

# Text comparison of the Interim Constitution of Southern Sudan (2005) and the Transitional Constitution of the Republic of South Sudan (2011)



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# Text comparison of the Interim Constitution of Southern Sudan (2005) and the Transitional Constitution of the Republic of South Sudan (2011)

by  
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This comparison is based on the research project „Do institutions matter? The Constitution of South Sudan in the focus of conflict research” with Maik Boldau and Friedrich Plank at the University of Augsburg, Germany in spring 2012.

## Related publications:

- Henneberg, Ingo/Plank, Friedrich (2015): *Conflict Management in the Constitution of South Sudan (2011)*. In: Marauhn, Thilo/ Elliesie, Hatem (ed.): *Legal Transformation in Northern Africa and the South Sudan*. The Hague: Eleven International Publishing. p. 117-136.
- Henneberg, Ingo (2013): *Das politische System des Südsudan* [The Political System of South Sudan]. In: *Verfassung und Recht in Übersee – Law and Politics in Africa, Asia and Latin America*. 2-2013. p. 174-196. [DOI: 10.5771/0506-7286-2013-2-174](https://doi.org/10.5771/0506-7286-2013-2-174).

Text insertions are shown in *italics*, deletions are ~~crossed out~~.

## Shortcuts:

FA = functional adaptation (means that the nomenclature of an institution changed)

LA = linguistic adaptation (means linguistic adaptations like „Southern“ to „South“ Sudan, grammatical or orthographic adaption)

## Interim Constitution of Southern Sudan (2005)

### Preamble

**Grateful** to Almighty God for giving the people of the Sudan the wisdom and courage to reach a peace agreement which ended a long and tragic conflict;

**Recalling** our long and heroic struggle for justice, freedom, equality and dignity in the Sudan;

**Committed** to the Comprehensive Peace Agreement of January 9, 2005 and the Interim National Constitution of the Republic of the Sudan, 2005;

**Further committed** to establishing a decentralized democratic multi-party system of governance in which power shall be peacefully transferred and to upholding values of human dignity and equal rights and duties of men and women;

**Cognizant** of our duty and responsibility to safeguard and ensure the true exercise of our inalienable right to self-determination through a fair and an internationally monitored referendum; and

**Do hereby** adopt and promulgate this Interim Constitution of Southern Sudan, 2005, as the supreme law by which Southern Sudan shall be governed during the Interim Period, and undertake to abide by, respect and defend it.

### PART ONE

#### *Southern Sudan And The Constitution*

### CHAPTER I

#### *The Constitution And Territory Of Southern Sudan*

#### 1. Territory of Southern Sudan

(1) a) The territory of Southern Sudan comprises all lands and areas that constituted the former three Southern Provinces of Bahr el Ghazal, Equatoria and Upper Nile in their boundaries as they stood on January 1, 1956.

b) The January 1, 1956 boundary line between the north

## Transitional Constitution of the Republic of South Sudan (2011)

### Preamble

**Grateful** to the Almighty God for giving the people of South Sudan the wisdom and courage to determine their destiny and future through a free, transparent and peaceful referendum in accordance with the provisions of the Comprehensive Peace Agreement, 2005

**Recalling** our long and heroic struggle for justice, freedom, equality and dignity in *South Sudan*;

~~**Committed** to the Comprehensive Peace Agreement of January 9, 2005 and the Interim National Constitution of the Republic of the Sudan, 2005;~~

~~**Further Committed** to establishing a decentralized democratic multi-party system of governance in which power shall be peacefully transferred and to upholding values of human dignity and equal rights and duties of men and women;~~

~~**Cognizant** of our duty and responsibility to safeguard and ensure the true exercise of our inalienable right to self-determination through a fair and an internationally monitored referendum; and~~

**Do hereby**, *through this Southern Sudan Legislative Assembly, amend the Interim Constitution of Southern Sudan, 2005, which shall be adopted and hereafter referred to as the "Transitional Constitution of the Republic of South Sudan, 2011," and shall be the supreme law by which the independent and sovereign South Sudan shall be governed during the Transitional Period, and undertake to abide by, respect and defend it.*

### PART ONE

#### *South Sudan And The Constitution*

#### 1. The Republic of South Sudan and its Territory

(1) *South Sudan is a sovereign and independent Republic, and it shall be known as "The Republic of South Sudan."*

(2) *The territory of the Republic of South Sudan comprises: (a) all lands and air space that constituted the three former Southern Provinces of Bahr el Ghazal, Equatoria and Upper Nile in their boundaries as they stood on January 1, 1956; and*

and the south shall be inviolable, subject to the provisions of Article 183 (3) of the Interim National Constitution on Abyei Referendum.

(2) Southern Sudan is governed on the basis of decentralization; its territory consists of ten states and is an all embracing homeland for its people. It is a multi-ethnic, multi-cultural, multi-lingual, multi-religious and multi-racial entity where such diversities peacefully co-exist.

(3) Southern Sudan is founded on justice, equality and respect for human dignity and advancement of human rights and fundamental freedoms; it is governed on the basis of a decentralized democratic system in accordance with this Constitution and the Interim National Constitution of the Republic of the Sudan, 2005.

## **2. Sovereign Authority of the People of Southern Sudan**

(1) Without prejudice to Article 2 of the Interim National Constitution, sovereign authority in Southern Sudan is vested in the people and shall be exercised through their democratic and representative institutions established by this Constitution and elected by them in regular, free and fair elections.

(2) The authority of government at all levels in Southern Sudan shall derive from the people and shall be exercised in accordance with their will, this Constitution and the law.

## **3. Supremacy of the Constitution**

(1) Without prejudice to Article 3 of the Interim National Constitution, this Constitution shall be the supreme law of Southern Sudan and shall have binding force on all organs and agencies of government and persons throughout Southern Sudan.

(2) The interim constitutions and laws of the States of Southern Sudan shall comply with this Constitution and the Interim National Constitution.

## **4. Defence of the Constitution**

(1) No person or group of persons shall take or retain control of *the Government of Southern Sudan* except in accordance with this Constitution.

(2) Any person or group of persons who attempts to suspend, overthrow or abrogate this Constitution commits treason; all citizens shall have the right and duty to resist any person or group seeking to overthrow this Constitution, if no other remedy is available.

(3) All levels of government shall promote public awareness of this Constitution by translating it into national languages and disseminating it as widely as possible. They shall provide for the teaching of this Constitution in all

*(b) the Abyei Area, the territory of the nine Ngok Dinka chiefdoms transferred from Bahr el Ghazal Province to Kordofan Province in 1905 as defined by the Abyei Arbitration Tribunal Award of July 2009 in the event that the resolution of the final status of the Abyei Area results in the Area becoming part of the Republic of South Sudan.*

*(3) The Republic of South Sudan is bordered by Sudan in the north, Ethiopia in the east, Kenya and Uganda in the south, the Democratic Republic of Congo in the southwest and the Central African Republic in the west.*

*(4) South Sudan is governed on the basis of a decentralized democratic system and is an all embracing homeland for its people. It is a multi-ethnic, multi-cultural, multi-lingual, multi-religious and multi-racial entity where such diversities peacefully co-exist.*

*(5) South Sudan is founded on justice, equality, respect for human dignity and advancement of human rights and fundamental freedoms.*

## **2. Sovereignty**

*Sovereignty is vested in the people and shall be exercised by the State through its democratic and representative institutions established by this Constitution and the law.*

## **3. Supremacy of the Constitution**

*(1) This Constitution derives its authority from the will of the people and shall be the supreme law of the land. It shall have a binding force on all persons, institutions, organs and agencies of government throughout the Country.*

*(2) The authority of government at all levels shall derive from this Constitution and the law.*

*(3) The states' constitutions and all laws shall conform to this Constitution.*

## **4. Defence of the Constitution**

(1) No person or group of persons shall take or retain control of *State power* except in accordance with this Constitution.

(2) Any person or group of persons who attempt(s) to overthrow the constitutional government, or suspend or abrogate this Constitution commits treason.

(3) Every citizen shall have the duty to resist any person or group of persons seeking to overthrow the constitutional government, or suspend or abrogate this Constitution.

(4) All levels of government shall promote public awareness of this Constitution by translating it into national languages and disseminating it as widely as possible. They shall provide for the teaching of this Constitution in all

public and private educational and training institutions as well as in the armed and other regular forces, by regularly transmitting and publishing programmes in respect thereof through the media and press.

### **5. Sources of Legislation**

The sources of legislation in Southern Sudan shall be:

- (a) the Interim National Constitution;
- (b) the Interim Constitution of Southern Sudan;
- (c) customs and traditions of the people of Southern Sudan;
- (d) popular consensus of the people of Southern Sudan; and
- (e) any other sources.

### **6. Language**

- (1)
- (2) English and Arabic shall be the official working languages at the level of the governments of Southern Sudan and the States as well as languages of instruction for higher education.
- (3) There shall be no discrimination against the use of either English or Arabic at any level of government or stage of education.
- (4) English, as a major language in Southern Sudan, and Arabic, shall be the official working languages of the governments of Southern Sudan, and the states and the languages of instruction for higher education.
- (5) In addition to English and Arabic, the legislature of any sub-level of government in Southern Sudan may adopt any other national language as an additional official working language or medium of instruction in schools at its level.
- (6) The Government of Southern Sudan shall promote the development of a sign language for the benefit of people with special needs.

### **7. Symbols**

The flag, emblem, public seal, medals, festivals and commemorations of Southern Sudan shall be specified by law.

### **8. Religion in Southern Sudan**

- (1)
- (2) All religions shall be treated equally and no religion shall be declared the official religion of Southern Sudan; religion or religious beliefs shall not be used for divisive purposes.

## ***Chapter II***

### ***Southern Sudan Right to Self-Determination***

#### **9. Affirmation of the Right to Self-Determination**

#### **10. Southern Sudan Referendum Commission**

#### **11. The Referendum on Self-Determination**

#### **12. Assessment and Evaluation Commission**

## **Part Two Bill of Rights**

public and private educational and training institutions as well as in the armed and other regular forces, by regularly transmitting and publishing programmes in respect thereof through the media and press.

### **5. Sources of Legislation**

*The sources of legislation in South Sudan shall be:*

- (a) this Constitution;*
- (b) written law;*
- (c) customs and traditions of the people;*
- (d) the will of the people; and*
- (e) any other relevant source.*

### **6. Language**

- (1)
- (2) *English shall be the official working language in the Republic of South Sudan, as well as the language of instruction at all levels of education.*
- (3) *The State shall promote the development of a sign language for the benefit of people with special needs*
- ~~(4) English, as a major language in Southern Sudan, and Arabic, shall be the official working languages of the governments of Southern Sudan, and the states and the languages of instruction for higher education.~~
- ~~(5) In addition to English and Arabic, the legislature of any sub-level of government in Southern Sudan may adopt any other national language as an additional official working language or medium of instruction in schools at its level.~~
- ~~(6) The Government of Southern Sudan shall promote the development of a sign language for the benefit of people with special needs.~~

### **7. National Symbols**

*The flag, emblem, national anthem, coat of arms, public seal, medals, festivals and commemorations of the State shall be prescribed by law.*

### **8. Religion**

- (1) [LA]
- (2) All religions shall be treated equally ~~and no religion shall be declared the official religion of Southern Sudan;~~ religion or religious beliefs shall not be used for divisive purposes.

## ***Chapter II***

### ***Southern Sudan Right to Self-Determination***

#### **~~9. Affirmation of the Right to Self-Determination~~**

#### **~~10. Southern Sudan Referendum Commission~~**

#### **~~11. The Referendum on Self-Determination~~**

#### **~~12. Assessment and Evaluation Commission~~**

## **Part Two Bill of Rights**

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| <p><b>13. Nature of the Bill of Rights</b><br/> (1)<br/> (2)<br/> (3) All rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified to by the Republic of South Sudan shall be an integral part of this Bill.<br/> (4)<br/> (5) The rights and freedoms guaranteed by this Constitution supplement and complement the Bill of Rights in the Interim National Constitution.</p> <p><b>14. Sanctity of Rights and Freedom</b><br/> Subject to Article 199 (2) herein, no derogation from the rights and freedoms enshrined in this Bill shall be made. The Bill of Rights shall be upheld, protected and applied by the Constitutional Court, Southern Sudan Supreme Court and other competent courts; the Southern Sudan Human Rights Commission shall monitor its application in Southern Sudan in accordance with this Constitution and the law.</p> <p><b>15. Life and Human Dignity</b></p> <p><b>16. Personal Liberty</b></p> <p><b>17. Freedom from Slavery, Servitude and Forced Labour</b></p> <p><b>18. Equality before the Law</b></p> <p><b>19. Right to Found a Family</b></p> <p><b>20. Rights of Women</b><br/> (4)</p> <p><b>21. Rights of the Child</b><br/> (3)</p> <p><b>22. Freedom from Torture</b></p> <p><b>23. Fair Trial</b><br/> (1)<br/> (2)<br/> (3)</p> <p>(4) [(4) → (5)]<br/> (5) [(5) → (7)]<br/> (6) [(6) → (7)]</p> <p><b>24. Right to Litigation</b></p> <p><b>25. Restriction on Death Penalty</b></p> | <p><b>9. Nature of the Bill of Rights</b><br/> (1) [LA]<br/> (2) [LA]<br/> (3) All rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified or acceded to by the Republic of South Sudan shall be an integral part of this Bill.<br/> (4) [LA]<br/> <del>(5) The rights and freedoms guaranteed by this Constitution supplement and complement the Bill of Rights in the Interim National Constitution.</del></p> <p><b>10. Sanctity of Rights and Freedom</b><br/> <i>Subject to Article 190 herein, no derogation from the rights and freedoms enshrined in this Bill shall be made. The Bill of Rights shall be upheld, protected and applied by the Supreme Court and other competent courts; the Human Rights Commission shall monitor its application in accordance with this Constitution and the law.</i></p> <p><b>11. Life and Human Dignity</b></p> <p><b>12. Personal Liberty</b></p> <p><b>13. Freedom from Slavery, Servitude and Forced Labour</b></p> <p><b>14. Equality before the Law</b></p> <p><b>15. Right to Found a Family</b></p> <p><b>16. Rights of Women</b><br/> (4) [LA]</p> <p><b>17. Rights of the Child</b><br/> (3) [LA]</p> <p><b>18. Freedom from Torture</b></p> <p><b>19. Fair Trial</b><br/> (1) [FA]<br/> (2) [FA]<br/> (3) [FA]<br/> (4) <i>A person arrested by the police as part of an investigation, may be held in detention, for a period not exceeding 24 hours and if not released on bond to be produced in court. The court has authority to either remand the accused in prison or to release him or her on bail.</i><br/> (5) [FA]<br/> (6) [FA]<br/> (7) [FA]</p> <p><b>20. Right to Litigation</b></p> <p><b>21. Restriction on Death Penalty</b></p> |
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| <p><b>26. Privacy</b></p> <p><b>27. Religious Rights</b><br/>(i)</p> <p><b>28. Freedom of Expression and Media</b><br/>(1) Every citizen shall have an unrestricted right to the freedom of expression, reception and dissemination of information, publication, and access to the press without prejudice to order, safety or public morals as determined by law.<br/>(2)</p> <p><b>29. Freedom of Assembly and Association</b><br/>(3)<br/>(b) a programme that does not contradict the provisions of the Interim National Constitution and this Constitution;</p> <p><b>30. Right to Participation and Vote</b><br/>(1) Every citizen shall have the right to take part in any level of government directly or through freely chosen representative, and shall have the right to nominate himself or herself for a public post or office in accordance with this Constitution and the law.</p> <p><b>31. Freedom of Movement and residence</b><br/>(1)</p> <p><b>32. Right to Own Property</b></p> <p><b>33. Right to Education</b><br/>(1) Education is a right for every citizen and all levels of government shall provide access to education without discrimination as to religion, race, ethnicity, health status including HIV, gender or disability.<br/>(2)</p> <p><b>34. Rights of Persons with Special Needs and the Elderly</b><br/>(1) All levels of government in Southern Sudan shall guarantee to persons with special needs participation in society and the enjoyment of rights and freedoms set out in this Constitution, especially access to public utilities, suitable education and employment.<br/>(2) The elderly and persons with special needs shall have the right to the respect of their dignity. They shall be provided with the necessary care and medical services as shall be regulated by law.</p> <p><b>35. Public Health Care</b></p> <p><b>36. Right of Access to Information</b></p> <p><b>37. Rights of Ethnic and Cultural Communities</b></p> | <p><b>22. Privacy</b></p> <p><b>23. Religious Rights</b><br/>(i) [LA]</p> <p><b>24. Freedom of Expression and Media</b><br/>(1) Every citizen shall have an <del>unrestricted</del> right to the freedom of expression, reception and dissemination of information, publication, and access to the press without prejudice to order, safety or public morals as determined by law.<br/>(2) [LA]</p> <p><b>25. Freedom of Assembly and Association</b><br/>(3) [LA]<br/>(b) a programme that does not contradict the provisions of this Constitution;</p> <p><b>26. Right to Participation and Vote</b><br/>(1) Every citizen shall have the right to take part in any level of government directly or through freely chosen representative, and shall have the right to nominate himself or herself <i>or be nominated</i> for a public post or office in accordance with this Constitution and the law.</p> <p><b>27. Freedom of Movement and residence</b><br/>(1) [LA]</p> <p><b>28. Right to Own Property</b></p> <p><b>29. Right to Education</b><br/>(1) Education is a right for every citizen and all levels of government shall provide access to education without discrimination as to religion, race, ethnicity, health status including HIV/AIDS, gender or disability.<br/>(2) [LA]</p> <p><b>30. Rights of Persons with Special Needs and the Elderly</b><br/>(1) All levels of government shall guarantee to persons with disabilities or special needs participation in society and the enjoyment of rights and freedoms set out in this Constitution, especially access to public utilities, suitable education and employment.<br/>(2) The elderly and persons with <i>disabilities</i> or special needs shall have the right to the respect of their dignity. They shall be provided with the necessary care and medical services as shall be regulated by law</p> <p><b>31. Public Health Care</b><br/>[LA]</p> <p><b>32. Right of Access to Information</b><br/>[LA]</p> <p><b>33. Rights of Ethnic and Cultural Communities</b><br/>GA</p> |
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**Part Three  
Fundamental Objectives and Guiding Principles**

**Chapter I  
Guiding Objectives and Principles**

**38. Guiding Objectives and Principles**

- (1)
- (2) This Constitution shall be interpreted and applied to advance the individual dignity and address the particular needs of the people by dedicating public resources and focusing attention on the provision of gainful employment for the people, and improving their lives by building roads, schools, airports, community institutions, hospitals, providing clean water, electric power and telecommunication services to every part of the country.

**39. Political Objectives**

- (1) Governance in Southern Sudan shall promote democratic principles and political pluralism, and shall be guided by the principles of decentralization and devolution of power to the people through the appropriate levels of government where they can best manage and direct their affairs.
- (2)
  - (a) uphold and implement the Comprehensive Peace Agreement, consolidate peace and create a secure and stable political environment for socio-economic development
  - (b)
  - (c)
  - (d)
  - (3)
  - (4)
- (5) All public offices shall be held in trust for the people and all persons in positions of leadership and responsibility shall be answerable to the people in their work.

**40. Economic Objectives**

- (1) The overall goal of economic development strategy in Southern Sudan shall be the eradication of poverty, attainment of the Millennium Development Goals, guaranteeing the equitable distribution of wealth, redressing imbalances of income and achieving a decent standard of life for the people of Southern Sudan.

**34. Right to Housing**

- (1) Every citizen has the right to have access to decent housing.
- (2) The State shall formulate policies and take reasonable legislative measures within its available resources to achieve the progressive realization of these rights.
- (3) No one shall be evicted from his or her lawfully acquired home or have his or her home demolished save in accordance with the law.

