

THE SUDAN TRANSITIONAL CONSTITUTION
(AMENDMENT) ACT, 1987.

In exercise of the powers conferred upon it by Article 136 of the Sudan Transitional Constitution, 1985, the Constituent Assembly hereby makes the following amendment:-

Title and Commencement

1. This amendment may be cited as, "The Sudan Transitional Constitution (Amendment) Act, 1987" and shall come into force as from the date of promulgation.

Amendment

2. The Sudan Transitional Constitution, 1985 shall be amended as follows:-

(1) In Article 11:

- (i) Re-number the Article to read 11(1).
- (ii) After Sub-Article (1) the following new Sub-Article shall be inserted:-

11(2) The State and all persons shall be subject to the rule of law and there shall be no exception from the same save the immunities & privileges prescribed by law.
- (iii) After Article 16, the following new Article shall be inserted:-

16.A(1) The State, in response to the call of the Rajab Revolution, shall be bound to achieve the objects set out in the National Charter, and in particular:-
 - (a) to liquidate the traces of the May regime;
 - (b) to secure the representative democracy regime and protect its organs and constitutional institutions;
 - (c) to rescue the national economy, protect it and punish those who have caused its destruction;

- (d) to rescue citizens from the greed of parasitic classes and protect them;
- (e) to reform the public service organs;
- (f) to protect public property whether immovable or movable and organize the manner of utilizing the same.

(2) The law shall organize the appropriate means and safeguards for implementation of the provisions of Sub-Article (1).

(3) Subject to the provisions of Articles 32, 33 & 125 no law made in implementation of the provisions of Sub-Article (2) hereof shall be deemed unconstitutional.

(2) In Part III (Fundamental Rights and Freedoms):-

Article 26 shall be repealed and the following new Article shall be substituted therefor:-

Right of Litigation

26. This Constitution shall guarantee for all persons, the right of litigation before the competent courts in accordance with the provisions specified by law.

3. In Part IV (Organs of Government in the Transitional Period before the Establishment of the Constituent Assembly):-

(i) the title of the part and titles of the chapters shall be omitted;

(ii) Articles 34 to 53 inclusive, shall be repealed.

4. In Part V (Organs of Government After Establishment of the Constituent Assembly):-

In Chapter I (The Constituent Assembly):

(1) In Article 56:

After Sub-Article (7), the following new Sub-Article shall be inserted:-

"(B) The Constituent Assembly shall, by law, ratify international conventions and agreements and foreign loan agreements; provided that it may, by law also, delegate to the Council of Ministers the power to ratify loans and grants agreements."

- (ii) Article 65 shall be repealed and the following new Article shall be substituted therefor:-

Presiding the Constituent Assembly

65(1) The Constituent Assembly shall elect the Speaker thereof from among its members or from among the persons qualified for the membership thereof.

(2) The Constituent Assembly shall elect from among its members, one deputy or more of the Speaker to assist him in performing his duties, the powers of the Speaker in his absence, shall vest in them.

(3) The Speaker of the Constituent Assembly, his deputy or deputies, may resign his office at any time by a written notice addressed, in case of the Speaker, to one of the deputies and in case of any of the deputies to the Speaker. Any of them may be relieved of office by a resolution of the Constituent Assembly passed by the majority of all its members.

(4) The emoluments of the Speaker of the Constituent Assembly, his deputy or deputies shall be specified by law; provided that such emoluments shall not, within the period of their holding office, be amended to the detriment thereof.

- (iii) Article 66 shall be repealed and the following new Article shall be substituted therefor:-

The Secretary-General of the Constituent Assembly

66(1) The Constituent Assembly shall have a Secretary-General to be appointed by the Speaker thereof, provided that such appointment shall be approved by the Constituent Assembly by the majority of all its members.

(2) The Secretary-General shall not be removed from office save by an order issued by the Speaker in implementation of a motion passed by the Constituent Assembly by the majority of all its members.

- (iv) Article 67 shall be repealed and the following new Article shall be substituted therefor:-

Sessions of the Constituent Assembly

67. The Speaker of the Constituent Assembly shall call for the convention thereof at the commencement of every legislative session, at such date as may be specified by the Head of State on the recommendation of the Prime Minister; provided that there shall not elapse more than three months between the end of any legislative session and the commencement of the session subsequent thereto.

- (v) Article 68 shall be repealed and the following new Article shall be substituted therefor:-

Quorum

68(1) The quorum for convention of the Constituent Assembly sittings shall be constituted by the presence of 30% of the members thereof who have been already elected.

(2) The quorum in the case of voting shall be constituted by the presence of 50% of the members thereof who have been already elected.

- (vi) Article 73 shall be repealed & the following new Article shall be substituted therefor:-

Voting

73(1) Subject to the provisions of the Constitution the Constituent Assembly shall pass the permanent Constitution of the Sudan by two thirds of all its members.

(2) Subject to the provisions of Sub-Article (2) of (68) hereof, all matters submitted for taking decision therein by the Constituent Assembly shall be passed by the majority of the members present.

5. In Part V Chapter II (The Head of State):-

- (1) In Article 82 the following phrase shall be inserted at the end of the Article:-

"The same shall be as to such rules and safeguards as may be specified by law."

