

THE REPUBLIC OF SOUTH SUDAN  
UPPER NILE STATE  
MAKAL COUNTY COMMUNITY

Date: 1<sup>st</sup> February 2012

H.E. 1<sup>st</sup> Lt. Gen. Salva Kiir Mayardit  
The First President of the Republic of South Sudan  
Juba

Your Excellency,

Subject: PETITION AGAINST THE RECENT GUBERNATORIAL DECREES OF  
UPPER NILE STATE

Below is the complaint of Makal county community against H.E the governor of upper Nile State.

H.E Major General **Simon Kun Pouch** being an elected Governor of Upper Nile State on the ticket of SPLM in the Last general election in April 2010. He was elected by all the tribes in Upper Nile State.

The seat of the Government of Upper Nile State is in Malakal town which is also the seat of the County Commissioner of Makal County. This county was created with other Counties in Upper Nile by an order no.3/10/2004 by Late **Dr. John Garang De Mabior** which includes the following payams:

1. Northern Payam
2. Central Payam
3. Southern Payam
4. Lelo Payam
5. Ogod Payam

The first three payams are located within Malakal town and the remaining two are outside Malakal town.

H.E **Simon Kun Pouch** surprised the communities of these county by appointing a Mayor who is a colonel of police by Name **Choul Pout Kuac** a Nuer from Nasir and his closed relative. This was by Decree no.28/2011. H.E the Governor quoted article no.100 (a) of Upper Nile Constitution which is still in the National Ministry of Justice. He also quoted articles no. 53, 54 and 57 of local government Act 2009. These articles are talking about

the appointment of Mayor of city or Municipal Councils, his power, duration of office and citizenship. This process is through the election by all the communities in the Council. The governor has quoted these articles wrongly since they are not within his powers as they are not assigned to him in the local government Act 2009. The Governor should have consulted the Chairman of the Local Government board for Legal opinion. The appointment of a mayor took place on 28/8/2011 and creation of a city took place in 2012 through Decree 01/2012 quoting again wrongly articles of 53, 57 and 63 since these articles are not with his powers. Appointment of a Mayor took place before the creation of a city which is not consistent with the regulations in the act 2009. All the decrees issued by H.E Governor **Simon Kun Pouch** for the creation of city council appointment of Mayor, Deputy Mayor and Chief Executive Officer are really outside the law. There is even no Deputy Mayor in the Local government Act 2009. Also, article 20 of Local Government Act 2009 stipulates that local government Councils shall be created as Institutions of Governance around which the people of South Sudan are organized socially, economically, politically and culturally to govern themselves in their own areas. This creation is by an order from the President of the Republic of South Sudan upon submission by the Chairperson of the local government board.

It is clear in the above article that counties and even councils are created by an order from the President of the Republic of South Sudan. As mentioned earlier Makal County consists of five Payams. Three are within Malakal town and two are outside the town. H.E Governor has decreed the three Payams within the town to form a city council. The remaining two cannot form a county since local government Act 2009, stipulates that a county should consist of 3-4 payams. This means that Makal County has been dismantled by H.E the Governor. This is a gross violation of the transitional Constitution of the Republic of South Sudan and Local Council Act 2009. In some parts of appendix I of the local Government Act 2009 stated that a city council shall be created on the following basis:

- a. Size of Population of about 200,000 – 500,000, while the Makal county population is only 126,483 in the last census.
- b. Economic viability ranging from 75% -100% of the total annual budget of the council.
- c. Common interest of the communities in the particular area;
- d. Public utilities.
- e. The state physical Infrastructure.

The city Council created by H.E the Governor in Malakal town does not have the above factors. These factors are the basis for any creation of a city council after consultation with the communities affected or benefiting through the process of Law and not through arbitrary decision as done by H.E the Governor of Upper Nile State.

In conclusion H.E governor Simon Kun Pouch has created a very serious situation in Malakal town that can lead to bloodshed among the peace loving communities in the town due to the following:

1. Dismantling Makal County by taking away three payams.
2. Creation of a city council in Malakal town when in fact there is no city council in other states except in Juba town Central Equatorial State.
3. Appointment of a city Mayor from Nasir, who is a relative of the Governor, is an abuse of power and corruption practice.

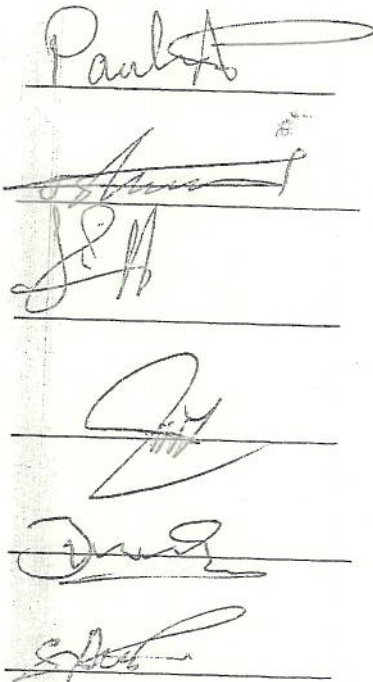
The most people affected by this creation of a city council are the Makal community. There was a letter written to H.E the Governor by SPLM members, chiefs, elders and youth dated 1/09/2011. The reply of this letter was declaration of war against these people by sending his own Nuer Militias to the surrounding villages of Makal county community. They are now in these areas threatening citizens.

The right way to avoid this tense situation is:

- 1- To repeal these decrees by Your Excellency.
- 2- To remove Simon Kun's militias in Makal County Payams
- 3- To restructure the security committee in Malakal town so that it will include all the tribes in Upper Nile State, especially those from Makal County which is the seat of the Government.

We, the below mentioned members representing Makal County community, would be very grateful and thankful to your Excellency for your consideration of the above request, many thanks in advance.

1. Paulino Awok Akoc  
Chairperson of the Committee
2. Paulino Ochwong Atheiy  
Secretary of the Committee.
3. Dak Ador Gwado  
Member
4. Abdalla Obac Bol  
Member
5. Deng OliwDeng  
Member
6. Anwar YoanesAdyeng  
Member



The image shows six handwritten signatures, each written on a horizontal line. The signatures are: 1. Paulino Awok Akoc, 2. Paulino Ochwong Atheiy, 3. Dak Ador Gwado, 4. Abdalla Obac Bol, 5. Deng OliwDeng, and 6. Anwar YoanesAdyeng.

CC: Vice president of the RSS  
CC: Speaker NLA, Juba  
CC: Speaker CS, Juba  
CC: S.G SPLM, Juba  
CC: Governor of Upper Nile State, Malakal  
CC: Speaker, Upper Nile State Assembly, Malakal  
CC: Makal County representatives in NLA, CS/ Juba  
CC: Representatives of Makal County in the State Assembly/Malakal  
CC: Presidential Advisor on Decentralization and Inter-Governmental Linkage.