**Part Three  
Fundamental Objectives and Guiding Principles**

**Chapter I  
Guiding Objectives and Principles**

**35. Guiding Objectives and Principles**

- (1) [LA]+[FA]
- (2) This Constitution shall be interpreted and applied to advance the individual dignity and address the particular needs of the people by dedicating public resources and focusing attention on the provision of gainful employment for the people, and improving their lives by building roads, schools, airports, community institutions, hospitals, providing clean water, *food security*, electric power and telecommunication services to every part of the country.

**36. Political Objectives**

- (1) *All levels of government* shall promote democratic principles and political pluralism, and shall be guided by the principles of decentralization and devolution of power to the people through the appropriate levels of government where they can best manage and direct their affairs.
- (2) [LA]
  - (a) promote and consolidate peace and create a secure and stable political environment for socio-economic development;
  - (b) [LA]
  - (c) [LA]
  - (d) [LA]
  - (3) [LA]
  - (4) [LA]
- (5) All public offices shall be held in trust for the people and all persons in positions of leadership and responsibility shall be answerable to the people in their *work and duties*.

**37. Economic Objectives**

- (1) The principal objective of the economic development strategy shall be the:
  - (a) eradication of poverty;
  - (b) attainment of the Millennium Development Goals;
  - (c) guaranteeing the equitable distribution of wealth;
  - (d) redressing imbalances of income; and
  - (e) achieving a decent standard of life for the people of South Sudan.



- (2)  
 (a)  
 (b)  
 (c)  
 (d) *encourage* private initiative and self-reliance and take all necessary steps to involve the people in the formulation and implementation of development plans and programmes that affect them and to enhance as well their right to equal opportunities in development;  
 (e) promote agricultural, industrial and technological development by adopting appropriate policies and legislations for the encouragement and attraction of local and foreign investment; and  
 (f)  
 (3) The Government of Southern Sudan shall ensure that the wealth of Southern Sudan is equitably shared among all levels of government in Southern Sudan for the welfare of the people.

#### 41. Education, Science, Art and Culture

- (1)  
 (d)  
 (f)  
 (2)  
 (a) guarantee academic freedom in institutions of higher education and protect the freedom of scientific research within the ethical parameters of research and as *may be* regulated by law; and  
 (b)  
 (3) Every person or group of persons shall have the right to establish and maintain private schools and other educational institutions at all levels in accordance with the conditions and standards *provided* by law.

#### 42. Family

- (1) Family is the natural and fundamental unit of society and *is entitled to the protection of the law*.  
 (2)

#### 43. Children, Youth and Sports

- (c) establish, protect and support popular sports institutions and guarantee their *independence*.

#### 44. The Environment

- (2) Every person shall have the right to have the environment protected for the benefit of present and future generations, through *reasonable* legislative action and other measures that:  
 (c)  
 (3) All levels of government in Southern Sudan shall *promote* energy policies that will ensure that the basic

- (2)  
 (a)  
 (b) [LA]  
 (c) [LA]  
 (d) *promote* private initiative and self-reliance and take all necessary steps to involve the people in the formulation and implementation of development plans and programmes that affect them and to enhance as well their right to equal opportunities in development;  
 (e) promote agricultural, industrial and technological development by adopting appropriate policies and legislations for the encouragement and attraction of local and foreign investment; and  
 (f) [LA]  
 (3) The State shall ensure that *National* wealth is equitably shared among all levels of government for the welfare of the people. [[LA]]

#### 38. Education, Science, Art and Culture

- (1) [LA]  
 (d) [LA]  
 (f) [LA]  
 (2) [LA]  
 (a) guarantee academic freedom in institutions of higher education and protect the freedom of scientific research within the ethical parameters of research and as *shall be* regulated by law; and  
 (b) [LA]  
 (3) Every person or group of persons shall have the right to establish and maintain private schools and other educational institutions at all levels in accordance with the conditions and standards *prescribed* by law.

#### 39. Family

- (1) Family is the natural and fundamental unit of society and *shall be protected* by law.  
 (2) [LA]

#### 40. Children, Youth and Sports

- [LA]  
 (c) establish, protect, support popular sports institutions, indigenous games and their *sustainability*.

#### 41. The Environment

- (2) *Every person shall have the obligation to protect the environment for the benefit of present and future generations*.  
 (3) Every person shall have the right to have the environment protected for the benefit of present and future generations, through *appropriate* legislative action and other measures that:  
 (c) [LA]  
 (4) All levels of government shall *develop* energy policies that will ensure that the basic needs of the people are met

needs of the people are met while protecting and preserving the environment.

#### **45. Defence of the Sudan**

(1) Defence of the Sudan in general and Southern Sudan in particular, is an honour and a duty of every citizen in Southern Sudan without prejudice to Article 18 of the Interim National Constitution.

(2) The law shall provide for the care of the combatants, the wounded, the families of martyrs and those missing in action.

#### **46. Regional Cooperation**

The Government of Southern Sudan shall establish, develop and maintain good relations and cooperation with foreign governments, foreign non-governmental organizations and associations for mutual advantage in trade, investment, culture, sports, education, credit, loans, grants, technical assistance and other fields of development cooperation.

#### **47. Saving**

Unless this Constitution otherwise provides, or a duly enacted law guarantees the rights and liberties described in this Chapter, the provisions contained in this Chapter are not by themselves enforceable in a court of law; however, the principles expressed herein are basic to governance and the Government of Southern Sudan shall be guided by them, especially in making policies and laws.

### **Chapter II Citizenship, Rights and Duties**

#### **48. Citizenship and Rights**

(1) Every person born to a Sudanese mother or father shall have an inalienable right to enjoy Sudanese *nationality and*

while protecting and preserving the environment. [[LA]]

#### **42. Defence of the Sudan**

(1) *Defence of the Republic of South Sudan is an honour and a duty of every citizen.*

(2) *The State shall, by law, provide for the care of the combatants, the wounded heroes and heroines, the families of martyrs and those missing in action.*

#### **43. Foreign Policy**

*Foreign policy of the Republic of South Sudan shall serve the national interest and shall be conducted independently and transparently with the view to achieving the following:*

*(a) promotion of international cooperation, specially within the United Nations family, African Union and other international and regional organizations, for the purposes of consolidating universal peace and security, respect for international law, treaty obligations and fostering a just world economic order;*

*(b) achievement of African economic integration, within the ongoing regional plans and fora as well as promoting African unity and co-operation as foreseen in those plans;*

*(c) enhancement of respect for human rights and fundamental freedoms regionally and internationally;*

*(d) promotion of dialogue among civilizations and establishment of international order based on justice and common human destiny;*

*(e) respect for international law and treaty obligations, as well as the seeking of the peaceful settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication;*

*(f) enhancement of economic cooperation among countries of the region;*

*(g) non-interference in the affairs of other States, promotion of good-neighbourliness and mutual cooperation with all neighbours and maintaining amicable and balanced relations with other countries; and*

*(h) combating international and trans-national organized crime, piracy and terrorism.*

#### **44. Saving**

Unless this Constitution otherwise provides or a duly enacted law guarantees, the rights and liberties described and the provisions contained in this Chapter are not by themselves enforceable in a court of law; however, the principles expressed herein are basic to governance and the State shall be guided by them, especially in making policies and laws. [[LA]]

### **Chapter II Citizenship, and Nationality**

#### **45. Citizenship and Rights**

(1) Every person born to a South Sudanese mother or father shall have an inalienable right to enjoy South

*citizenship.*

(2) Citizenship is the basis of equal rights and duties for all Sudanese in Southern Sudan, subject to Article 9 (3) of this Constitution.

(3) Every citizen in Southern Sudan shall enjoy all the rights guaranteed by this Constitution and the Interim National Constitution.

(4) The law shall establish a public registry of every birth, marriage or death in Southern Sudan.

#### **49. Duties of the Citizen**

(1)

(2)

(a) defend the country and respond to the call for national service in accordance with the provisions of the Interim National Constitution, this Constitution and the law;

(b) *abhor violence and promote harmony*, unity, fraternity and tolerance among all people of Southern Sudan in order to transcend ethnic, religious, geographical, and political divisions;

(c) preserve public funds and assets and respect legal and financial obligations;

(d) *avert* and combat corruption and sabotage;

(e) participate *fully* in the development of Southern Sudan;

(f) take part in general elections and referenda as stipulated in this Constitution and the law;

(g)

(h)

(i) be guided and informed in all actions by the interests of the nation and Southern Sudan and the principles enshrined in this Constitution and the Interim National Constitution;

### **Chapter III**

#### ***The Decentralized System of Governance***

##### **50. Levels of Government in Southern Sudan**

(a) the government of Southern Sudan level which shall exercise authority in respect of the people and states in Southern Sudan;

##### **51. Devolution of Powers**

(1)

(a) affirmation of the need for norms and standards of governance and *management* at the state and local government levels that reflect the unity of Southern Sudan while recognizing *the diversity of its people*;

(b) acknowledgement of the role of the *Government of Southern Sudan* and the states in the promotion of the welfare of the people and protection of their human rights and fundamental freedoms;

(2)

(a) exercise its competences in accordance with the

Sudanese *citizenship and nationality*. [[LA]]

(2) Citizenship is the basis of equal rights and duties for all South Sudanese.

(3) Every citizen shall enjoy all the rights guaranteed by this Constitution.

(4) The law shall regulate citizenship and naturalization; no naturalized citizen shall be deprived of his or her acquired citizenship except in accordance with the law.

(5) A South Sudanese national may acquire the nationality of another country as shall be prescribed by law.

(6) A non-South Sudanese may acquire the nationality of South Sudan by naturalization as shall be prescribed by law.

#### **46. Duties of the Citizen**

(1) [LA]

(2) [LA]

(a) defend the country and respond to the call for national service in accordance with the provisions of ~~the Interim National Constitution~~, this Constitution and the law;

(b) *promote peace, harmony*, unity, fraternity and tolerance among all people of South Sudan in order to transcend ethnic, religious, geographical and political divisions;

(c) preserve *and protect* public funds and assets and respect legal and financial obligations;

(d) *prevent* and combat corruption and sabotage;

(e) participate in the development of South Sudan;

~~(f) take part in general elections and referenda as stipulated in this Constitution and the law;~~

(f)

(g)

(h) be guided and informed in all actions by the interests of the nation and the principles enshrined in this Constitution;

### **Chapter III**

#### ***The Decentralized System of Governance***

##### **47. Levels of Government**

[LA]

(a) the National level which shall exercise authority in respect of the people and the states;

##### **48. Devolution of Powers**

(1)

(a) affirmation of the need for norms and standards of governance and *administration* at the state and local government levels that reflect the unity of the people of South Sudan while recognizing *their diversity*;

(b) acknowledgement of the roles of the *National Government* and the states in the promotion of the welfare of the people and protection of their human rights and fundamental freedoms; [[LA]]

(2) [LA]

(a) exercise its competences in accordance with this

|  |  |
|--|--|
| <p>Comprehensive Peace Agreement, this Constitution and the Interim National Constitution.</p> <p>(b) respect the powers devolved to the states and local governments</p> <p><b>52. Inter-Governmental Linkages</b></p> <p>(1)</p> <p>(a) The linkage between the national government and the states in Southern Sudan shall be through the Government of Southern Sudan and the linkage between the Government of Southern Sudan and the local government shall be through the government of the relevant state;</p> <p>(b) In their relationships with each other or with other government organs, all levels of government, <i>particularly Southern Sudan and state governments</i>, shall observe the following:</p> <p>(c) Government organs at all levels in Southern Sudan shall perform their functions and exercise their powers so as:</p> <p>(i) not to encroach on or assume powers or functions conferred upon any other level except as provided for <i>by</i> this Constitution;</p> <p>(ii)</p> <p>(iii) to promote open communication and coordination between all levels of government;</p> <p>(iv)</p> <p>(v)</p> <p>(vi) to promote amicable settlement of disputes before <i>attempting</i> litigation.</p> <p>(2)</p> <p><b>Part Four</b><br/><b>The Government of Southern Sudan</b></p> <p><b>53. Establishment of the Government of Southern Sudan</b></p> <p>(1)</p> <p>(2)</p> <p>(3) The powers of the Government of Southern Sudan emanate from the will of the people of Southern Sudan, the Comprehensive Peace Agreement, this Constitution and the Interim National Constitution.</p> <p>(4)</p> <p><b>54. Organs of the Government of Southern Sudan</b></p> <p><b>55. Powers and Competences of the Government of Southern Sudan</b></p> <p><b>56. Primary Responsibilities of the Government of Southern Sudan</b></p> <p>(1)</p> <p>(a)</p> <p>(b)</p> | <p>Constitution and the law; and</p> <p>(b) respect the powers devolved to the states and local governments</p> <p><b>49. Inter-Governmental Linkages</b></p> <p>(1) [LA]</p> <p>(a) <i>the</i> linkage between the National Government and the local government shall be through the government of the relevant state;</p> <p>(b) in their relationships with each other or with other government organs, all levels of government, <del><i>particularly Southern Sudan and state governments</i></del>, shall observe the following:</p> <p>(c) government organs at all levels in Southern Sudan shall perform their functions and exercise their powers so as:</p> <p>(i) not to encroach on or assume powers or functions conferred upon any other level except as provided for <i>in</i> this Constitution;</p> <p>(ii)</p> <p>(iii) to promote <del>open</del> communication and coordination between all levels of government;</p> <p>(iv)</p> <p>(v)</p> <p>(vi) to promote amicable settlement of disputes before <i>resorting to</i> litigation;</p> <p>(2) [LA]</p> <p><b>Part Four</b><br/><b>The National Government</b></p> <p><b>50. Establishment of the National Government</b></p> <p>(1) [LA]</p> <p>(2) [LA]</p> <p>(3) <i>The powers of the National Government emanate from the will of the people of South Sudan and this Constitution.</i></p> <p>(4) [LA]</p> <p>(5) <i>Without prejudice to sub-Article (4) above, the National Government may relocate the National Capital to any other location within the territory of South Sudan by law.</i></p> <p><b>51. Organs of the National Government</b><br/>[LA]</p> <p><b>52. Powers and Competences of the National Government</b><br/>[LA]+[FA]</p> <p><b>53. Primary Responsibilities of the National Government</b></p> <p>(1) [LA]</p> <p>(a)</p> <p>(b)</p> |
|--|--|

- (c)
  - (d) implementation of the Comprehensive Peace Agreement;
  - (e) exercising authority in respect of Southern Sudan and the States of Southern Sudan;
  - (f) acting as the link between the National Government and the States of Southern Sudan; and
  - (g) ensuring the protection of the rights and interests of the people in Southern Sudan.
- (2) The Government of Southern Sudan shall discharge its duties and exercise its powers as set forth in the Comprehensive Peace Agreement, this Constitution, the Interim National Constitution, and any other agreement relating to the development and reconstruction of Southern Sudan.

## **Part Five Southern Sudan Legislature**

### ***Chapter I Establishment, Composition, Powers and Functions of the Southern Sudan Legislature***

#### **57. Establishment of the Southern Sudan Legislative Assembly**

- (1) There shall be established in Southern Sudan a legislature to be known as the Southern Sudan Legislative Assembly.
- (2) The legislative competences of the Government of Southern Sudan shall vest in the Southern Sudan Legislative Assembly in respect of all matters assigned to it in Schedules B and D read together with Schedules E and F herein.
- (3) The Assembly shall exercise its legislative powers through bills assented to by the President of the Government of Southern Sudan in accordance with this Constitution.

- (c)
- ~~(d) implementation of the Comprehensive Peace Agreement;~~
- (d) exercising authority in respect of South Sudan and the states and; [[LA]]*
- ~~(f) acting as the link between the National Government and the States of Southern Sudan; and~~
- (e) ensuring the protection of the rights and interests of the people ~~in Southern Sudan~~. [[LA]]
- (2) The National Government shall discharge its duties and exercise its powers as set forth in this Constitution and the law.*

## **Part Five The National Legislature**

### ***Chapter I Establishment, Composition and Functions***

#### **54. Establishment and Composition of the National Legislature**

- (1) There shall be established a National Legislature composed of the following:*
  - (a) the National Legislative Assembly; and*
  - (b) the Council of States.*
- (2) The National Legislature shall conduct its business as prescribed in this Constitution in joint sittings of the two legislative Houses, chaired by the Speaker of the National Legislative Assembly and deputized by the Speaker of the Council of States.*
- (3) Vote count shall be separate for each House and governed by the quorum specified in this Constitution.*
- (4) Each House shall sit separately to conduct its business as prescribed in this Constitution.*
- (5) The National Legislature, as well as each of its Houses, shall make its own Conduct of Business Regulations.*

#### **55. Competences of the National Legislature**

- (1) The National Legislature represents the will of the people of South Sudan and shall foster unity and nationhood, exercise legislative functions, oversee the Executive, and promote the decentralized system of government.*
- (2) The legislative competences of the National Government shall vest in the National Legislature in respect of all matters assigned to it in Schedules A, C and D read together with Schedule E herein.*
- (3) Without prejudice to the generality of sub-Article (1) above, the National Legislature shall be competent to:*
  - (a) consider and pass amendments to this Constitution;*
  - (b) enact legislation on all matters assigned to it by this Constitution;*
  - (c) discuss statements by the President and take decisions as may be necessary;*

- (d) authorize annual allocation of resources and revenue, in accordance with Article 87 of this Constitution;*
  - (e) reconsider a bill which has been rejected by the President under Article 85 (2) herein;*
  - (f) impeach the President and the Vice President;*
  - (g) approve a declaration of war;*
  - (h) confirm a declaration of a state of emergency or termination thereof; and*
  - (i) perform any other function determined by this Constitution or the law.*
- (4) The National Legislature shall exercise its legislative powers through bills in accordance with this Constitution.*

### **58. Composition of the Assembly**

- (1) The Southern Sudan Legislative Assembly shall consist of:
- (a) members directly elected to represent territorial constituencies;
  - (b) women, who shall constitute at least twenty- five percent of the total membership; and
  - (c) such number of representatives of other categories as may be determined by law.
- (2) Members of the Southern Sudan Council of Ministers who are not members of the Assembly shall participate in the deliberations of the Southern Sudan Legislative Assembly but shall not have the right to vote.
- (3) Following the outcome of the population census, the Government of Southern Sudan shall determine the number of electoral constituencies for Southern Sudan Legislative Assembly after consultation with the National Election Commission and the Presidency of the Republic.
- (4) Members of the Southern Sudan Legislative Assembly shall be elected through universal adult suffrage in free and fair elections and by secret ballot.