6. After Chapter III (The Council of Ministers) the following new Chapter IV shall be inserted:-

Chapter IV
Legislation

Procedure Pertaining to Legislation

100 A. Acts shall be made as follows:-

- (1) upon any bill being passed at the state of the third reading, it shall be transferred to the Head of State attached to a letter under the hand of the Speaker of the Constituent Assembly requesting it to sign the bill and promulgate it as soon as possible;
- (2) The Head of State may return the bill to the Constituent Assembly requesting the review of the whole bill or part of the aspects thereof attached to a note showing the reasons which justify the review;
- (3) upon receiving a request for review of any bill, the Speaker of the Constituent Assembly, shall forthwith submit the same to the Constituent Assembly, and the deliberation shall be deemed as continuation of the third reading thereof;
- (4) upon finishing the discussion of the bill in accordance with the provisions of paragraph (c) the same shall be returned to the Head of State in such final form as may be deemed appropriate by the Constituent Assembly, and the Head of State shall then sign the bill in such form;

- (5) if the Head of State does not return the bill in accordance with the provisions of para (b), or if it returns the bill to the Constituent Assembly which returns the same to it in accordance with para (d), the Head of State shall sign and promulgate the bill during a period not exceeding thirty days from date of receipt, but if it does not sign the bill within the said period, the signature shall be deemed to have been made at the end of thereof.
- (6) The Act shall come into force from the date of its publication in the official Gazette, unless it is expressly stated that the Act takes effect from the date of promulgation or from a later date.
- (7) notwithstanding the foregoing, the provisions of paragraphs 2) to (5), inclusive, shall not apply to any financial bill or a bill the description of which is set out in the transfer letter in accordance with the provisions of paragraph (1) that it is an urgent bill, and in the case of the said bills, the Head of State shall sign and promulgate them upon receipt.

Urgent Legislation by a Provisional Order

- 100 B(1) Where the Council of Ministers decides at any time in which the Constituent Assembly is not in session, that the necessity of continuing in conducting the government affairs, or treating any emergent or urgent situation, requires making urgent legislation, it may make such legislation by a provisional order and submit the same to the Head of State for the promulgation thereof, with the exception of all questions which touch the fundamental rights and freedoms or organization of the courts or the criminal laws or the general elections laws.
- (2) Any provisional order promulgated under the provisions of Sub-Article (1), shall have the force of an Act which is passed by the Constituent

Assembly and promulgated by the Head of State in accordance with the provisions of this Constitution.

- (3) Every provisional order promulgated under the provisions of Sub-Article (1) shall after promulgation be submitted to the Constituent Assembly on its first convention thereafter to confirm or reject the same in accordance with its regulations, and shall cease to have force, and become repealed if:-
- (a) it is not submitted to the Constituent Assembly within two weeks of its convention; or that it is submitted thereto but is not decided upon within three months;
 - (b) it is submitted to the Constituent Assembly and it refused to confirm the same;
 - (c) the Head of State, after consultation with the Prime Minister, decides to withdraw it before the Constituent Assembly is convened, or before its being submitted to it after the convention thereof.
- (4) The repeal of the provisional order under the provisions of Sub-Article (3), shall not have any retrospective effect.
- (5) Notwithstanding the provisions of Sub-Article (4), there shall revive, every law repealed or amended by the provisions of any provisional order which has been repealed as shown in such sub-article and the effect of the said law shall continue as if such order has not been promulgated.

7. In Part VI (Finance):-

(a) In Article 102:-

The phrases "the Transitional Military Council or" and "as the case may be" shall be omitted.

(b) In Article 103:-

(i) In Sub-Article (2):-

- the phrase "the Transitional Military Council or" shall be omitted;
- the word "salaries" at the beginning of

paragraphs (b), (c) and (d) shall be omitted & the word "emoluments" shall be substituted therefor;

- after paragraph (d) the following new paragraph shall be inserted:-

(e) Allocations of the Constituent Assembly.

(ii) In Sub-Article (3):-

The phrase, "Transitional Military Council" shall be omitted and the phrase "Constituent Assembly" shall be substituted therefor.

(c) In Articles 104, 105, 106, 107 and 108:-

The phrases, "the Transitional Military Council or" and "as the case may be" shall be omitted wherever they occur.

(d) In Article 110:-

(i) Sub-Article (2) shall be repealed and the following new Sub-Article shall be substituted therefor:-

"(2) The Auditor General shall submit his report on the accounts to the Constituent Assembly at the same time in which such accounts are laid before the Assembly or as soon as possible thereafter."

(ii) In Sub-Article (3):-

The phrases, "the Transitional Military Council or" and "as the case may be" shall be omitted.

8. Subject to the amendments set out in Sub-Sections (5) and (7), in Parts VI, VII, VIII and X:-

In Articles 103(1), 108, 110(1), 114, 115(2), 116, 122(1) and (3), 124 (2) and 131:-

The phrases "the Transitional Military Council or" and "as the case may be" shall be omitted wherever they occur.

9. In Part VII (The Auditor General's Chamber):-

In Article 118:-

The phrase "the Transitional Military Council or of" shall be omitted.

10. Subject to the amendments set out in Sub-Section (8), in Part VIII:-

In Article 128:-

The phrases "the President of the Transitional Military Council or" and "as the case may be" shall be omitted.

11. In Part XII (Transitional Provisions):-

(a) In Article 134:-

(i) In Sub-Article (1), the phrases, the Transitional Military Council or" and "as the case may be" shall be omitted.

(ii) In Sub-Article (2), the phrase "the Council of Ministers or" and "as the case may be" shall be omitted.

(b) Article 136 shall be repealed and the following new Article shall be substituted therefor:-

Amendment of the Constitution

136. This Constitution shall not be amended, save by a resolution passed by two thirds of the members of the Constituent Assembly already elected.

12. In the Schedule:-

The text of oath of the President and Members of the Transitional Military Council shall be omitted.

Certificate

I certify that the Constituent Assembly passed "The Sudan Transitional Constitution (Amendment) Bill 1987, in its Sitting No. 97 of its First Session, on the 24th day of Shaaban 1407 H., being the 12th of April 1987 C.E.

(Signed)
Prof.
Mohamed Ibrahim Khalil
Speaker,
Constituent Assembly

