j) in case of failure of states Assembly in mediation and conciliation on the conflict within thirty days the Parties shall refer the conflict to arbitration body to be agreed upon;
- (k) the popular consultation procedure shall and before the expiry of the interim period on 1st July 2011.

Power and jurisdictions of the councils and commissions of the two states

- 16 (1) As regard the popular consultation, the Assembly of the concerned state shall have the following jurisdictions :-
 - (a) constitute the parliamentary commission and specify its functions and powers as provided for in the Agreement ;
 - (b) assess and evaluate the implementation of the Comprehensive Peace Agreement in respect of the two states after the peruse of the report submitted by the parliamentary commission or the

- government of each states and specify the shortcomings therein;
- (c) declare whether the Comprehensive Peace Agreement in respect of the two states is meeting the aspirations of the people of the two states ;
 - (d) adopt recommendation which meet the aspirations of the people of the state or rectify the shortcomings in the implementation ;
 - (e) engage in negotiations with the national government to rectify shortcomings in the implementation of the Agreement .
- (۲) The commission shall have the following powers and functions :-
- (a) meet with the people of the concerned state to discuss with them, in order to ascertain their views, through questionnaire regarding the implementation of the comprehensive Peace Agreement in respect of the two states ;
 - (b) evaluate and assess the implementation of the Comprehensive Peace Agreement;
 - (c) evaluate and assess the implementation of the Comprehensive Peace Agreement in respect of the two states to ensure that it achieves the aspirations of the people of such state ;
 - (d) prepare and submit a report to the concerned legislative Assembly in regard with the results of the popular consultation within three months of the date of its constitution ;
 - (e) to seek the help of any persons as consultants to the commission .

Result of the popular consultations

۱۷ The Chairperson of the legislative Assembly shall declare the results of popular consultation agreed upon as follows :

- (۱) Where the concerned legislative Assembly endorses the Agreement as meeting with the aspirations of the people of the state, the Agreement shall be deemed to be a final settlement of the political conflict in the concerned state and the Government of the State shall refer the matter to the presidency to issue Presidential Decree .

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- (٢) Where the concerned legislative Assembly decides that the Agreement does not meet the aspirations of the people of the state, the concerned state shall engage in negotiations with the national government to include such aspirations in the Agreement by presidential Decree.

Power to make rules and regulations

- ١٨ Any commission shall have the Power to issue rules and regulations to regulate its works in accordance with the provisions of this Act .