### **59. Powers and Functions of the Assembly**

- (1) The Southern Sudan Legislative Assembly represents the will of the people of Southern Sudan and shall foster their unity and that of the nation, exercise legislative functions, oversee the Executive, and promote the decentralized system of government in Southern Sudan.
- (2) Without prejudice to the generality of sub-Article (1) above, the Southern Sudan Legislative Assembly shall exercise the following functions:-
- (a) consider and pass amendments to this Constitution;
  - (b) enact legislations on all matters assigned to it by the Comprehensive Peace Agreement, this Constitution and the Interim National Constitution;
  - (c) discuss statements by the President of the Government of Southern Sudan and take any decisions as may be necessary;
  - (d) authorize annual allocation of resources and revenue, in accordance with Article 87 of this Constitution;
  - (e) reconsider a bill which has been rejected by the President of the Government of Southern Sudan under Article 85(2) herein;

### **56. Composition of the National Legislative Assembly**

- (1)
- (a) Members of the National Legislative Assembly shall be elected through universal adult suffrage in free and fair elections and by secret ballot; and*
  - (b) The National Elections Law shall determine the number of members and composition of the National Assembly.*
- (2) *Notwithstanding the provisions of Article (1) above, during the transitional period the National Assembly shall consist of:*
- (a) all members of the Southern Sudan Legislative Assembly;*
  - (b) all ninety six South Sudanese who were members of the National Assembly of the Republic of Sudan, by virtue of their membership in that Assembly; and*
  - (c) such additional number of members appointed by the President not exceeding sixty-six (66).*
- (3) *Members of the Council of Ministers who are not members of the National Legislative Assembly shall participate in the deliberations of the Assembly but shall not have the right to vote.*

### **57. Powers and Functions of the National Legislative Assembly**

*The National Legislative Assembly shall exercise the following powers and functions:*

|  |   |
|--|---|
| <p>(f) oversee the performance of Southern Sudan Government organs;</p> <p>(g) approve appointments as required by this Constitution or the law;</p> <p>(h) impeach the President and the Vice President of the Government of Southern Sudan;</p> <p>(i) approve plans, programmes and policies of the Government of Southern Sudan;</p> <p>(j) approve the annual budgets;</p> <p>(k) ratify bilateral technical cooperation agreements;</p> <p>(l) adopt resolutions on matters of public concern;</p> <p>(m) summon ministers to answer questions of members of the Assembly on matters related to their Ministries;</p> <p>(n) interrogate ministers about their performance or the performance of their ministries and may cast a vote of no confidence against any minister;</p> <p>(o) enact legislations to regulation of the conditions and terms of service of the Southern Sudan Judiciary and its oversight mechanisms;</p> <p>(p) oversee Southern Sudan Reconstruction and Development Fund; and</p> <p>(q) perform any other functions determined by this Constitution, the Interim National Constitution or the law.</p> | <p><i>(a) oversee the performance of the National Government institutions;</i></p> <p><i>(b) approve plans, programmes and policies of the National Government;</i></p> <p><i>(c) approve budgets;</i></p> <p><i>(d) ratify international treaties, conventions and agreements;</i></p> <p><i>(e) adopt resolutions on matters of public concern;</i></p> <p><i>(f) summon Ministers to answer questions of members of the Assembly on matters related to their ministries;</i></p> <p><i>(g) interrogate Ministers about their performance or the performance of their ministries;</i></p> <p><i>(h) Vet and approve appointments as required by this Constitution or the law;</i></p> <p><i>(i) cast a vote of no confidence against any Minister.</i></p> <p><i>(j) enact legislation to regulate the conditions and terms of service of the Judiciary and its oversight mechanisms; and</i></p> <p><i>(k) perform any other function as determined by this Constitution or the law.</i></p> <p><b>58. Composition of the Council of States</b><br/> <i>The Council of States shall consist of:</i></p> <p><i>(1)</i></p> <p><i>(a) Members of the Council of States shall be elected through their respective States Assemblies; and</i></p> <p><i>(b) The National Elections Law shall determine the number of members of the Council of States.</i></p> <p><i>(2) Notwithstanding the provisions of Article (1) above, during the transitional period, the Council of States shall consist of:</i></p> <p><i>(a) all South Sudanese who were representatives in the Council of States of the Republic of Sudan, by virtue of their membership in that Council; and</i></p> <p><i>(b) thirty (30) members appointed by the President.</i></p> <p><b>59. Competences of the Council of States</b><br/> <i>The Council of States shall be competent to:</i></p> <p><i>(a) initiate legislation on the decentralized system of government and other issues of interest to the states and pass such legislation with two-thirds majority of all representatives;</i></p> <p><i>(b) issue resolutions and directives that may guide all levels of government in accordance with the provisions of Articles 47, 48 and 49 of this Constitution;</i></p> <p><i>(c) oversee national reconstruction, development and equitable service delivery in the states;</i></p> <p><i>(d) monitor the repatriation, relief, resettlement, rehabilitation, reintegration of returnees and internally displaced persons, and reconstruction of disaster and</i></p> |
|--|---|

*conflict affected areas;*  
*(e) request statements from Governors and national Ministers concerned regarding effective implementation of the decentralized system and devolution of powers and any other issues related to the states;*  
*(f) legislate for the promotion of a culture of peace, reconciliation and communal harmony among all the people of the states;*  
*(g) approve changes in state names, capital towns and boundaries; and*  
*(h) perform any other function as determined by this Constitution or the law.*

### **60. Rules of the National Legislature**

*While sitting separately to transact business that falls within its competences, each House shall observe the following rules:*

- (a) any bill on a matter falling within the competences of either House, shall be tabled in that House;*
- (b) any bill passed by the National Legislative Assembly shall be referred to a standing Inter-House Committee for scrutiny and decision on whether it affects the interests of the states. If the Committee decides that the bill affects the interest of the states, the bill shall be referred to the Council of States for consideration;*
- (c) in case the Council of States introduces any amendments in the referred bill, by a two-thirds majority of the representatives or passes it as it is, the bill shall be sent to the President of the Republic for his or her assent without being returned to the National Legislative Assembly; and*
- (d) no House shall discuss any business of which the other House is seized, until it is finally referred to it.*

### **61. Seat of the National Legislature**

- (1) The National Legislature and each of its two Houses shall convene its sessions at its seat in the National Capital, Juba.*
- (2) Notwithstanding sub-Article (1) above, the two Speakers may convene a sitting of the National Legislature elsewhere inside South Sudan.*
- (3) Notwithstanding sub-Article (1) above, the Speaker may call the National Legislative Assembly to convene in any other location in South Sudan.*
- (4) Notwithstanding sub-Article (1) above, the Speaker of the Council of States may call the Council of States to convene in any other location in South Sudan.*

### **62. Eligibility for Membership**

- (1) [LA]*
- (a) [LA]*
- (b)*
- (c)*
- (d)*
- (e)*
- (2) Members of the National Legislature and the Council of Ministers shall not be eligible for membership of state legislatures or state councils of ministers while occupying the aforementioned positions.*

### **60. Seat of the Assembly**

1. The Southern Sudan Legislative Assembly shall convene its sessions at its seat in the Southern Sudan Capital, Juba, but not withstanding the above, the Speaker may call the Assembly for an extraordinary sitting to convene at any other place in Southern Sudan.

### **61. Eligibility for Membership**

- (1)*
- (a)*
- (b)*
- (c)*
- (d)*
- (e)*
- (2) Membership of the Southern Sudan Legislative Assembly shall not be combined with the membership of either the National Legislature or National Council of Ministers.*



(3) Members of the Southern Sudan Legislative Assembly and Southern Sudan Council of Ministers shall not be eligible for membership of state legislatures or state councils of ministers while occupying the aforementioned positions.

### **62. Loss of Membership of the Assembly**

- (1)
  - (a)
  - (b)
  - (c) absence from a number of sittings of the Assembly without permission or acceptable reasons, as shall be determined by the Assembly regulations;
  - (d) announcement of his or her written resignation in the Assembly;
  - (e) change of political affiliation or party on whose ticket he or she was elected to the Assembly;
  - (f) assumption of any constitutional office in the national government or any state government; and
  - (g) death.
- (2) Upon vacation of the seat of a member of the Southern Sudan Legislative Assembly, his or her successor shall be elected in the appropriate manner prescribed by this Constitution and the law within a period of sixty days.

### **63. By-elections**

- (1) When a vacancy occurs in respect of any constituency, the Speaker of the Assembly shall in writing notify the National Elections Commission within ten days from the occurrence of that vacancy.
- (2)
  - (3)

### **64. Oath of the Assembly Member**

To assume his or her functions, every member of the Southern Sudan Legislative Assembly shall take the following oath before the Assembly:  
“I....., having been elected as Member of the Southern Sudan Legislative Assembly, do hereby swear by Almighty God /solemnly affirm/ that I will bear faith and allegiance to Southern Sudan and its people; that I will obey and respect this Constitution and the Interim National Constitution and abide by the law; and that I will faithfully and conscientiously discharge my duties as a member of the Southern Sudan Legislative Assembly and serve the people of Southern Sudan to the best of my ability; and so help me God/ God is my witness.

### **65. Term of the Assembly**

- (1) The term of the Southern Sudan Legislative Assembly shall be five years commencing from the date of its first sitting.
- (2) General elections for the Southern Sudan Legislative Assembly shall be held not later than the end of the fourth year of the Interim Period.

### **66. Determination on Objections Related to**

*(3) Membership of the National Legislative Assembly shall not be combined with membership in the Council of States.*

*(4) Membership in the Council of States shall not be combined with membership in the Council of Ministers.*

### **63. Loss of Membership of the National Legislature**

- (1) [LA]
  - (a)
  - (b)
  - (c) adjudged or declared bankrupt by a competent court;*
  - (d) absence from a number of sittings without permission or acceptable reasons, as shall be determined by the Conduct of Business Regulations of each House;*
  - (e) resignation, in writing, to the appropriate House;*
  - (f) change of political affiliation or party on whose ticket he or she was elected to the National Legislative Assembly;*
  - (g) assumption of any constitutional office in a state or local government level; or*
  - (h) death.
- (2) *Upon vacation of the seat of a member of the National Legislative Assembly or the Council of States his or her seat shall be filled in accordance with the provisions of Article 64 herein.*

### **64. By-elections**

- (1) When a vacancy occurs in respect of any seat in the National Legislative Assembly or the Council of States, the Speaker of the appropriate House shall, in writing, notify the National Elections Commission within ten days from the occurrence of that vacancy.
- (2) [LA]
  - (3) [LA]

### **65. Oath of a Member of the National Legislature**

*To assume his or her functions, every member of the National Legislative Assembly or the Council of States shall take the following oath before the appropriate House:  
“I....., as a Member of the National Legislative Assembly/Council of States, do hereby swear by Almighty God /solemnly affirm/ that I will bear true faith and allegiance to the Republic of South Sudan and its people; that I will obey and respect the Constitution and abide by the law; and that I will faithfully and conscientiously discharge my duties and responsibilities as a member of the National Legislative Assembly/Council of States and serve the people of the Republic of South Sudan to the best of my ability, so help me God/ God is my witness.”*

### **66. Term of the National Legislature**

- (1) The term of the National Legislature shall be five years.*
- (2) Notwithstanding Article (1) above, the term of the current National Legislature shall be four years from July 9, 2011.*

### **~~66. Determination on Objections Related to~~**

## **Membership**

Objection regarding the validity of nomination or election of a member from a constituency in Southern Sudan to either the National Legislature or Southern Sudan Legislative Assembly shall be determined by competent courts of law in Southern Sudan in accordance with the provisions of the national elections law.

### **67. Immunity of Members of the Assembly**

- (1)
- (2) In case a member is charged with a serious crime, the *Assembly* may waive the immunity of the member concerned.

### **68. Sessions of the Assembly**

(1) The Southern Sudan Legislative Assembly shall hold its first sitting upon convocation by the President of the Government of Southern Sudan within thirty days following the official declaration of the results of the elections. The first sitting shall be chaired by the eldest of the members present.

(2) Without prejudice to Article 103 (2) (h) herein, the Assembly shall determine the commencement and closure dates of its sessions.

(3) The Assembly may convene an emergency or extraordinary session on the request of half of its members or upon a call from the President of the Government of Southern Sudan.

### **69. Officers of the Assembly**

(1) The Assembly shall have a Speaker and a Deputy Speaker to be elected from among its members at the first sitting.

(2) The Speaker shall preside over sittings of the Assembly, control order and supervise the administrative affairs thereof. He or she shall represent the Assembly in and outside Southern Sudan.

(3) The Assembly shall elect its other leaders and chairpersons of the specialized committees and members of ad hoc committees as may be determined by its internal regulations.

(4) The Speaker, upon approval of the Assembly, shall appoint a Clerk for the Assembly, who shall not be a member of the Assembly. The Clerk of the Assembly shall be responsible for preparing the sessions of the Assembly and running of its administrative affairs under the supervision of the Speaker.

(5) The Assembly shall consider broad inclusiveness in the

## **Membership**

~~Objection regarding the validity of nomination or election of a member from a constituency in Southern Sudan to either the National Legislature or Southern Sudan Legislative Assembly shall be determined by competent courts of law in Southern Sudan in accordance with the provisions of the national elections law.~~

### **67. Immunity of Members of the National Legislature**

- (1) [LA]
- (2) In case a member is charged with a serious crime, the *appropriate House* may waive the immunity of the member concerned.

### **68. Sessions of the National Legislature**

*(1) The National Legislature shall hold its first sitting upon convocation by the President within thirty (30) days following the transformation of the Southern Sudan Legislative Assembly into the National Legislative Assembly and the establishment of the Council of States in accordance with provisions of Article 56 (2) and 58 herein.*

*(2)*

*(a) The sittings of the National Legislative Assembly shall be chaired by the incumbent Speaker of the transformed Southern Sudan Legislative Assembly.*

*(b) The first sitting of the Council of States shall be chaired by the eldest of the members present and elect its Speaker and Deputy Speaker among its members.*

*(3) Without prejudice to Article 101 (g) herein, each House shall determine the dates of commencement and closure of its sessions.*

*(4) The National Legislature or each House may convene an emergency or extraordinary session on the request of half of its members or upon a call from the President.*

### **69. Officers of the National Legislature**

*(1) The National Legislative Assembly shall elect a Speaker and two Deputies from among its members at the first sitting.*

*(2) The Council of States shall elect a Speaker and one Deputy from among its members at the first sitting.*

*(3) The Speaker of each House shall preside over sittings of that House, control order and supervise the administrative affairs thereof. He or she shall represent the House in and outside South Sudan.*

*(4) Each House shall elect chairpersons and deputy chairpersons of the specialized committees and members of ad hoc committees as may be determined by its Conduct of Business Regulations.*

*(5) The Speaker of each House shall appoint a Clerk for the respective House in accordance with the Conduct of Business Regulations.*

*(6) The Clerk of each House shall be responsible for preparing the sessions of the respective House and running of its administrative affairs under the supervision of the Speaker of that House.*

*(7) Each House shall consider broad inclusiveness in the*

apportionment of its positions.

#### **70. Emoluments of Members of the Assembly**

- (1)
- (2) A member of the Assembly may hold any other office with remuneration or engage in any profit making business; provided that such office or business does not compromise his or her duty as a member.

#### **71. Leader of the Opposition**

- (1) The largest party or coalition of parties in the Southern Sudan Legislative Assembly not forming the government shall elect from among its members of the Assembly the Leader of the Opposition.
- (2)
- (3) The Standing Orders of the Assembly shall provide for the effective participation of the Leader of Opposition in the Assembly.

#### **72. Committees of the Assembly**

- (1)
- (2) The functions of the standing and ad hoc committees shall be determined by regulations of the Assembly.

#### **73. Regulations of the Assembly**

- (1) The Assembly, on the initiative of its Speaker, shall make internal regulations for the conduct of its business.
- (2) The Speaker shall ensure that the internal regulations of the Assembly are respected and enforced.

#### **74. Quorum**

- (1) The quorum for ordinary sittings of the Assembly shall be more than half of the members; the internal regulations may provide for a reduced quorum that may not apply for

*election and apportionment of its officers and staff.*  
(8)

*(a) Notwithstanding the provision of Article 69 above, the present administration of the Southern Sudan Legislative Assembly shall continue during the Transitional period in accordance with Article 94 (1).*

*(b) The transformed National Legislative Assembly shall create vacancies for the members joining it as will be determined by its Conduct of Business Regulations 2010.*

*(9) The Council of States shall elect its officers in accordance with its Conduct of Business Regulations during the transitional period.*

#### **70. Emoluments of Members of the National Legislature**

- (1) [LA]
- (2) *A member of the National Legislature, other than the Speakers, Deputies, Minority Leaders, Chairpersons and Deputy Chairpersons of the specialized committees, and Chief Whips, may hold any other office in the private sector, with remuneration or engage in any profit making business; provided that such office or business does not compromise his or her duty as a member.*

#### **71. Minority Leaders**

- (1) *The political party holding the second highest number of seats in each House shall elect from among its members the Minority Leader of the respective House.*
- (2) [LA]
- (3) *The Conduct of Business Regulations of each House shall provide for the effective participation of the Minority Leaders in their respective Houses.*

#### **72. Committees of the National Legislature**

- (1) [LA]
- (2) *The functions of the standing and ad hoc committees of each House shall be determined by its Conduct of Business Regulations.*
- (3) *The two Houses may form inter-House standing or ad hoc committees for specific matters that are of concern to the two Houses.*
- (4) *There shall be established a Parliamentary Service Commission, the structures, composition, powers and functions, duties, and terms of service shall be determined by law.*

#### **73. Regulations of the National Legislature**

- (1) *Each House of the National Legislature shall make regulations for the conduct of its business.*
- (2) [LA]+[FA]
- (3) *The National Legislature shall make regulations for the conduct of its business.*

#### **74. Quorum**

- (1) The quorum for ordinary sittings of the National Legislative Assembly shall be more than half of the members. The Conduct of Business Regulations may

the final presentation of bills.

(2) Except as otherwise provided for in this Constitution, the decisions of the Assembly shall be by majority of votes of the members present and voting. If the votes are equally divided, the Speaker or any person presiding, shall have no casting vote and the motion shall *be rendered lost*.

### **75. Publicity of Sitzings of the Assembly**

The sittings of the Assembly shall be open to the public; its proceedings shall be published and may also be broadcast. However, the Assembly may decide according to its internal regulations that certain deliberations take place in camera.

### **76. Passing Legislative Resolutions**

Resolutions of the Assembly shall, whenever possible, be taken by unanimity or consensus. Alternatively, resolutions shall be passed by simple majority of those present and voting, save in cases where this Constitution provides otherwise.

### **77. Privileges of Members of the Assembly**

Members of the Assembly shall freely and responsibly express their opinions, subject only to the provisions of the regulations of the Assembly. No legal proceedings shall be initiated against any member, nor shall he or she be held accountable before any court of law only by reason of views or opinions that he or she might have expressed in the course of performing his or her duties.

### **78. Address by the President of the Government of Southern Sudan**

The President of the Government of Southern Sudan may personally or by a message address the Southern Sudan Legislative Assembly. The Assembly shall accord priority to such request over any other business. The President may also request the opinion of the Assembly on any subject.

### **79. Address by the Vice President and Statements by Ministers and Governors**

(1)  
(2)  
(3) The Assembly may *request* a Governor of a state in Southern Sudan to make a statement before it on any important matter concerning his or her state for information.

### **80. Questions Addressed to Ministers by Members**

provide for a reduced quorum that may not apply for the final presentation of bills. [LA+FA]

(2) Except as otherwise provided for in this Constitution, the decisions of the National Legislative Assembly shall be by majority of votes of the members present and voting. If the votes are equally divided, the Speaker or any person presiding, shall have no casting vote and the motion shall *be deemed to have been lost*.

(3) *The quorum for the sittings of the Council of States shall be more than half of its representatives.*

### **75. Publicity of Sitzings of the National Legislature**

The sittings of the National Legislature or either of its two Houses shall be *open to the public*; its proceedings shall be published and may also be broadcast. However, the National Legislature or either House may decide according to its Conduct of Business Regulations that certain deliberations take place in camera.

### **76. Passing Legislative Resolutions**

Resolutions of the National Legislature or either of its two Houses shall, whenever possible, be taken by unanimity or consensus. Alternatively, resolutions shall be passed by simple majority of those present and voting, save in cases where this Constitution provides otherwise. [LA+FA]

### **77. Privileges of Members of the National Legislature**

Members of the National Legislature or either of its two Houses shall freely and responsibly express their opinions, subject only to the provisions of the regulations of the appropriate House. No legal proceedings shall be initiated against any member, nor shall he or she be held accountable before any court of law *merely* by reason of views or opinions that he or she might have expressed in the course of performing his or her duties.

### **78. Address by the President**

The President may personally or by a message, address the National Legislature or either of its two Houses. The National Legislature or either of its two Houses shall accord priority to such request over any other business. The President may also request the opinion of the National Legislature or either of its two Houses on any subject *matter*.

### **79. Address by the Vice President and Statements by Ministers and Governors**

(1) [LA]+[FA]  
(2) [LA]+[FA]  
(3) The National Legislative Assembly or the Council of States may *summon* a Governor of a state to make a statement before it on any important matter concerning his or her state for information *or explanation*. [LA+FA]  
(4) *A Governor may request to make a statement before the Council of States.*

### **80. Questions Addressed to Ministers by Members**

## of the Assembly

Members of the Assembly may, within the competence of the Assembly and subject to its regulations, address questions to a minister of the Government of Southern Sudan on any subject relating to his or her duties; the said minister shall provide the Assembly with a prompt reply.

### 81. Request Statements

### 82. General Summons

(1) [LA+FA]

(2) [LA+FA]

(3) Any person who refuses to appear before the Assembly or any of its committees or refuses to produce any documents as required under sub- Article (1) above commits an offence punishable by law.

### 83. Tabling of Bills

(1) The President or the Council of Ministers of the Government of Southern Sudan may cause a bill to be presented by a minister before the Assembly.

(2) A member of the Assembly may table a private bill before the Assembly on a matter that falls within its competence.

(3) A private member bill shall not be tabled before the Assembly save after having been referred to the appropriate committee to determine whether it involves an important issue of public interest.

(4) A committee of the Assembly may present before the Assembly a bill on any issue within its competence.

### 84. Procedures for Presentation and Consideration of Bills

(1) Bills presented to the Assembly shall be submitted for the first reading by being cited by title. The bill shall then be submitted for a second reading for general deliberation and approval in principle. *Should* the bill *be* passed in the second reading, there shall be a third reading for deliberation in detail and introduction of, and decision upon, any amendment. The bill shall then be submitted in its final form for the final reading, at which stage the text of the bill shall not be subject to further discussion and shall be passed section by section and then passed as a whole.

(2)

(3)

(4) The Assembly may by a special resolution, decide on any bill as a general committee or by summary proceedings.

### 85. Assent of the President of the Government of Southern Sudan

(1)

## of the National Legislature

Members of the National Legislative Assembly or the Council of States may, in either House, within the competences of the concerned House and subject to its Conduct of Business Regulations, address questions to a Minister of the National Government on any subject relating to his or her duties; the said Minister shall provide the appropriate House with a prompt reply. [LA+FA]

### 81. Request of Statements

[LA+FA]

### 82. General Summons

(1) [LA+FA]

(2) [LA+FA]

(3) *Any person who refuses to appear before the National Legislative Assembly or any of its committees or refuses to produce any document as required under sub-Article (1) above commits an offence punishable by law.*

### 83. Tabling of Bills

(1) *The President or the Council of Ministers may cause a bill to be presented by a Minister before the National Legislative Assembly or the Council of States subject to their respective competences.*

(2) *A member of the National Legislature may table a private member bill before the House to which he or she belongs on a matter that falls within the competences of that House.*

~~(3) A private member bill shall not be tabled before the Assembly save after having been referred to the appropriate committee to determine whether it involves an important issue of public interest.~~

(3) *The Inter-House Committee of the National Legislature may present a bill before either House of the National Legislature subject to their respective competences.*

### 84. Procedures for Presentation and Consideration of Bills

(1) Bills presented to either House of the National Legislature shall be submitted for the first reading by being cited by title. The bill shall then be submitted for a second reading for general deliberation and approval in principle. *If* the bill *is* passed in the second reading, there shall be a third reading for deliberation in detail and introduction of, and decision upon, any amendment. The bill shall then be submitted in its final form for the final reading, at which stage the text of the bill shall not be subject to further discussion and shall be passed section by section and then passed as a whole.

(2) [FA]

(3) [FA]

(4) The House concerned may, by a special resolution, decide on any bill as a general committee or by summary proceedings.

### 85. Assent of the President

(1) [FA]

(2) *Should* the President of the Government of Southern Sudan withhold assent to the bill and give reasons within the aforementioned thirty days, the bill shall be re-introduced to the Assembly to consider the observations of the President of the Government of Southern Sudan.

(3)

### **86. Provisional Orders**

(1) Should the Assembly not be in session, the President of the Government of Southern Sudan may, on an urgent matter, issue a provisional order having the force of law; however, such provisional order shall be submitted to the Assembly as soon as it is convened. Where the Assembly ratifies the provisional order as it is, it shall be promulgated as law, but where the same is rejected by the Assembly or where the Assembly session ends without it being ratified, the provisional order shall lapse with no retrospective effect. A bill on the same subject matter may again be re-introduced before the Assembly and be considered under the normal procedure for consideration of bills.

(2) Notwithstanding sub-Article (1) above, the President of the Government of Southern Sudan shall not make any provisional order on matters affecting the Comprehensive Peace Agreement, the Bill of Rights, the decentralized system of government, general elections, annual allocation of resources and financial revenue, penal legislations or alteration of administrative boundaries of the states of Southern Sudan .

(3) Any law which was repealed or amended pursuant to a provisional order that later lapsed, shall revive into force as it is, starting from the date when the provisional order lapsed.

(4) The Assembly may delegate to the President of the Government of Southern Sudan the power to approve bilateral international and regional agreements while the Assembly is not in session; however, such agreements shall be subject to subsequent approval by the Assembly and shall be deposited before it as soon as it is convened.

### **87. Bills Pertaining to Allocation of Resources and Revenues**

(1)

(2) The financial year shall be twelve months beginning from January 1, and ending on December 31 each year.

### **88. General Budget Proposals Estimates and Related Bills**

(1) The President of the Government of Southern Sudan shall cause to be presented to the Southern Sudan Legislative Assembly before the beginning of the financial year, the bill on the general budget of Southern Sudan, including a general evaluation of the economic and financial performance and situation, detailed estimates of proposed revenue and expenditure for the forthcoming year

(2) *If* the President withholds assent to the bill and give reasons within the aforementioned thirty days, the bill shall be re-introduced to the National Legislature to consider the observations of the President.

(3) [FA]

### **86. Provisional Orders**

(1) In case the National Legislature is not in session, the President may, on an urgent matter, issue a provisional order having the force of law.

(2) The provisional order shall be submitted to the appropriate House of the National Legislature as soon as it is convened.

(3) Where the National Legislature ratifies the provisional order as it is, it shall be promulgated as law, but where the same is rejected by either House, or where the session ends without it being ratified, the provisional order shall lapse with no retrospective effect.

(4) A bill on the same subject matter may again be re-introduced before the National Legislature and be considered under the normal procedure for consideration of bills. [LA+FA]

(5) Notwithstanding sub-Article (1) above, the President shall not make any provisional order on matters affecting the Bill of Rights, the decentralized system of government, general elections, annual allocation of resources and financial revenue, penal legislation or alteration of administrative boundaries of the states.

(6) Any law which was repealed or amended pursuant to a provisional order that later lapsed, shall revive into force as it is, starting from the date when the provisional order lapsed.

(7) *The National Legislative Assembly may delegate to the President the power to approve bilateral international and regional agreements while the National Legislative Assembly is not in session; however, such agreements shall be subject to subsequent approval by the National Legislative Assembly and shall be deposited before it as soon as it is convened.*

### **87. Bills Pertaining to Allocation of Resources and Revenues**

(1) [FA]

(2) *The financial year shall be twelve months beginning from July 1<sup>st</sup>, and ending on June 30<sup>th</sup> the other year.*

### **88. General Budget Proposal, Estimates and Related Bills**

(1) *The President shall cause to be presented to the National Legislative Assembly before the beginning of the financial year, a bill on the general budget, including:*

(a) *a general evaluation of the economic and financial performance and situation;*

(b) *detailed estimates of proposed revenue and expenditure for the forthcoming year compared to those of the previous*

compared to those of the previous financial year, a statement of the general budget, any reserve funds, transfers thereto or allocations therefrom, explanations of any special budgets or financial estimates, policies or measures to be taken by the Government of Southern Sudan in the financial and economic affairs within the framework of the general budget.

(2) [LA+FA]

(3) The Assembly shall discuss, and may amend, reject or adopt the general budget bill chapter by chapter including schedules, and it shall thereafter pass the appropriation bill in its totality. Where the bill is passed, detailed estimates as specified in the general budget shall not be exceeded save by a supplementary law. Surplus funds over revenue estimates and funds out of the legal reserve shall not also be spent save by a supplementary appropriation law.

(4) [(4) → (6)]

(5) [(5) → (7)]

### **89. Private Member Financial Bills**

(1)

(2)

(3)

### **90. Provisional and Supplementary Financial Measures**

(1) [(1) → (1)+(2)]

(2) [(2) → (3)]

(3) [(3) → (4)]

(4) [(4) → (5)]

### **91. Final Accounts**

The President of the Government of Southern Sudan shall cause to be presented to the Assembly during the six months following the end of the financial year, the final accounts for all revenue and expenditure as are set forth in that year, as well as expenditure withdrawn from the reserve funds; the Auditor General of Southern Sudan shall in accordance with Article 195 (5) herein present his or her report on such accounts to the Assembly.

### **92. Delegation of Powers of Subsidiary Legislation**

### **93. Validity of the Proceedings of the Assembly**

## **CHAPTER II**

### **Interim Provisions for the Southern Sudan Legislative Assembly**

94.

(1) Prior to elections, there shall be constituted a

*financial year;*

*(c) a statement of the general budget, any reserve funds, transfers thereto or allocations therefrom; and*

*(d) explanations of any special budgets or financial estimates, policies or measures to be taken by the National Government in the financial and economic affairs within the framework of the general budget.*

(2) [LA+FA]

*(3) The National Legislative Assembly shall discuss, and may amend, reject or adopt the general budget bill chapter by chapter including schedules, and it shall thereafter pass the appropriation bill in its totality.*

*(4) Where the bill is passed, detailed estimates as specified in the general budget shall not be exceeded save by a supplementary law.*

*(5) Surplus funds over revenue estimates and funds out of the legal reserve shall not be spent save by a supplementary appropriation law.*

(6) [FA]

(7) [FA]

### **89. Private Member Financial Bill**

(1) [LA+FA]

(2)

(3)

### **90. Provisional and Supplementary Financial Measures**

(1)

(2)

(3) [FA]

(4) [FA]

(5) [FA]

### **91. Final Accounts**

*(1) The Minister of Finance shall presented to the National Legislative Assembly during the six months following the end of the financial year, the final accounts for all revenue and expenditure as are set forth in that year, as well as expenditure withdrawn from the reserve funds.*

*(2) The Auditor General shall, in accordance with Article 186 (8) herein, present his or her report on such accounts to the National Legislative Assembly or the Council of States, as the case may be.*

### **92. Delegation of Powers of Subsidiary Legislation**

[FA]

### **93. Validity of the Proceedings of the National Legislature**

[FA]

## **CHAPTER II**

### **Interim Provisions**

94.

*(1) The Southern Sudan Legislative Assembly shall adopt*

Transitional Southern Sudan Legislative Assembly to adopt this Constitution; it shall thereafter reconstitute itself into the Southern Sudan Legislative Assembly.

(2) The Transitional Southern Sudan Legislative Assembly shall be an inclusive Constituent Legislature composed of one hundred and seventy members appointed by the President of the Government of Southern Sudan after broad consultation with the relevant political forces and on the basis of the following percentages:

- (a) seventy percent representing the Sudan People's Liberation Movement;
- (b) fifteen percent representing the National Congress Party; and
- (c) fifteen percent representing the other Southern Sudan political forces.

## **Part Six**

### **The Southern Sudan Executive**

#### **Chapter I**

##### ***The Southern Sudan Executive and Powers***

#### **95. Composition of the Executive**

The Southern Sudan Executive shall consist of the President and Vice President of the Government of Southern Sudan and a Council of Ministers.

#### **96. Powers and Competences of the Executive**

#### **Chapter II**

##### ***The President of the Government of Southern Sudan***

#### **97. The President**

There shall be a President for the Government of Southern Sudan who shall be directly elected by the people of Southern Sudan in general elections according to this Constitution and the provisions set forth by the National Elections Commission in accordance with the electoral law.

*and pass the Transitional Constitution of the Republic of South Sudan, 2011, and it shall thereafter transform itself into South Sudan National Legislative Assembly.*

*(2) The President shall appoint:*

- (a) All the Ninety six South Sudanese who were elected from South Sudan to the National Assembly of the Republic of Sudan to become members of South Sudan National Legislative Assembly;*
- (b) The President shall appoint such additional number of members not exceeding sixty-six.*
- (3) The President shall appoint the representatives to the Council of States in accordance with the provisions of the Article 58 of this Constitution.*
- (4) The sittings of the National Legislative Assembly shall be chaired by the incumbent Speaker of the transformed Southern Sudan Legislative Assembly.*
- (5) The first sitting of the Council of States shall be chaired by the eldest of the members present and elect its Speaker and Deputy Speaker among its members.*

## **Part Six**

### **The National Executive**

#### **Chapter I**

##### ***Establishment, Composition and Powers***

#### **95. Establishment and Composition of the Executive**

*There shall be established in the Republic of South Sudan a National Executive consisting of the President, Vice President, Ministers, and Deputy Ministers.*

#### **96. Powers and Competences of the Executive**

[FA]

#### **Chapter II**

##### ***The President of the Republic***

#### **97. The President**

(1) There shall be a President for the Republic of South Sudan who shall be directly elected by the people of South Sudan in general elections according to this Constitution and the provisions set forth by the National Elections Commission in accordance with the electoral law.

*(2) Notwithstanding Article (1) above, the incumbent elected President of the Government of Southern Sudan shall be the President of the Republic of South Sudan.*

*(3) The President of the Republic of South Sudan is the head of State and Government, the Commander-in-Chief of the Sudan People's Liberation Army and the Supreme Commander of all the other regular forces. He or she represents the will of the people, and shall exercise the powers vested in the office of the President by this Constitution.*



*(4) Pending a final solution on its status Abyei Area, the territory of the nine Ngok Dinka chiefdoms transferred from Bahr el Ghazal Province to Kordofan Province in 1905 as defined by the Abyei Arbitration Tribunal Award of July 2009, is accorded a special administrative status under the Office of the President of the Republic of South Sudan:*

*(a) The members of the nine Ngok Dinka Chiefdoms of Abyei Area shall have an inalienable right to enjoy South Sudanese citizenship and nationality and all rights and freedoms guaranteed by this constitution.*

*(b) Without prejudice to any alternative solution that may be agreed upon by the two governments of South Sudan and of the Sudan on the final status of Abyei Area and in accordance with the provisions of the Abyei Protocol 2005, the members of the nine Ngok Dinka Chiefdoms and other Sudanese residing in Abyei Area, shall vote in a referendum, which shall present them with the following choices:*

*(i) That Abyei Area enjoys special administrative status in the*

*Republic of Sudan; or*

*(ii) That Abyei Area be part of the Republic of South Sudan.*

*(c) The security arrangements in Abyei Area shall be in accordance with the provisions of the Abyei protocol, 2005 or in accordance with any alternative arrangements agreed upon by the two governments of South Sudan and of Sudan.*

## **98. Eligibility for the Office of the President**

- (a)
- (b)
- (c)
- (d)
- (e) [(e) → (f)]

## **99. Nomination and Election of the President**

(1) Any eligible voter may nominate whoever he or she deems fit for the office of the President of the Government of Southern Sudan; however, the presidential candidate shall be seconded by a number of eligible voters as shall be specified by law.

(2) The presidential candidate who wins more than fifty percent of the total votes of the polling electorate shall be the President elect.

(3) Where the percentage mentioned in sub-Article (2) above is not attained, there shall be a runoff election between the two presidential candidates who have obtained the highest number of votes.

(4) Any objection regarding the validity of the presidential election results shall be dealt with in accordance with the electoral law.

## **100. Postponement of Election of the President**

(1) Where the Southern Sudan Council of Ministers determines that it is not practicable to hold elections due to natural disaster, catastrophe, war or hostilities that, in each case, materially affects a substantial portion of the territory of Southern Sudan, the Southern Sudan Legislative

## **98. Eligibility for the Office of the President**

[FA]

(a) [FA]

(b) [FA]

(c) [FA]

(d) [FA]

(f) [ENUMERATION ERROR]

## **99. Nomination and Election of the President**

~~(1) Any eligible voter may nominate whoever he or she deems fit for the office of the President of the Government of Southern Sudan; however, the presidential candidate shall be seconded by a number of eligible voters as shall be specified by law.~~

~~(2) The presidential candidate who wins more than fifty percent of the total votes of the polling electorate shall be the President elect.~~

~~(3) Where the percentage mentioned in sub Article (2) above is not attained, there shall be a runoff election between the two presidential candidates who have obtained the highest number of votes.~~

~~(4) Any objection regarding the validity of the presidential election results shall be dealt with in accordance with the electoral law.~~

## **100. Postponement of Election of the President**

~~(1) Where the Southern Sudan Council of Ministers determines that it is not practicable to hold elections due to natural disaster, catastrophe, war or hostilities that, in each case, materially affects a substantial portion of the territory of Southern Sudan, the Southern Sudan Legislative~~

Assembly may by a resolution adopted by a three-quarters majority vote of all members recommend to the National Elections Commission the postponement of elections for the office of the President of the Government of Southern Sudan for a period of not more than sixty days at any one time.

(2) Pending the holding of the postponed elections, the incumbent President of the Government of Southern Sudan shall continue as a caretaker President; his or her tenure shall be extended until the President elect takes the oath of office.

### **101. Oath of the President**

To assume office, the President elect of the Government of Southern Sudan shall take the following oath before the Southern Sudan Legislative Assembly:

“ I....., do hereby swear by the Almighty God/ solemnly affirm, that as the President of the Government of Southern Sudan, I shall be faithful and bear true allegiance to Southern Sudan and shall diligently and honestly discharge my duties and responsibilities in a consultative manner to foster the development and welfare of the people of Southern Sudan; that I shall obey, preserve and defend this Constitution and the Interim National Constitution and abide by the law; and that I shall protect and promote the unity of the people of Southern Sudan and consolidate the democratic decentralized system of government and preserve the integrity and dignity of the people of Southern Sudan; so help me God/ and God is my witness”.

### **102. Tenure of office of the President**

The tenure of the office of the elected President of the Government of Southern Sudan shall be five years, commencing from the date of assumption of office, and the same President may be re-elected for one more term only.

### **103. Functions of the President**

(1) The President of the Government of Southern Sudan is the head of Government of Southern Sudan and the Commander-in-Chief of the Sudan People’s Liberation Army. He or she represents the will of the people, and shall exercise the powers vested in the office of the President of the Government of Southern Sudan by the Comprehensive Peace Agreement, this Constitution and the Interim National Constitution.

(2) The President of the Government of Southern Sudan shall, *inter alia*, perform the following functions:

- (a) serve as First Vice President of the Republic of the Sudan in the circumstances set forth in Article 62 (1) of the Interim National Constitution;
- (b) preserve the security of Southern Sudan and protect its territorial integrity;
- (c) supervise constitutional executive institutions and provide exemplary leadership in public affairs in Southern Sudan and in the Republic of the Sudan;
- (d) appoint holders of constitutional and judicial posts in accordance with this Constitution and the law;

~~Assembly may by a resolution adopted by a three quarters majority vote of all members recommend to the National Elections Commission the postponement of elections for the office of the President of the Government of Southern Sudan for a period of not more than sixty days at any one time.~~

~~(2) Pending the holding of the postponed elections, the incumbent President of the Government of Southern Sudan shall continue as a caretaker President; his or her tenure shall be extended until the President elect takes the oath of office.~~

### **99. Oath of the President**

The President of the Republic of South Sudan shall, before assuming office, take the following oath before the public:

“I....., do hereby swear by the Almighty God /solemnly affirm, that as the President of the Republic of South Sudan, I shall be faithful and bear true allegiance to the Republic of South Sudan and shall diligently and honestly discharge my duties and responsibilities in a consultative manner to foster the development and welfare of the people of South Sudan; that I shall obey, preserve and defend the Constitution and abide by the law; and that I shall protect and promote the unity of the people of South Sudan and consolidate the democratic decentralized system of government and preserve the integrity and dignity of the people of South Sudan; so help me God/ God is my witness.”

### **100. Tenure of office of the President**

(1) the tenure of the office of the President of the Republic of South Sudan shall be five years.

(2) Notwithstanding Article (1) above, during the transitional/ period the tenure of the office of the President of the Republic of South Sudan shall be four years from July 9, 2011.

### **101. Functions of the President**

The President shall perform the following functions:

- (a) preserve the security of South Sudan and protect its territorial integrity;
- (b) supervise constitutional and executive institutions and provide exemplary leadership in public affairs;
- (c) appoint constitutional and judicial post holders in accordance with this Constitution and the law;

- (e) preside over the Southern Sudan Council of Ministers;
- (f) request, pursuant to Article 199 (2) of this Constitution, the President of the Republic to declare a state of emergency in Southern Sudan or any part thereof;
- (g) initiate constitutional amendments and legislations and assent to bills passed by the Southern Sudan Legislative Assembly by signing such bills into law;
- (h) summon, adjourn or prorogue the Southern Sudan Legislative Assembly in consultation with the Speaker;
- (i) confirm death sentences, grant pardons, and remit convictions or penalties according to this Constitution and the law of Southern Sudan;
- (j) appoint his or her advisors;
- (k) appoint ad hoc committees and commissions;
- (l) confer honours;
- (m) generally represent the Government and the people of Southern Sudan; and

(n) perform any other function as may be prescribed by law.

#### **104. Vacancy of Office of the president**

(1) The office of the President of the Government of Southern Sudan shall fall vacant in any of the following cases:

- (a)
- (b) acceptance of his or her written resignation by the Southern Sudan Legislative Assembly;
- (c)
- (d) mental infirmity or physical incapacity based on an official medical report approved by a two-thirds majority of all members of the Southern Sudan Legislative Assembly; and
- (e)

(2) Should the office of the elected President of the Government of Southern Sudan fall vacant, the post shall be assumed by the Vice President pending elections that shall be conducted within sixty days from the date of occurrence of the vacancy and in accordance with Article 99 of this Constitution.

- (d) preside over the National Council of Ministers;
- (e) declare and terminate a state of emergency in accordance with the provisions of this Constitution and the law;
- (f) initiate constitutional amendments and legislation and assent to and sign into law bills passed by the National Legislature;
- (g) convene, summon, adjourn or prorogue the National Legislature in consultation with the Speaker;
- (h) confirm death sentences, grant pardons, and remit convictions or penalties according to this Constitution and the law;
- (i) appoint Presidential Advisors;
- (j) appoint ad hoc commissions and committees;
- (k) establish independent institutions and commissions;
- (l) confer honours;
- (m) generally represent the Government and the people of South Sudan;
- (n) declare war in accordance with this Constitution and the law;
- (o) represent the State in its foreign relations, appoint ambassadors of the State and accept credentials of foreign ambassadors;
- (p) direct and supervise foreign policy and ratify treaties and international agreements with the approval of the National Legislative Assembly;
- (q) seek the opinion of the Supreme Court on any matter in connection with this Constitution;
- (r) remove a state Governor and/or dissolve a state Legislative Assembly in the event of a crisis in the state that threatens national security and territorial integrity;
- (s) appoint a state care-taker Governor who shall prepare for elections within sixty days in the state where the Governor has been removed or the state Legislative Assembly so dissolved in accordance with the provisions of this Constitution, the relevant state constitution and the law;
- (t) present annual address on the state of the nation; and
- (u) perform any other function as may be prescribed by law.

#### **104. Vacancy of Office of the president**

(1) The office of the President shall fall vacant in any of the following cases:

- (a)
- (b) resignation in a public address to the people through the National Legislative Assembly;
- (c)
- (d) mental infirmity or physical incapacity based on an official medical report submitted by the Medical Commission to the Assembly for information; or
- (e)

(2) If the office of the President of the Republic falls vacant, the post shall be assumed by the Vice President pending elections that shall be conducted by the National Elections Commission within sixty days from the date of occurrence of the vacancy.

### **105. Immunity and Impeachment of the President and Vice President**

(1) The President and Vice President of the Government of Southern Sudan shall be immune from any legal proceedings and shall not be charged or sued in any court of law during their tenure of Office

(2) Notwithstanding sub-article (1) above and in case of high treason, gross violation of this constitution or gross misconduct in relation to Southern Sudan affairs, the President or Vice President of the Government of Southern Sudan may be charged before the Supreme Court of Southern Sudan upon a resolution passed by a three-quarters majority of all the members of the Assembly, in case of the President, or a two-thirds majority of all members of the Assembly in case of the Vice President.

(3) The President of the Supreme Court shall, within seven days after receipt of the impeachment notice referred to under sub-Article (2) above, constitute a tribunal comprising three Justices of the Supreme Court to investigate the allegation in the notice and to report its findings to the constitutional panel of the Supreme Court comprising all the Justices of the Court.

(4) The President or Vice President shall be entitled to appear at the proceedings of the tribunal and to be represented by a lawyer or other expert or any other person of his or her choice.

(5) If the constitutional panel of the Southern Sudan Supreme Court convicts the President or Vice President as the case may be, it shall communicate its final verdict to the Assembly, and he or she shall be deemed to have forfeited the office.

(6) If the notice for the removal of the President or Vice President is on the ground of mental or physical incapacity, the consultation with the head of the Southern Sudan Medical Commission five qualified and eminent medical specialists are to examine the President or the Vice President in respect of the alleged incapacity and to present its findings to the Assembly

(7) The President or Vice President, as the case may be, shall submit himself or herself to the Medical Board for necessary examination as required.

(8) If the Medical Board determines that the President or Vice President, by reason of mental or physical incapacity is unable to perform the functions of the office of the President or Vice President, and the Assembly passes the resolution for the removal of either of them supported by the votes of not less than three-quarters in case of the President and two-thirds in case of the Vice President of all members of the Assembly the President or Vice President shall cease to hold office.

### **106. Contesting Acts of the President**

Any person aggrieved by an act of the President of the Government of Southern Sudan may contest such act:

(a) before the Supreme Court of Southern Sudan, if the alleged act involves a violation of this Constitution, a Southern Sudan state constitution, the Bill of Rights, the decentralized system of government, or the Comprehensive

### **103. Immunity and Impeachment of the President**

(1) The President ~~and Vice President of the Government of Southern Sudan~~ shall be immune from any legal proceedings and shall not be charged or sued in any court of law during his or her tenure of Office.

(2) Notwithstanding sub-Article (1) above, in case of high treason, gross violation of this Constitution or gross misconduct in relation to National affairs, the President may be charged before the Supreme Court upon a resolution passed by a two-thirds majority of all the members of the Assembly.

(3) The President of the Supreme Court shall, within seven days after receipt of the impeachment notice referred to under sub-Article (2) above, constitute a tribunal comprising three Justices of the Supreme Court, *to evaluate the allegation in the notice and to report its findings to the constitutional panel of the Supreme Court.*

(4) The President ~~or Vice President~~ shall be entitled to appear at the proceedings of the tribunal and to be represented by a lawyer or other expert or any other person of his or her choice.

(5) If the constitutional panel convicts the President, it shall communicate its final verdict to the Assembly, and he or she shall be deemed to have forfeited the office.

(6) If the notice for the removal of the President ~~President or Vice President~~ is on the grounds *of mental infirmity or physical incapacity, it shall be based on a report submitted to the Assembly by a medical board consisting of five qualified and eminent specialists from the Medical Commission in respect of the alleged infirmity or incapacity.*

(7) The President ~~or Vice President, as the case may be,~~ shall submit himself or herself to the *medical board* for necessary examination as required.

(8) If the medical board determines that the President, *by reason of mental infirmity or physical incapacity is unable to perform the functions of the office of the President, it shall communicate its findings to the Assembly for information, and he or she shall be deemed to have forfeited the office.*

### **106. Contesting Acts of the President**

~~Any person aggrieved by an act of the President of the Government of Southern Sudan may contest such act:~~

~~(a) before the Supreme Court of Southern Sudan, if the alleged act involves a violation of this Constitution, a Southern Sudan state constitution, the Bill of Rights, the decentralized system of government, or the Comprehensive~~

Peace Agreement; and

(b) before any other competent court of law, if the allegation is based on any other legal grounds.

### **107. Appointment and Removal of the Vice President**

(1) The Vice President of the Government of Southern Sudan shall be appointed by the President of the Government of Southern Sudan subject to approval by a two-thirds majority of all members of the Assembly.

(2) The Vice President of the Government of Southern Sudan may be removed by the President of the Government of Southern Sudan or by a decision passed by two-thirds majority of all members of the Assembly.

(3) Should the post of the Vice President of the Government of Southern Sudan fall vacant for any reason, the President of the Government of Southern Sudan shall appoint a replacement.

(4) The Vice President of the Government of Southern Sudan shall fulfil the conditions of eligibility for the office of the President of the Government of Southern Sudan.

(5) To assume office, the Vice President of the Government of Southern Sudan shall take, before the President of the Government of Southern Sudan, the same oath taken by the President of the Government of Southern Sudan as prescribed by this Constitution.

### **108. Functions of the Vice President**

The Vice President of the Government of Southern Sudan shall, *inter alia*, perform the following functions:

- (a)
- (b)
- (c)
- (d)

### **109. Vacancy of office of the Vice President**

- (a)
- (b)
- (c) mental infirmity or physical incapacity based on an official medical report approved by a two-thirds majority of all members of the Southern Sudan Legislative Assembly; and
- (d)

### **110. Presidential Advisors**

(1) The President of the Government of Southern Sudan may appoint a limited number of Presidential Advisors and define their functions.

(2) To assume office, a Presidential Advisor shall take, before the President of the Government of Southern Sudan, the same oath taken by a minister of the Government of Southern Sudan as prescribed by this Constitution.

~~Peace Agreement; and~~

~~(b) before any other competent court of law, if the allegation is based on any other legal grounds.~~

### **107. Appointment and Removal of the Vice President**

*(1) The Vice President shall be appointed by the President subject to approval by a two-thirds majority of all members of the National Legislative Assembly.*

*(2) The Vice President may be removed by the President or by a decision passed by two-thirds majority of all members of the National Legislative Assembly. If the post of the Vice President falls vacant for any reason, the President shall appoint a replacement.*

~~(3) Should the post of the Vice President of the Government of Southern Sudan fall vacant for any reason, the President of the Government of Southern Sudan shall appoint a replacement.~~

*(3) The Vice President shall fulfill the conditions of eligibility for the office of the President as prescribed by this Constitution.*

*(4) To assume office, the Vice President shall take, before the President, the same oath taken by the President as prescribed by this Constitution.*

### **105. Functions of the Vice President**

*The Vice President shall perform the following functions:*

- (a) [FA]
- (b) [FA]
- (c) [FA]
- (d) perform any other function or duty that may be assigned to him or her by the President ~~of the Government of Southern Sudan.~~

### **106. Vacancy of Office of the Vice President**

- [FA]
- (a) [FA]
- (b) [FA]
- (c) *mental infirmity or physical incapacity based on an official medical report submitted by the Medical Commission to the Assembly for information; or*
- (d)

### **107. Presidential Advisors**

~~(1) The President of the Government of Southern Sudan may appoint a limited number of Presidential Advisors and shall define their functions.~~

(2) To assume office, a Presidential Advisor shall, before the President, take the following oath:

*"I....., do hereby swear by the Almighty God /solemnly affirm/, that as a Presidential Advisor, I shall be faithful and bear true faith and allegiance to South Sudan and shall diligently and honestly discharge my duties and responsibilities and strive to foster the development and*

welfare of its people; that I shall obey, preserve and defend the Constitution and abide by the law; and that I shall protect and promote the unity of the people of South Sudan and consolidate the democratic decentralized system of government and preserve the integrity and dignity of the people of South Sudan; so help me God/ God is my witness.”

### **Chapter III** **Interim Provisions for the President of the Government of Southern Sudan**

#### **111. The Office of the President and its Vacancy before Elections**

(1) Prior to the elections that shall be held during the Interim Period, the Chairman of the Sudan People’s Liberation Movement, or his successor, shall be the President of the Government of Southern Sudan and Commander-in-Chief of the Sudan People’s Liberation Army in accordance with this Constitution. By virtue of being the President of the Government of Southern Sudan, he or she shall be at the same time the First Vice President of the Republic of the Sudan.

(2) Should the office of the President of the Government of Southern Sudan fall vacant prior to elections, the office shall be filled by the nominee of the Sudan People’s Liberation Movement within two weeks of the occurrence of that vacancy.

(3) Should the office of the President of the Government of Southern Sudan fall vacant prior to elections, and before the selection of the nominee of the Sudan People’s Liberation Movement, the functions of the President of the Government of Southern Sudan shall be assumed by the Vice President of the Government of Southern Sudan.

### **Chapter IV** **Southern Sudan Council of Ministers**

#### **112. Establishment of the Council of Ministers**

(1) There shall be established a Southern Sudan Council of Ministers to be appointed by the President of the Government of Southern Sudan, in consultation with the Vice President of the Government of Southern Sudan and approved by a simple majority of all members of the Southern Sudan Legislative Assembly. The Government of Southern Sudan shall be established with due regard to the need for inclusiveness in recognition of competence, integrity, gender, ethnic and regional diversity.

(2) The President and Vice President of the Government of Southern Sudan shall be members of the Southern Sudan Council of Ministers.

(3) The President of the Government of Southern Sudan shall ensure that at least twenty-five percent of members of the Council of Ministers are women.

#### **113. Composition and Competences of the Council of Ministers**

### **Chapter III** ~~**Interim Provisions for the President of the Government of Southern Sudan**~~

#### ~~**111. The Office of the President and its Vacancy before Elections**~~

~~(1) Prior to the elections that shall be held during the Interim Period, the Chairman of the Sudan People’s Liberation Movement, or his successor, shall be the President of the Government of Southern Sudan and Commander-in-Chief of the Sudan People’s Liberation Army in accordance with this Constitution. By virtue of being the President of the Government of Southern Sudan, he or she shall be at the same time the First Vice President of the Republic of the Sudan.~~

~~(2) Should the office of the President of the Government of Southern Sudan fall vacant prior to elections, the office shall be filled by the nominee of the Sudan People’s Liberation Movement within two weeks of the occurrence of that vacancy.~~

~~(3) Should the office of the President of the Government of Southern Sudan fall vacant prior to elections, and before the selection of the nominee of the Sudan People’s Liberation Movement, the functions of the President of the Government of Southern Sudan shall be assumed by the Vice President of the Government of Southern Sudan.~~

### **Chapter III** **The National Council of Ministers**

#### **108. Establishment and Composition of the Council of Ministers**

(1) *There shall be established a National Council of Ministers.*

(2) *The National Council of Ministers shall compose of the President, the Vice President and Ministers.*

~~(3) The President of the Government of Southern Sudan shall ensure that at least twenty-five percent of members of the Council of Ministers are women.~~

#### **109. Competences of the Council of Ministers**

- (1) The Southern Sudan Council of Ministers shall consist of the President and Vice President of the Government of Southern Sudan and Ministers.
- (2) The Southern Sudan Council of Ministers shall be the highest executive authority in Southern Sudan.
- (3) Without prejudice to the powers conferred upon the President of the Government of Southern Sudan by this Constitution, decisions of the Council of Ministers shall prevail over all other executive decisions. Such decisions shall be adopted by consensus or simple majority.
- (4) Deliberations of the Southern Sudan Council of Ministers shall be confidential.
- (5) Membership of the Southern Sudan Council of Ministers shall not be combined with membership of the National and state Executive or Legislature.

#### 114. Oath of a Minister

[Shifted for the purpose of text comparison.]

#### 115. Functions of the Council of Ministers

- (a) general planning and administration of Southern Sudan and implementation of the Comprehensive Peace Agreement;
- (b)
- (c)
- (d) initiating, negotiating and concluding international and regional agreements on matters of culture, sports, trade, investment, credit, loans, grants and technical assistance with foreign governments and foreign non- governmental organizations;
- (e)
- (f)
- (g) keeping the Southern Sudan Legislative Assembly informed about the progress of the implementation of the Comprehensive Peace Agreement;
- (h)
- ~~(i) receiving requests originating from the National Government to the institutions of the Government of Southern Sudan and the states therein in connection with matters of mutual interest;~~
- (j)
- (k)
- (l)
- (m) implementing Southern Sudan legislations and applicable national legislations in Southern Sudan;
- (n)
- (o)
- (p) initiating legislative bills before the Southern Sudan Legislative Assembly; and
- (q)

---- Insertion for the purpose of text comparison ----

#### 123. Confidentiality of Deliberations of the Council of Ministers

- (1) The *National* Council of Ministers shall be the highest executive authority in the Republic.
- (2) Without prejudice to the powers conferred upon the President ~~of the Government of Southern Sudan~~ by this Constitution, decisions of the Council of Ministers shall prevail over all other executive decisions. Such decisions shall be adopted by consensus or simple majority.
- ~~(4) Deliberations of the Southern Sudan Council of Ministers shall be confidential.~~
- (3) *Membership of the National Council of Ministers shall not be combined with membership of a state Executive or Legislature.*

#### 110. Functions of the Council of Ministers

[FA]

- (a) general planning and administration of South Sudan;
- (b)
- (c)
- (d) initiating, negotiating and concluding international, regional, bilateral, and multilateral agreements;
- (e) [FA]
- (f) [FA]
- ~~(g) keeping the Southern Sudan Legislative Assembly informed about the progress of the implementation of the Comprehensive Peace Agreement;~~
- (g) [FA]+[LA]
- ~~(i) receiving requests originating from the National Government to the institutions of the Government of Southern Sudan and the states therein in connection with matters of mutual interest;~~
- (h) [FA]
- (i)
- (j)
- (k) *implementing legislation and resolutions of the National Legislature;*
- (l)
- (m) [FA]
- (n) *initiating national legislative bills and national budgets;*
- (o) *reviewing, annually, the performance of the decentralized system of governance in the Republic of South Sudan; and*
- (p)

#### 111. Confidentiality of Deliberations of the Council of Ministers

[FA]

---- Insertion for the purpose of text comparison ----

### **116. Functions of a Minister**

[Shifted for the purpose of text comparison.]

### **117. Appointment and Removal of Ministers**

(1) Ministers of the Government of Southern Sudan shall be appointed and removed from office by the President of the Government of Southern Sudan, in consultation with the Vice President.

(2)

(3) Ministers of the Government of Southern Sudan shall be selected with due regard to the need for inclusiveness based on ethnic and regional diversity and gender.

---- Insertion for the purpose of text comparison ----

### **114. Oath of a Minister**

To assume office, a minister of the Government of Southern Sudan shall, take the following oath before the President of the Government of Southern Sudan:

“ I....., do hereby swear by the Almighty God/solemnly affirm/, that as a minister in the Government of Southern Sudan, I shall be faithful and bear true allegiance to Southern Sudan and shall diligently and honestly discharge my duties and responsibilities and strive to foster the development and welfare of its people; that I shall obey, preserve and defend this Constitution and the Interim National Constitution and abide by the law; and that I shall protect and promote the unity of the people of Southern Sudan and consolidate the democratic decentralized system of government and preserve the integrity and dignity of the people of Southern Sudan; so help me God/ and God is my witness”.

---- Insertion for the purpose of text comparison ----

---- Insertion for the purpose of text comparison ----

### **116. Functions of a Minister**

(1)

(2)

(a)

(b)

(c)

---- Insertion for the purpose of text comparison ----

### **118. Collective and Individual Accountability of Ministers**

(1)

(2)

(3)

---- Insertion for the purpose of text comparison ----

### **124. Contesting Ministerial Acts**

Any person aggrieved by an act of the Southern Sudan Council of Ministers or a Southern Sudan minister may contest such act:

(a) before the Supreme Court of Southern Sudan, if the alleged act involves a violation of this Constitution or the Interim National Constitution; and

(b) before any other court of law or competent authority if

### **112. Appointment and Removal of Ministers**

(1) *Ministers of the National Government shall be appointed and removed from office by the President.*

(2) [FA]

(3) *Ministers of the National Government shall be selected with due regard to the need for inclusiveness based on integrity, competence, ethnic and regional diversity and gender.*

### **113. Oath of a Minister**

To assume office, a national Minister shall, before the President, take the same oath of a Presidential Advisor as prescribed in Article 107 (2) of this Constitution.

### **114. Functions of a Minister**

(1) [FA]

(2) [FA]

(a) [LA]

(b) [FA]

(c)

### **115. Collective and Individual Accountability of Ministers**

(1) [FA]

(2) [FA]

(3) [FA]

### **116. Contesting Ministerial Acts**

Any person aggrieved by an act of the National Council of Ministers or a National Minister may contest such act *before*: [[FA]]

(a) the Supreme Court, if the alleged act involves a violation of this Constitution; or

(b) ~~before~~ any other court of law or competent authority if



the allegation is based on other legal grounds.  
---- Insertion for the purpose of text comparison ----

### **119. Vacancy of the Office of a Minister**

[Shifted for the purpose of text comparison.]

### **120. Vote of No Confidence against a Minister**

- (1)
- (2)
- (3)

### **119. Vacancy of the Office of a Minister**

The office of a minister of the Government of Southern Sudan shall fall vacant in any of the following cases:

- (a)
- (b)
- (c)
- (d) resolution of the Southern Sudan Legislative Assembly, as set forth in Article 120 (2) of this Constitution; and
- (e)

### **121. Declaration of Wealth and Prohibition of Private Business**

- (1)
- (2)

### **122. Emolument and Remuneration**

### **123. Confidentiality of Deliberations of the Council of Ministers**

[Shifted for the purpose of text comparison.]

### **124. Contesting Ministerial Acts**

[Shifted for the purpose of text comparison.]

## ***Chapter V Interim Provisions for the Southern Sudan Council of Ministers***

### **125. Council of Ministers before Elections**

the allegation is based on other legal grounds.

### **117. Appointment, Removal and Functions of Deputy Ministers**

(1) *The President may appoint and remove Deputy Ministers.*

(2) *The National Legislative Assembly shall approve the appointment of the*

*Deputy Ministers by a simple majority of the members present and voting.*

(3) *The Deputy Ministers shall assist the national Ministers in the performance of their functions and duties and shall act in their absence.*

(4) *To assume office, a Deputy Minister shall, before the President, take the same oath of a Presidential Advisor as prescribed in Article 108 (2) of this Constitution.*

### **118. Vote of No Confidence Against a Minister**

- (1) [FA]
- (2) [FA]
- (3) [FA]

### **119. Vacancy of the Office of a Minister or Deputy Minister**

*The office of a Minister or Deputy Minister of the National Government shall fall vacant in any of the following cases:*

- (a) [FA]
- (b) [FA]
- (c) [FA]+[LA]
- (d) *in the case of a Minister, resolution of the National Legislative Assembly, as set forth in Article 119 (2) of this Constitution; or*
- (e)

### **120. Declaration of Wealth and Prohibition of Private Business**

- (1) [FA]
- (2) [FA]

### **122. Emolument and Remuneration**

[FA]

## ***~~Chapter V Interim Provisions for the Southern Sudan Council of Ministers~~***

### **~~125. Council of Ministers before Elections~~**

Prior to elections, there shall be constituted an inclusive Southern Sudan Council of Ministers after broad consultation with the relevant political forces in accordance with the following percentages:

- (a) seventy percent representing the Sudan People's Liberation Movement;
- (b) fifteen percent representing the National Congress Party; and
- (c) fifteen percent representing the other Southern Sudan political forces.

## **Part Seven The Judiciary of Southern Sudan**

### **126. The Judiciary of Southern Sudan**

- (1)
- (2) Judicial competence in Southern Sudan shall be vested in an independent decentralized institution to be known as the Judiciary of Southern Sudan.
- (3) The Judiciary of Southern Sudan shall be responsible for the maintenance of professional standards and training of judicial personnel throughout Southern Sudan.
- (4) The Judiciary of Southern Sudan shall have judicial competence to adjudicate on disputes and render judgments in accordance with this Constitution and the law.
- (5)
- (6)
- (7)
- (8)
- (9)

### **127. Establishment and Structure of the Judiciary**

- (a)
- (b)
- (c)
- (d)
- (e)

### **128. Independence of the Judiciary**

- (1) [(1) → (1) + (2)]
  
- (2) [(2) → (4)]
- (3) [(3) → (5)]

~~Prior to elections, there shall be constituted an inclusive Southern Sudan Council of Ministers after broad consultation with the relevant political forces in accordance with the following percentages:~~

- ~~(a) seventy percent representing the Sudan People's Liberation Movement;~~
- ~~(b) fifteen percent representing the National Congress Party; and~~
- ~~(c) fifteen percent representing the other Southern Sudan political forces.~~

## **Part Seven The Judiciary**

### **122. The Judiciary Power**

- (1) [FA]
- (2) *Judicial power shall be vested in an independent institution to be known as the Judiciary.*
  
- (3) ~~The Judiciary of Southern Sudan shall be responsible for the maintenance of professional standards and training of judicial personnel throughout Southern Sudan.~~
- (4) *The Judiciary shall have power to adjudicate on disputes and render judgments in accordance with this Constitution and the law.*
- (5)
- (6) [FA]
- (7) [FA]
- (8) [FA]
- (9) [FA]

### **123. Structure of the Judiciary**

- [FA]
- (a) [FA]
  - (b)
  - (c)
  - (d)
  - (e)

### **124. Independence of the Judiciary**

- (1) [FA]
- (2) [FA]
- (3) *The Judiciary shall be self-accounting and its finances shall be subject to public audit.*
- (4) [FA]
- (5) [FA]
- (6) *Justices and Judges shall be independent in their judicial work, and shall perform their functions without interference. Their independence shall be guaranteed by this Constitution and the law.*
- (7) *Justices and Judges shall uphold this Constitution and the rule of law and shall administer justice without fear or favour; they shall enjoy such immunities as shall be determined by law.*
- (8) *Justices and Judges shall not be affected by their judicial decisions.*
- (9) *The salaries, allowances, privileges, post-service benefits, tenure and other conditions and terms of service of judicial officers or other persons exercising judicial*

### **129. Composition of the Supreme Court of Southern Sudan**

The Supreme Court of Southern Sudan shall be the highest court and shall consist of a President, a Deputy President and five other Justices.

### **130. Competences of the Supreme Court of Southern Sudan**

(1) The Supreme Court of Southern Sudan shall:

- (a) be the court of final judicial instance in respect of any litigation or prosecution under Southern Sudan or state law, including statutory and customary law, save that any decisions arising under national laws shall be subject to review and decision by the National Supreme Court;
- (b) have original jurisdiction to decide on disputes that arise under this Constitution and the constitutions of Southern Sudan states at the instance of individuals, juridical entities or governments;
- (c) adjudicate on the constitutionality of laws and set aside or strike down laws or provisions of laws of Southern Sudan or states of Southern Sudan that are inconsistent with this Constitution or the constitutions of Southern Sudan states to the extent of the inconsistency;
- (d) be a court of review and cassation in respect of any criminal, civil and administrative matters arising out of or under Southern Sudan laws;
- (e) have criminal jurisdiction over the President and Vice President of the Government of Southern Sudan and the Speaker of Southern Sudan Legislative Assembly;

(f) review death sentences imposed by Southern Sudan courts in respect of offences committed under Southern Sudan laws;

(g) → (i)

(h) have original and final jurisdiction to resolve disputes between the states of Southern Sudan and between the Government of Southern Sudan and a State; this jurisdiction shall not extend to disputes relating to exclusive, concurrent or residual powers of the national government; and

(i) have such other competences as may be determined by law.

(2) The Supreme Court shall sit in panels of three justices each on all matters; except that when sitting as a Constitutional panel it shall consist of all members of the Supreme Court. Where any of them is unable to sit on the

*powers shall be regulated by law.*

### **125. Composition of the Supreme Court**

*The Supreme Court shall be the highest court and shall consist of the Chief Justice, a Deputy Chief Justice and not less than nine other Justices.*

### **136. Competences of the Supreme Court**

*(1) The Supreme Court shall be the custodian of this Constitution and the constitutions of the states.*

*(2) The Supreme Court shall exercise competences as follows:*

*(a) interpret constitutional provisions at the instance of the President, Government of South Sudan, any state government, or any of the two Houses of the National Legislature;*

*(b) be the court of final judicial instance in respect of any litigation or prosecution under National or state law, including statutory and customary law; ~~save that any decisions arising under national laws shall be subject to review and decision by the National Supreme Court;~~*

*(c) have original jurisdiction to decide on disputes that arise under this Constitution and the constitutions of ~~Southern Sudan~~ states at the instance of individuals, juridical entities or governments;*

*(d) adjudicate on the constitutionality of laws and set aside or strike down laws or provisions of laws that are inconsistent with this Constitution or the constitutions of the states to the extent of the inconsistency; [[FA]]*

*(e) be a court of review and cassation in respect of any criminal, civil and administrative matters arising out of or under the law;*

*(f) have criminal jurisdiction over the President in accordance with Article 103 (2) herein;*

*(g) have criminal jurisdiction over the Vice President, the Speakers of the National Legislative Assembly and the Council of States and the Justices of the Supreme Court;*

*(h) review death sentences imposed by courts in respect of offences committed under the law;*

*(i)*

*(j) have original and final jurisdiction to resolve disputes between the states and between the National Government and a state in respect of areas of exclusive, concurrent or residual competences;*

*(k) uphold and protect human rights and fundamental freedoms; and*

*(l) have such other competences as prescribed by this Constitution and the law.*

*(3) The Supreme Court shall sit in panels of three justices each on all matters; except that when sitting as a Constitutional panel it shall consist of *not less than nine members of the Supreme Court and be chaired by the Chief**

Constitutional panel, the President of the Supreme Court shall confer powers upon the most senior justice of the court of appeal for that purpose.

(3)

(4) The President of the Supreme Court shall regulate the functioning and procedures of the Supreme Court and its panels according to the law.

### **131. Courts of Appeal**

The establishment, competences and procedures of Courts of Appeal shall be determined by law.

### **132. High Courts**

(1) The High Court shall be the highest court at the level of a state in Southern Sudan and its establishment, competence, jurisdiction and procedures shall be determined by law.

(2) The most senior judge of the High Court who shall be its president, shall be answerable to the Governor of the state for the performance and administration of the State Judiciary.

(3) [(3) → (2)]

### **133. County Courts and Other Courts**

The establishment, competences and procedures of County Courts and other courts at lower levels in the states of Southern Sudan shall be determined by law.

*Justice.*

(4)

(5) *The decisions of the Supreme Court shall be final and binding.*

(6) The Supreme Court shall regulate its functions and procedures in accordance with the law.

### **127. Administrative Functions of the Chief Justice**

The Chief Justice:

(a) shall be the head of the Judiciary and the President of the Supreme Court, and shall be responsible for the administration and supervision of all courts; and

(b) may issue judicial circulars, warrants of establishment and directives to the courts necessary for the proper and efficient administration of justice.

(2) When the office of Chief Justice falls vacant, the Deputy Chief Justice shall perform the functions of the Chief Justice pending the appointment of a new Chief Justice.

### **128. Administrative Functions of the Deputy Chief Justice**

The Deputy Chief Justice shall:

(a) deputize for the Chief Justice and act in his or her absence; and

(b) perform any other function and duty as may be assigned to him or her by the Chief Justice

### **129. Courts of Appeal**

(1) The establishment, composition, competences and procedures of the Courts of Appeal shall be determined by law.

(2) *Decisions of the Courts of Appeal shall be appealed against before the Supreme Court.*

### **130. High Courts**

(1) *The establishment, composition, competences, jurisdiction and procedures of High Courts shall be determined by law.*

~~(2) The most senior judge of the High Court who shall be its president, shall be answerable to the Governor of the state for the performance and administration of the State Judiciary.~~

(2)

### **131. County and Other Courts**

(1) The establishment, composition, competences and procedures of County and other courts at lower levels shall be determined by law.

(2) Decisions of the County Courts shall be appealed against before the High Courts.

### **132. The National Judicial Service Commission**

(1) *There shall be established an independent commission*

### **134. Independence of Justices and Judges**

(1) Justices and Judges of Southern Sudan are independent and shall perform their functions without interference. The provisions of this Constitution and the law shall protect their independence.

(2) Justices and Judges shall uphold this Constitution and the rule of law and shall administer justice without fear or favour; they shall enjoy such immunities as shall be determined by law.

(3) The tenure of office for Justices and Judges shall not be affected by their judicial decisions.

### **135. Appointment of Justices and Judges of Southern Sudan**

(1) The President of the Government of Southern Sudan shall appoint the President, Deputy President and Justices of the Supreme Court, the Presidents and Justices of the courts of appeal, having regard to competence, integrity, credibility and impartiality as shall be determined by this Constitution and the law.

(2)

(3)

(4) All Justices and Judges shall, before assuming their duties, take *and subscribe to the judicial oath of allegiance* as shall be prescribed by law.

### **136. Discipline of Justices and Judges**

(1) Discipline of Justices and Judges shall be exercised by the President of the Supreme Court of Southern Sudan in accordance with the law.

(2) Justices of the Supreme Court may only be removed by an order of the President of the Government of Southern Sudan for gross misconduct, incompetence and incapacity and upon the recommendation of the President of the Supreme Court in accordance with the law and subject to approval by a majority of two-thirds of all members of Southern Sudan Legislative Assembly.

### **137. Interim Provisions**

The President of the Government of Southern Sudan shall, after the adoption of this Constitution and subject to Article 135(2) herein, appoint the President, Deputy President and Justices of the Supreme Court, the President and Justices of Appeal, having regard to competence, integrity, credibility and impartiality.

## **Part Eight**

### **Public Attorneys and Advocacy in Southern**

*to be known as the National Judicial Service Commission.*  
(2) *The structure, composition, functions, and terms and conditions of service of the members and employees of the Commission shall be determined by law.*

### **133. Appointment of Justices and Judges**

(1) The President of the Republic shall appoint the Chief Justice having regard to competence, integrity, credibility and impartiality in accordance with this Constitution and the law.

(2) The President shall, upon the recommendation of the Judicial Service Commission, appoint the Deputy Chief Justice and Justices of the Supreme Court, Justices of the Courts of Appeal and the Judges of the High Courts and County Courts having regard to competence, integrity, credibility and impartiality in accordance with this Constitution and the law.

(3) [FA]

(4) [FA]

(5) All Justices and Judges shall, before assuming their duties, take *the oath of office* as shall be prescribed by law.

### **134. Discipline of Justices and Judges**

(1) Discipline of Justices and Judges shall be exercised by *the Chief Justice with the approval of the Judicial Service Commission.*

(2) *Justices and Judges may be removed by an order of the President for gross misconduct, incompetence and incapacity and upon the recommendation of the National Judicial Service Commission.*

### **137. Interim Provisions**

~~The President of the Government of Southern Sudan shall, after the adoption of this Constitution and subject to Article 135(2) herein, appoint the President, Deputy President and Justices of the Supreme Court, the President and Justices of Appeal, having regard to competence, integrity, credibility and impartiality.~~

## **Part Eight**

### **Public Attorneys and Advocacy**

## Sudan

### 138. Public Attorneys and Legal Advisors

(1) The services of the public attorneys and legal advisors shall be decentralized and personnel shall be employed directly by the Government of Southern Sudan and the states.

(2)

(3)

(4)

(5) Without prejudice to the generality of sub-Article (2) above, the Ministry of Legal Affairs and Constitutional Development shall, *inter alia*, be responsible for:

(a) drawing up, perusing and recommending approval or otherwise, of such agreements, contracts, and documents by whatever name called, to which the Government of Southern Sudan or a state government has an interest as specified by law;

(b)

(c)

(6)

(7)

(8) In the interest of justice and effectiveness in the execution of their legal duties, the National Ministry of Justice and Ministry of Legal Affairs and Constitutional Development of Southern Sudan shall co-ordinate, co-operate and assist each other in the fulfilment of their functions and may to this end, establish the necessary mechanisms and channels of implementation.

### 139. Interim Provisions

(1) Notwithstanding the provisions of Article 138 (1) above, the Public attorneys and legal advisors at levels of the Government of Southern Sudan and states shall be employed and serve under the authority of the Southern Sudan Ministry of Legal Affairs and Constitutional Development during the first four years of the Interim Period.

(2) At the end of the four-year period as mentioned in sub-Article (1) above, the Ministry of Legal Affairs and Constitutional Development shall relinquish its authority and powers over state public attorneys and legal advisors and transfer them to the state governments. The terms and conditions of service of public attorneys and legal advisors in the states shall be regulated by state law.

### 140. Advocacy in Southern Sudan

(1)

(2) [(2) → (2) + (3)]

### 135. Public Attorneys and Legal Advisors

(1) The Public Attorneys and Legal Advisors shall be under the National Ministry of Justice.

(2) [FA]+[LA]

(3) [FA]+[LA]

(4)

(5) Without prejudice to the generality of sub-Article (2) above, the *Minister of Justice* shall, ~~*inter alia*~~, be responsible for:

(a) drawing up, perusing and recommending approval or otherwise, of such agreements, contracts, *treaties, international conventions and instruments to which the Government is a party or in respect of which the Government has an interest*;

(b)

(c)

(d) performing such other functions as may be assigned to him or her by the President or the law.

(6) [FA]

(7) [FA]

~~(8) In the interest of justice and effectiveness in the execution of their legal duties, the National Ministry of Justice and Ministry of Legal Affairs and Constitutional Development of Southern Sudan shall co-ordinate, co-operate and assist each other in the fulfilment of their functions and may to this end, establish the necessary mechanisms and channels of implementation.~~

### 139. Interim Provisions

~~(1) Notwithstanding the provisions of Article 138 (1) above, the Public attorneys and legal advisors at levels of the Government of Southern Sudan and states shall be employed and serve under the authority of the Southern Sudan Ministry of Legal Affairs and Constitutional Development during the first four years of the Interim Period.~~

~~(2) At the end of the four-year period as mentioned in sub-Article (1) above, the Ministry of Legal Affairs and Constitutional Development shall relinquish its authority and powers over state public attorneys and legal advisors and transfer them to the state governments. The terms and conditions of service of public attorneys and legal advisors in the states shall be regulated by state law.~~

### 136. Advocacy

(1)

(2)

(3)

### 137. Law Review Commission

(1) There shall be established an independent commission to be known as the Law Review Commission.

(2) The structure, composition, functions, and terms and conditions of service of the members and employees of the Commission shall be determined by law.

**Part Nine**  
**The Southern Sudan Civil Service, Independent Institutions and Commissions**

**Chapter I**  
**The Southern Sudan Civil Service**

**141. Establishment of Southern Sudan Civil Service**

(1)

(2) [(2) → (3)]

**142. Basic Values and Guidelines for Civil Service**

[...]

(h) good human-resource management and career-development practices to maximise human potential, shall be cultivated;

(l) Civil servants shall not engage in party politics; no civil servant may be favoured or victimized because of his or her political opinion; any civil servant seeking an elective office shall resign from the Civil Service; and

[(l) → (l) + (m)]

(m) [(m) → (n)]

**143. The Southern Sudan Civil Service Commission**

(1)

(2) [(2) → (3)]

(3) [(3) → (4)]

(4) The composition and terms and conditions of service shall be regulated by law.

**144. Powers and Functions of the Commission**

The Southern Sudan Civil Service Commission shall have the following powers and functions:

(a) To promote the values and principles set out in Article 142 herein;

(b) To investigate, monitor and evaluate the organization, administration and personnel practices of the Civil service;

(c) To propose measures to ensure effective and efficient performance within the Civil Service;

(d) To give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in Article 142 herein;

(e) To advise all levels of government in Southern Sudan on personnel practices, recruitment, appointment, transfer, discharge and other aspects of the civil service;

**Part Nine**  
**Civil Service, Independent Institutions and Commissions**

**Chapter I**  
**Civil Service**

**138. Civil Service**

(1)

(2) Civil servants, including the Undersecretaries, at all levels of government shall be recruited, appointed and promoted on the basis of educational qualifications, professional training, experience, competence and merit.

(3)

**139. Basic Values and Guidelines for Civil Service**

[...]

(h) good human-resource management and career-development practices to maximise human potential, shall be *inculcated*;

(l) civil servants shall not engage in party politics; no civil servant shall be favored or victimized because of his or her political opinion;

(m) any civil servant seeking an elective office shall resign his or her post in the Civil Service; and

(n)

**140. The Civil Service Commission**

(1) [FA]

(2) *The Chairperson, Deputy Chairperson and Members of the Commission shall be appointed by the President in accordance with this Constitution and the law.*

(3)

(4)

(5) *The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Commission shall be regulated by law.*

**144. Powers and Functions of the Commission**

~~The Southern Sudan Civil Service Commission shall have the following powers and functions:~~

~~(a) To promote the values and principles set out in Article 142 herein;~~

~~(b) To investigate, monitor and evaluate the organization, administration and personnel practices of the Civil service;~~

~~(c) To propose measures to ensure effective and efficient performance within the Civil Service;~~

~~(d) To give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in Article 142 herein;~~

~~(e) To advise all levels of government in Southern Sudan on personnel practices, recruitment, appointment, transfer, discharge and other aspects of the civil service;~~

- (f) To review the terms and conditions of service, standing orders, training and qualifications for public offices, personnel management, development of the civil service and to make recommendations to the Government;
- (g) To guide and coordinate state civil service commissions;
- (h) Addressing any imbalance in the Southern Sudan civil service;
- (i) To hear and determine grievances from employees of Southern Sudan Government and appeals against the decisions of State Civil Service Commissions without prejudice to the right of resorting to courts; and
- (j) Any other function assigned to it by law.

**145. Southern Sudan Employees Justice Chamber**

- (1)
- (2)
- (3)
- (4) Appointment of the chairperson and members of the Chamber, their terms and conditions of service shall be regulated by law.

**Chapter II**

**146. Independent Institutions and Commissions**

- (1) The *Government of Southern Sudan* shall establish such independent institutions and commissions as provided for by the Comprehensive Peace Agreement, this Constitution and the Interim National Constitution. Such institutions and commissions shall perform their functions and duties impartially and without interference from any person or body.
- (2)
- (3) The *Government of Southern Sudan* shall ensure that at least twenty-five percent of the aggregate membership of all such institutions and commissions shall be women.

**Chapter III  
Southern Sudan Anti-Corruption Commission**

**147. Establishment of the Anti-Corruption Commission**

- (1) There shall be established a Commission to be known as the Southern Sudan Anti-Corruption Commission.
- (2)
- (3)
- (4)

**148. Functions of the Commission**

- (1)
- (a)
- (b) investigate cases of corruption involving public

- ~~(f) To review the terms and conditions of service, standing orders, training and qualifications for public offices, personnel management, development of the civil service and to make recommendations to the Government;~~
- ~~(g) To guide and coordinate state civil service commissions;~~
- ~~(h) Addressing any imbalance in the Southern Sudan civil service;~~
- ~~(i) To hear and determine grievances from employees of Southern Sudan Government and appeals against the decisions of State Civil Service Commissions without prejudice to the right of resorting to courts; and~~
- ~~(j) Any other function assigned to it by law.~~

**141. Employees Justice Chamber**

- (1)
- (2) *The Chairperson, Deputy Chairperson and Members of the Chamber shall be appointed by the President in accordance with this Constitution and the law.*
- (3) [FA]
- (4) [FA]
- (5) The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Chamber shall be regulated by law.

**Chapter II**

**142. Independent Institutions and Commissions**

- (1) The *National Government* shall establish ~~such~~ independent institutions and commissions as provided for by ~~the Comprehensive Peace Agreement, this Constitution and the Interim National Constitution.~~ Such institutions and commissions shall perform their functions and duties impartially and without interference from any person or authority.
- (2) [FA]
- (3) The *National Government* shall ensure that at least twenty-five percent of the ~~aggregate~~ membership of all such institutions and commissions shall be women.

**Chapter III  
Anti-Corruption Commission**

**143. Establishment of the Anti-Corruption Commission**

- (1) There shall be established an *independent* commission to be known as the ~~Southern Sudan~~ Anti-Corruption Commission.
- (2) [FA]
- (3) [FA]
- (4) [FA], Satzumstellung

**144. Functions of the Commission**

- (1) [FA]
- (a)
- (b) *Investigate and prosecute only cases of corruption;*



property as well as in the private sector; such investigation shall be submitted to the Ministry of Legal Affairs and Constitutional Development for necessary action.

(c) combat administrative malpractices in public institutions such as nepotism, favouritism, tribalism, sectionalism, gender discrimination, bribery, embezzlement and sexual harassment; and

(d)

(2)

#### **Chapter IV** **Southern Sudan Human Rights Commission**

##### **149. Establishment of the Southern Sudan Human Rights Commission**

(1)

(2) The President of the Government of Southern Sudan shall appoint a chairperson and members of the Commission with the approval of the Assembly by a simple majority.

(3)

(4)

(5)

##### **150. Functions of the Commission**

(1)

(a)

(b)

(c) visit jails, prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the inmates and make recommendations to the relevant authority;

(d)

(e)

(f)

(g) educate and encourage the public to defend this Constitution at all times against all forms of abuse and violation;

(h)

(i)

(j)

(k)

(2)

(3) The law shall specify composition, procedures, terms and conditions of service of the members of the Commission.

#### **Chapter V**

##### **151. Southern Sudan Public Grievances Chamber**

(1) There shall be established in Southern Sudan an independent body, to be known as the Public Grievances Chamber. Its chairperson and members shall be nominated

(c) *combat administrative malpractices in public institutions; and*

(d) [FA]

(2)

#### **Chapter IV** **Human Rights Commission**

##### **145. Establishment of the Human Rights Commission**

(1) There shall be established an *independent* commission to be known as the ~~Southern Sudan~~ Human Rights Commission.

(2) The Chairperson, Deputy Chairperson and Members of the Commission shall be appointed by the President with the approval of the National Legislative Assembly by a simple majority of all members present and voting.

(3) [FA]

(4)

(5)

##### **146. Functions of the Commission**

(1) The functions of the Commission shall, ~~inter alia~~, be to:

(a)

(b) investigate, on its own initiative, or on a complaint made by any person or group of persons, against any violation of human rights *and fundamental freedoms*;

(c) visit *police* jails, prisons and ~~places of detention or~~ related facilities with a view to assessing and inspecting conditions of the inmates and make recommendations to the relevant authority;

(d) [FA]

(e) [FA]

(f) [FA]

(g) educate and encourage the public to defend their human rights and fundamental freedoms against all forms of abuse and violation;

(h) [FA]

(i) [FA]

(j) [FA]

(k)

(2) [FA]

(3) The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Commission shall be regulated by law.

#### **Chapter V**

##### **147. Public Grievances Chamber**

(1) There shall be established ~~in Southern Sudan~~ an independent body, to be known as the Public Grievances Chamber.

by the President of the Government of Southern Sudan from among persons of competence and integrity and approved by the Southern Sudan Legislative Assembly by a simple majority. The Chamber shall be answerable to the President of the Government of Southern Sudan and the Southern Sudan Legislative Assembly in the performance of its functions and duties.

(2) Notwithstanding the finality of the judgments of the relevant courts, the Chamber shall consider complaints relating to grievances suffered by citizens in relation to government institutions. The Chamber shall consider grievances only after exhausting all means and stages of litigation by the complainant.

(3) The Chamber shall make recommendations or propose remedies to the President of the Government of Southern Sudan. The Chamber may on its own motion recommend to the Southern Sudan Legislative Assembly any measures it deems appropriate to ensure efficiency, justice or probity in the performance of the Southern Sudan governmental institutions.

(4) The law shall regulate the composition, functions, procedures, terms and conditions of service of the members and employees of the Chamber.

## **Chapter VI**

### **152. Southern Sudan Relief and Rehabilitation Commission**

(1)

(2) The functions of the Commission shall include repatriation, relief, resettlement, rehabilitation, reintegration of returnees and internally displaced persons and facilitation of the reconstruction of the conflict-affected areas.

(3) The structure, composition, powers, functions, conditions and terms of service shall be determined by law.

## **Chapter VII**

### **153. Demobilisation, Disarmament and Re-integration Commission**

(1) The Southern Sudan Demobilization Disarmament and Re-integration Commission shall be established by the President of the Government of Southern Sudan to expedite the process of incorporation and reintegration of ex-combatants into other regular forces, civil service and other civilian institutions and society.

(2) Members of the Commission shall be appointed by the President of the Government of Southern Sudan in accordance with the law.

(3) The structure, composition, functions and terms and conditions of service of the Commission shall be regulated by law.

*(2) The Chairperson, Deputy Chairperson and Members of the Chamber shall be appointed by the President from persons of proven integrity, competence and shall be non-partisan and impartial.*

*(3) The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Chamber shall be regulated by law.*

## **Chapter VI**

### **148. Relief and Rehabilitation Commission**

(1) [FA]

*(2) The Chairperson, Deputy Chairperson and Members of the Commission shall be appointed by the President in accordance with the law.*

*(3) The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Commission shall be regulated by law.*

## **Chapter VII**

### **149. Demobilisation, Disarmament and Re-integration Commission**

*(1) There shall be established an independent commission to be known as the Demobilization, Disarmament and Re-Integration Commission.*

*(2) The Chairperson, Deputy Chairperson and Members of the Commission shall be appointed by the President in accordance with this Constitution and the law.*

*(3) The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Commission shall be regulated by law.*

**Part Ten**  
**Armed Forces, Law Enforcement Agencies**  
**and Security**

**Chapter I**  
**Armed Forces in Southern Sudan**

**154. Composition, Status and Mission**

(1) The Sudan People's Liberation Army, the Sudan Armed Forces and the Joint/Integrated Units constitute the Sudan National Armed Forces; they shall remain separate, regular, professional and non-partisan armed forces and shall be treated equally.

(2) After the redeployment of surplus units of the Sudan Armed Forces outside Southern Sudan, the Sudan People's Liberation Army and the Joint/Integrated Units in Southern Sudan shall constitute the National Armed Forces in Southern Sudan during the Interim Period.

(3) The mission of the Armed Forces in Southern Sudan shall be to defend the sovereignty of the country and the constitutional order, respect the rule of law, the civilian government, democracy, basic human rights and the will of the people.

(4) The Armed Forces in Southern Sudan shall undertake the responsibility of the defence of the country against internal and external threats in their areas of deployment, and participate in reconstruction and assist in addressing national disasters and other emergencies.

(5) [(5) → (7)]

(6) [(6) → (8)]

**Chapter VIII**

**150. HIV/AIDS Commission**

(1) There shall be established an independent commission to be known as the HIV/AIDS Commission.

(2) The Chairperson, Deputy Chairperson and Members of the Commission shall be appointed by the President in accordance with the provisions of this Constitution and the law.

(3) The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Commission shall be regulated by law.

**Part Ten**  
**Armed Forces, Law Enforcement Agencies**  
**and Security**

**Chapter I**  
**Armed Forces**

**154. Composition, Status, Mission and Duties**

(1) The Sudan People's Liberation Army shall constitute the national armed forces of the Republic of South Sudan.

(2) The Sudan People's Liberation Army shall be transformed into the South Sudan Armed Forces, and shall be non-partisan, national in character, patriotic, regular, professional, disciplined, productive and subordinate to the civilian authority as established under this Constitution and the law.

(3) No person or persons shall raise any armed or paramilitary force in South Sudan except in accordance with this Constitution and the law.

(4) The mission of the national armed forces, in addition to its other national duties, shall be to:

(a) uphold this Constitution;

(b) defend the sovereignty of the country;

(c) protect the people of South Sudan;

(d) secure the territorial integrity of South Sudan;

(e) defend South Sudan against external threats and aggression; and

(f) be involved in addressing any emergencies, participate in reconstruction activities, and assist in disaster management and relief in accordance with this Constitution and the law.

(5) The law shall stipulate the conditions in which the civilian authority may resort to the engagement of the armed forces in missions of non-military nature.

(6) The national armed forces shall respect and abide by the rule of law and respect the will of the people, the civilian authority, democracy, basic human rights and fundamental freedoms.

(7) [FA]

(8) [FA]

### **155. Code of Conduct for the Armed Forces**

(1) There shall be a code of conduct for the members of all armed forces based on the common military doctrine that shall be developed by the Parties to the Comprehensive Peace Agreement.

(2) The code of conduct mentioned in sub-Article (1) above shall:

- (a)
- (b)
- (c)
- (d)
  
- (e)

### **156. Joint/Integrated Units**

(1) The Joint/ Integrated Units shall consist of equal numbers from the Sudan People's Liberation Army and the Sudan Armed Forces during the Interim Period.

(2) The Joint/Integrated Units shall constitute a nucleus of a post referendum army of the Sudan, should the outcome of the referendum on self- determination of the people of Southern Sudan confirm unity, otherwise they shall be dissolved and the component parts integrated into their respective forces.

(3) The Joint/Integrated Units shall fall under the command of the Joint Defence Board constituted in accordance with the provisions of the Comprehensive Peace Agreement.

(4) The command of the Joint/Integrated Units shall be exercised on parity basis between the Sudan People's Liberation Army and Sudan Armed Forces officers with alternation of roles at the uppermost and other levels of command.

(5) The Joint Defence Board shall command and control the Joint Integrated Units and coordinate between the Sudan People's Liberation Army and the Sudan Armed Forces.

(6) The national law shall regulate the composition, character, size, organization, training, deployment, terms of service, functions and duties of the Joint/Integrated Units in accordance with the provisions of the Comprehensive Peace Agreement.

### **157. Redeployment of the Armed Forces**

After the formation of the Joint/Integrated Units, the redeployment of surplus forces of the Sudan People's Liberation Army and Sudan Armed Forces in and outside Southern Sudan shall be carried out as stipulated in the Comprehensive Peace Agreement.

## **Chapter II**

### ***The Sudan People's Liberation Army***

#### **158. Mission and Duties**

(1) The Sudan People's Liberation Army is a regular, professional, patriotic, productive, disciplined, non-partisan military force subordinate to civilian authority as established under this Constitution.

(2) The mission of the Sudan People's Liberation Army, in addition to its other national duties, is to:

- (a) defend this Constitution;

### **155. Code of Conduct for the Armed Forces**

There shall be a code of conduct for the *national armed forces that shall*:

- (a)
- (b)
- (c) [FA]
- (d) make a clear distinction between the military and the policing mandate ~~during ceasefire period~~; and
- (e)

### **156. Joint/Integrated Units**

~~(1) The Joint/ Integrated Units shall consist of equal numbers from the Sudan People's Liberation Army and the Sudan Armed Forces during the Interim Period.~~

~~(2) The Joint/Integrated Units shall constitute a nucleus of a post referendum army of the Sudan, should the outcome of the referendum on self- determination of the people of Southern Sudan confirm unity, otherwise they shall be dissolved and the component parts integrated into their respective forces.~~

~~(3) The Joint/Integrated Units shall fall under the command of the Joint Defence Board constituted in accordance with the provisions of the Comprehensive Peace Agreement.~~

~~(4) The command of the Joint/Integrated Units shall be exercised on parity basis between the Sudan People's Liberation Army and Sudan Armed Forces officers with alternation of roles at the uppermost and other levels of command.~~

~~(5) The Joint Defence Board shall command and control the Joint Integrated Units and coordinate between the Sudan People's Liberation Army and the Sudan Armed Forces.~~

~~(6) The national law shall regulate the composition, character, size, organization, training, deployment, terms of service, functions and duties of the Joint/Integrated Units in accordance with the provisions of the Comprehensive Peace Agreement.~~

### **157. Redeployment of the Armed Forces**

~~After the formation of the Joint/Integrated Units, the redeployment of surplus forces of the Sudan People's Liberation Army and Sudan Armed Forces in and outside Southern Sudan shall be carried out as stipulated in the Comprehensive Peace Agreement.~~

## **Chapter II**

### ***The Sudan People's Liberation Army***

#### **158. Mission and Duties**

~~(1) The Sudan People's Liberation Army is a regular, professional, patriotic, productive, disciplined, non-partisan military force subordinate to civilian authority as established under this Constitution.~~

~~(2) The mission of the Sudan People's Liberation Army, in addition to its other national duties, is to:~~

- ~~(a) defend this Constitution;~~

- (b) protect the people of Southern Sudan;  
 (c) secure the territorial integrity of Southern Sudan; (d) undertake the responsibility for the defence of Southern Sudan against internal and external threats and aggression; and  
 (e) be involved in addressing specified emergencies, participate in reconstruction activities, and assist in disaster relief within the terms of this Constitution and the law.  
 (3) The Sudan People's Liberation Army shall respect and abide by the rule of law, respect the will of the people, the civilian government, democracy and basic human rights.  
 (4) No person or persons shall raise any armed force in Southern Sudan except in accordance with this Constitution.

### **159. Command and Control**

- (1) Command and control of the Sudan People's Liberation Army shall vest in the President of the Government of Southern Sudan as its Commander-in- Chief, assisted by the Chief of General Staff, his or her deputies and other staff officers.  
 (2) The President of the Government of Southern Sudan and Commander-in- Chief of the Sudan People's Liberation Army shall commission, promote, retire or dismiss officers of the Sudan People's Liberation Army according to the law.  
 (3)

### **160. Funding**

The Sudan People's Liberation Army shall be funded from the domestic financial resources of the Government of Southern Sudan and any external sources, with the approval of the Southern Sudan Legislative Assembly; these financial resources shall be channelled through the Bank of Southern Sudan.

### **161. The Permanent Ceasefire**

- (1) The Government of Southern Sudan shall fully enforce the permanent ceasefire provided for in the Comprehensive Peace Agreement.  
 (2) The permanent ceasefire shall be internationally monitored and fully respected by all persons in Southern Sudan.

## ***Chapter III The Law Enforcement Agencies and Security Service in Southern Sudan***

### **162. The Police Service**

- (1) There shall be established a police service to be known as the *Police of Southern Sudan* which shall be a

- ~~(b) protect the people of Southern Sudan;  
 (c) secure the territorial integrity of Southern Sudan; (d) undertake the responsibility for the defence of Southern Sudan against internal and external threats and aggression; and  
 (e) be involved in addressing specified emergencies, participate in reconstruction activities, and assist in disaster relief within the terms of this Constitution and the law.  
 (3) The Sudan People's Liberation Army shall respect and abide by the rule of law, respect the will of the people, the civilian government, democracy and basic human rights.  
 (4) No person or persons shall raise any armed force in Southern Sudan except in accordance with this Constitution.~~

### **153. Command and Control**

- (1) *The President of the Republic of South Sudan shall be the Commander-in- Chief of the national armed forces.*  
 (2) *The Commander-in-Chief shall commission, promote, retire or dismiss officers of the national armed forces according to the law.*

- (3) [FA]

### **154. Command Council**

- (1) *There shall be established a consultative body which shall be known as the National Armed Forces Command Council.*  
 (2) *The composition, functions and duties of the Command Council shall be prescribed by law.*

### **160. Funding**

~~The Sudan People's Liberation Army shall be funded from the domestic financial resources of the Government of Southern Sudan and any external sources, with the approval of the Southern Sudan Legislative Assembly; these financial resources shall be channelled through the Bank of Southern Sudan.~~

### **161. The Permanent Ceasefire**

- ~~(1) The Government of Southern Sudan shall fully enforce the permanent ceasefire provided for in the Comprehensive Peace Agreement.  
 (2) The permanent ceasefire shall be internationally monitored and fully respected by all persons in Southern Sudan.~~

## ***Chapter II Law Enforcement Agencies***

### **155. The Police Service**

- (1) There shall be ~~established~~ a police service to be known as the *National Police Service* which shall be a

decentralized professional service force whose mission is to prevent, combat and investigate crime, maintain law and public order, protect the people in Southern Sudan and their properties, and uphold and enforce this Constitution and the law.

(2) [(2) → (3)]

(3) [(3) → (4)]

(4) The Police of Southern Sudan shall be governed by this Constitution and the law. It shall respect the will of the people, the rule of law and order, civilian government, democracy and human rights.

(4) [(4) → (7)]

### 163. Prisons Service The

(1) There shall be established a prisons service to be known as the Prisons Service of Southern Sudan and it shall be a decentralized professional service; its mission shall be correctional, reformatory and rehabilitative. It shall respect the will of the people, the rule of law and order, civilian government, democracy and human rights.

(2) [(2) → (3)]

(3) The Prisons Service shall be headed by Director-General to be appointed by the President of the Government of Southern Sudan on the recommendation of the minister in charge and approval of the Council of Ministers.

(4) The functions of Prisons shall, *inter alia*, be to manage, operate and maintain the prisons of Southern Sudan, and to administer the internment and care for the health of prisoners and inmates.

(5) [(5) → (7)]

(6) [(6) → (8)]

### 164. The Wildlife Service

(1) There shall be established a wildlife service to be known as the Wildlife Service of Southern Sudan and it shall be a decentralized professional service; its mission is to protect the wildlife and to preserve and conserve the natural habitat of flora and fauna of Southern Sudan.

(2) [(2) → (3)]

(3) [(3) → (4)]

(4) [(4) → (6)]

(5) [(5) → (7)]

(a) the protection of the natural ecosystems, bio-diversity

decentralized professional service.

(2) The mission of the Police Service shall be to:

(a) prevent, combat and investigate crime, maintain law and public order, protect the people and their properties; and  
(b) uphold and enforce this Constitution and the law.

(3) [FA]

(4) [FA]+[LA]

(5) *The national Police Service shall be responsible for the maintenance of professional standards and the recruitment, training, deployment and transfer of police officers throughout South Sudan.*

(6) *The Police of South Sudan shall be governed by this Constitution and the law. It shall respect the will of the people, the rule of law and order, civilian authority, democracy, human rights, fundamental freedoms and execute judicial orders.*

(7) [FA]

### 156. The Prisons Service

(1) There shall be a prisons service to be known as the National Prisons Service and it shall be a decentralized professional service.

(2) The mission of the Prisons Service shall be correctional, reformatory and rehabilitative. It shall respect the will of the people, the rule of law and order, civilian authority, democracy, human rights and fundamental freedoms.

(3) [FA]

(4) The Prisons Service shall be headed by a Director-General appointed by the President after approval of the Council of Ministers upon the recommendation of the Minister in charge.

(5) *The national Prisons Service shall be responsible for the maintenance of professional standards and the recruitment, training, deployment and transfer of prison officers throughout South Sudan.*

(6) The functions of Prisons Service shall, *inter alia*, be to manage, operate and maintain the prisons of South Sudan, and to administer the internment and care for the health and general welfare of prisoners and inmates.

(7)

(8)

### 157. The Wildlife Service

(1) There shall be established a wildlife service to be known as the National Wildlife Service and it shall be a decentralized professional service.

(2) The mission of the Wildlife Service shall be to protect the wildlife and to preserve and conserve the natural habitat of flora and fauna of South Sudan.

(3) [FA]

(4) [FA]+[LA]

(5) *The national Wildlife Service shall be responsible for the maintenance of professional standards and the recruitment, training, deployment and transfer of wildlife officers throughout South Sudan.*

(6)

(7)

(a) *the conservation and protection of the natural*

and endangered species shall be the primary consideration in carrying out its duties;

(b) consistent with the provisions of this Constitution and the law, the Wildlife Service shall manage wildlife resources as necessary to protect human life; and

(c)

(6) The organization, functions, powers and terms and conditions of service of the Wildlife Service shall be regulated by law. It shall respect the will of the people, the rule of law and order, civilian government, democracy, human rights and animal protection.

### **165. The Fire Brigade Service**

(1) There shall be established a fire brigade service to be known as the Fire Brigade Service of Southern Sudan and it shall be a decentralized professional service, whose mission is to prevent and protect the people of Southern Sudan and their property from fire.

(2) [(2) → (3)]

(3) [(3) → (4)]

(4) [(4) → (6)]

### **166. The Security Service**

(1) There shall be established at all levels of government in Southern Sudan Security Committees; their composition and functions shall be determined by the National Security Act.

(2) There shall be established National Security Service Offices at the level of Southern Sudan and the states; their composition, functions and duties shall be regulated by the National Security Act.

ecosystems, bio-diversity and endangered species shall be the primary consideration in carrying out its duties;

(b) consistent with the provisions of this Constitution and the law, the Wildlife Service shall manage wildlife resources *in a manner that will ensure the protection of* human life; and

(c)

*(8) The Wildlife Service shall respect the will of the people, the rule of law, civilian authority, democracy, human rights, fundamental freedoms and the protection of animals in accordance with the law.*

(9) The organization, functions, powers and terms and conditions of service of the Wildlife Service shall be regulated by law. ~~It shall respect the will of the people, the rule of law and order, civilian government, democracy, human rights and animal protection.~~

### **158. The Fire Brigade Service**

(1) There shall be a fire brigade service to be known as the National Fire Brigade Service and it shall be a decentralized professional service.

(2) The mission of the Fire Brigade Service shall be to prevent and protect the people of South Sudan and their property from fire and disasters.

(3) [FA]

(4) [FA]

*(5) The national Fire Brigade Service shall be responsible for the maintenance of professional standards and the recruitment, training, deployment and transfer of fire brigade officers throughout South Sudan.*

(6) [LA]

## **CHAPTER III**

### **National Security**

#### **159. Guiding Principles of National Security**

*National security shall:*

*(a) be subject to the authority of this Constitution and the law;*

*(b) be subordinate to the civilian authority;*

*(c) respect the will of the people, the rule of law, democracy, human rights and fundamental freedoms;*

*(d) reflect the diversity of the people of South Sudan in its recruitment; and*

*(e) be professional and its mandate shall focus on information gathering, analysis and advice to the relevant authorities.*

#### **160. National Security Service**

*(1) There shall be established a security service which shall be known as the National Security Service.*

*(2)*

*(a) The National Security Service shall have two operational organs, to be known as:*

*(i) the Internal Security Bureau; and*

*(ii) the General Intelligence Bureau;*

*(b) Each of the operational organs shall be headed by a Director-General appointed by the President with the*

*approval of the Security Council upon the recommendation of the Minister in charge.*

*(3) The two operational organs shall be under a Minister in the Office of the President who shall report to and be directly accountable to the President.*

*(4) The National Security Service shall be charged with the internal and external security of the Country and its people.*

*(5) The structures, mission, mandate, functions of the Service, and the terms and conditions of service of its personnel shall be prescribed by law.*

### **161. National Security Council and Committees**

*(1) There shall be established at the national level a National Security Council, the composition and functions of which shall be determined by law.*

*(2) The National Security Council shall define the national security strategy based on the analysis of all threats to security of South Sudan.*

*(3) There shall be established at the state and county levels security committees; their composition and functions shall be prescribed by law.*

## **Part Eleven**

### **The States, Local Government, Traditional Authority and Abyei Area**

#### **Chapter I**

#### **States of Southern Sudan**

##### **167. General Provisions**

(1) The territory of Southern Sudan shall be decentralized and composed of ten states.

(2) The states shall adopt their own constitutions, which shall conform to this Constitution and the Interim National Constitution.

(3) State boundaries, names and capitals shall not be altered except by a decision of the Council of States. State legislatures of Southern Sudan may make recommendations on the same to the Council of States through the Government of Southern Sudan.

##### **168. State Organs**

(1) There shall be legislative, executive, and judicial organs at state level for each state of Southern Sudan which shall function in accordance with this Constitution, the Interim National Constitution and the relevant state constitution.

(2)

(3) Each state of Southern Sudan shall have residual executive and legislative competence over matters within their borders that are not exclusive to the National Government or the Government of Southern Sudan.

(4)

(5) Each state of Southern Sudan shall promote and empower local government. The organization and proper functioning of local government and elections to its respective institutions shall be conducted in accordance with the relevant state constitution and the law.

## **Part Eleven**

### **The States, Local Government and Traditional Authority**

#### **Chapter I**

#### **States of South Sudan**

##### **162. General Provisions**

*(1) The territory of South Sudan is composed of ten states governed on the basis of decentralization.*

*(2) The constitutions of the states shall conform to this Constitution.*

*(3) State boundaries shall not be altered except by a resolution of the Council of States approved by two-thirds of all members.*

*(4) Names of states and their capital towns shall not be altered except by a resolution of the Council of States approved by a simple majority of all members on the recommendation of the relevant state Assembly.*

##### **163. State Organs**

(1) There shall be legislative and executive, ~~and judicial~~ organs at each state level; they shall function in accordance with this Constitution and the relevant state constitution.

(2) [FA]

(3) Each state shall have concurrent and residual executive and legislative competences as set forth in Schedules C and D, read together with Schedule E herein.

(4) [FA]

(5) Each state shall organize, promote and empower the local government institutions in accordance with the provisions of this Constitution and its constitution and the law.

*(6) Elections to the local government institutions shall be*



(6) [(6) → (7)]

### 169. State Executive

[Shifted for the purpose of text comparison.]

### 170. State Legislative Assembly

(1) Each state within Southern Sudan shall have a legislature to be known as State Legislative Assembly, which shall comprise members elected in accordance with the state constitution and the elections law.

(2) Each state legislature shall prepare and adopt its state constitution, provided that it shall be in conformity with this Constitution, the Interim National Constitution and the Comprehensive Peace Agreement.

(3) Each state legislature shall have law-making competence in respect of the functional areas listed in Schedules C and D read together with Schedules E and F herein, and such other legislative competences as are conferred upon the state by this Constitution, the state constitution, and the law.

(4)

(a) The state legislature may, in accordance with the state constitution, pass a vote of no confidence in the Governor by three quarters majority of all its members;

(b) Should the state legislature pass a vote of no confidence as stated in paragraph (a) above, the President of the Government of Southern Sudan shall make a request to the President of the Republic calling for snap elections of the Governor. The President of the Republic shall act upon such a request and shall call the state electorate for snap elections of the Governor to be conducted within sixty days;

(c) The Governor elected in the snap elections shall serve for the remainder of the original tenure;

(d) Should the Governor who was subjected to the vote of no-confidence be re-elected, the state legislature shall be deemed to have been dissolved. A new state legislature shall be elected within sixty days to complete the tenure of the dissolved legislature; and

(e) [(e) → (d)]

(5) The term of a state legislative assembly shall be five years commencing from the date of its first sitting.

(6) Governors, members of state legislatures and the state councils of ministers shall have such immunities as are provided by law.

(7) Competent courts of law in Southern Sudan shall hear and determine any objection regarding the validity of nomination or election of a member of the state legislative assembly in accordance with the provisions of the national elections law.

(8) [(8) → (7)]

*organized and conducted by the National Elections Commission in accordance with the provisions of this Constitution and the law.*

(7)

### 164. State Legislative Assembly

(1) The existing state legislatures shall be known as state Legislative Assemblies. They shall comprise of the current elected members.

(2) Each state Legislative Assembly shall adopt a draft amended state constitution to become its state transitional constitution, provided that it shall be in conformity with this Constitution.

(3) Each state Legislative Assembly shall have law-making competence in respect of the functional areas listed in Schedules B, C and D read together with Schedule E herein, and such other legislative competences as are conferred upon the state by this Constitution, the state constitution, and the law.

(4)

(a) A state Legislative Assembly may, in accordance with the state transitional constitution, pass a vote of no confidence in the Governor by three quarters majority of all its members;

(b) If the state Legislative Assembly passes a vote of no confidence as stated in paragraph (a) above, the President shall act upon such a vote in accordance with Article 101

(s) herein; and shall call a snap election;

(c) If the Governor who was subjected to the vote of no-confidence is re-elected, the state legislature shall be deemed to have been dissolved. A new state legislature shall be elected within sixty days to complete the tenure of the dissolved legislature; and

(d)

(5)

(a) The term of a State Legislative Assembly shall be five years;

(b) Notwithstanding sub Article 5 (a) above, during the transitional period and term of a State Legislative Assembly shall be four years from July 9, 2011.

(6) Governors, members of state Legislative Assemblies and the state councils of ministers shall have such immunities as are provided by law.

(7) [FA]

---- Insertion for the purpose of text comparison ----

### **169. State Executive**

(1)  
(2) The governor shall be the head of executive organ in the state and shall appoint the state council of ministers in accordance with the state constitution.

(3) There shall be a deputy governor for each state to be appointed by the governor of the state; the deputy governor shall assume the portfolio of a minister other than the minister of finance, and shall act as governor in the absence of the governor.

(4) State ministers shall be individually and collectively *accountable* to the governor and the state Legislative Assembly in the performance of their functions.

(5)

(6) The governor, together with the state council of ministers, shall exercise the executive competences of the state in respect of the functional areas in Schedules C and D read together with Schedules E and F, as are conferred by this Constitution and the state constitution and such other executive powers as may be prescribed by law.

---- Insertion for the purpose of text comparison ----

### **171. State Judiciary**

(1) Judicial power in the states shall vest in the State Judiciary; the constitution of each State shall provide for the establishment of a state

Judiciary consisting of the following hierarchy of courts:

(a) High courts;

(b) County courts; and

(c) Any other courts and tribunals as shall be determined by law.

(2) State courts shall have civil and criminal jurisdiction in respect of state, Southern Sudan and national laws, save that a right of appeal shall lie as provided for herein; however, the Southern Sudan Legislative Assembly shall determine the civil and criminal procedures in respect of litigation or prosecution under Southern Sudan laws in accordance with this Constitution.

(3) Each state shall determine the jurisdiction of its customary law courts.

(4) The constitution and legislation of each state shall provide for:

(a) the appointment, removal and other terms and conditions of service of judges and lay magistrates; and

(b) guarantees for the independence and impartiality of the State Judiciary, immunity of judges and magistrates, and measures to ensure that they are not subject to political or other interference.

(5) The structures and powers of the courts of the states of Southern Sudan shall be subject to the provisions of this Constitution and constitution of the state concerned.

(6) There shall be a substantial representation of women in the State Judiciary having regard to competence, integrity, credibility and impartiality.

### **165. State Executive**

(1) [FA]

(2) The Governor of each state shall be the head of the executive organ in the state and shall appoint and relieve the Deputy Governor, state Advisors, and state Ministers in consultation with the President and in accordance with the state constitution.

(3) The Deputy Governor may assume the portfolio of a Minister other than the Minister of Finance, and shall act as Governor in the absence of the Governor.

(4) State Ministers shall be individually and collectively *answerable* to the Governor and the state Legislative Assembly in the performance of their functions.

(5)

(6) *The state executive shall exercise the executive competences of the state in respect of the functional areas in Schedules B, C and D read together with Schedule E, as conferred by this Constitution and the state constitution and such other executive powers as may be prescribed by law.*

## **172. Interim Provisions for States**

(1) Pending the elections referred to in Article 202 of this Constitution and Article 216 of the Interim National Constitution:

(a) State governors in Southern Sudan shall be appointed by the President of the Government of Southern Sudan in consultation with the Vice President of the Government of Southern Sudan; and

(b) The governor of one Southern Sudan state shall be a nominee of the National Congress Party, and one deputy governor in a different Southern Sudan state shall be a nominee of the National Congress Party.

(2) Seats and positions of legislatures and executives of Southern Sudan states shall be allocated as follows:-

(a) The Sudan People's Liberation Movement shall have seventy percent of the seats and positions; and

(b) The remaining thirty percent of the seats and positions shall be allocated as follows:-

(i) twenty percent of the seats and positions to be filled by other Southern Sudan political forces; and

(ii) ten percent of the seats and positions to be filled by the National Congress Party.

(3) Notwithstanding the provisions of Article 171 (4) (a) herein, and pending the establishment of state judiciaries within four years of the interim period, state judges and magistrates shall be employees of the Southern Sudan Judiciary appointed by the President of the Government of Southern Sudan on the recommendation of the President of the Supreme Court of Southern Sudan.

## ***Chapter II***

### ***Local Government***

#### **173. Local Government**

- (1)
- (2)
- (3)
- (4)
- (5)
- (6) [ENUMERATION ERROR]
- (6) [(6) → (7)]
- (7) [(7) → (8)]

#### **174. Traditional Authority**

- (1)
- (2) Traditional authority shall function in accordance with this Constitution and the law.
- (3)

#### **175. Role of Traditional Authorities**

- (1)
- (2)

## ***Chapter III***

### ***Abyei Area***

#### **176. Citizenship, Special Status and Referendum**

- (1) Abyei Area, the territory of the nine Ngok Dinka

## ***Chapter II***

### ***Local Government***

#### **166. Local Government**

- (1) [FA]
- (2) [FA]
- (3) [FA]
- (4) [FA]
- (5) [FA]
- (6) [FA]
- (7)
- (8) [FA]

#### **167. Traditional Authority**

- (1)
- (2) Traditional Authority shall function in accordance with this Constitution, *the state constitutions* and the law.
- (3)

#### **168. Role of Traditional Authorities**

- (1)
- (2) [FA]

## ***Chapter III***

### ***Abyei Area***

#### **176. Citizenship, Special Status and Referendum**

- (1) ~~Abyei Area, the territory of the nine Ngok Dinka~~

chiefdoms transferred from Bahr el Ghazal Province to Kordofan Province in 1905, is accorded a special administrative status under the Presidency of the Republic, in which its residents shall be citizens of both Southern Kordofan and Warrap State.

(2) The residents of Abyei Area, pursuant to sub-article (1) above, shall enjoy all rights and freedoms guaranteed by this Constitution.

(3) Pursuant to Article 183 (3) of the Interim National Constitution, the residents of Abyei Area shall vote in a separate referendum simultaneously with the referendum of Southern Sudan, which shall present them, irrespective of the results of the Southern Sudan Referendum, with the following choices:-

(a) that Abyei Area retains its special administrative status in the north; or

(b) that Abyei Area be part of Warrap State.

### **177. Security Arrangements**

The security arrangements in Abyei Area shall be in accordance with the provisions of the Comprehensive Peace Agreement and the Interim National Constitution.

## ***Chapter IV***

### **178. Linkages and Cooperation with the Neighbouring Northern States**

In accordance with Article 26 (2) of the Interim National Constitution, the Government of Southern Sudan and its component states may conduct, maintain and promote inter-state coordination and cooperation with Northern states, particularly the neighbouring states of Southern Kordofan, Blue Nile, White Nile, Sennar and Southern Darfur on matters of mutual interest.

## **Part Twelve**

### **Finance and Economic Matters**

#### ***Chapter I***

### **179. Guiding Principles for Development and Equitable Sharing of Common Wealth**

(1)

(2) The decentralized economic development in Southern Sudan shall be based on the agricultural and agro-industrial sectors, and promotion of private sector conducted in accordance with the best known practices of sustainable development within a framework of transparent and accountable governance.

(3)

(4)

(5)

(6)

(7) The Government of Southern Sudan shall fulfil its obligations to provide financial transfers to all levels of government in Southern Sudan, and shall, except as otherwise provided herein, apportion revenue equitably among Southern Sudan states and local governments.

~~chiefdoms transferred from Bahr el Ghazal Province to Kordofan Province in 1905, is accorded a special administrative status under the Presidency of the Republic, in which its residents shall be citizens of both Southern Kordofan and Warrap State.~~

~~(2) The residents of Abyei Area, pursuant to sub-article (1) above, shall enjoy all rights and freedoms guaranteed by this Constitution.~~

~~(3) Pursuant to Article 183 (3) of the Interim National Constitution, the residents of Abyei Area shall vote in a separate referendum simultaneously with the referendum of Southern Sudan, which shall present them, irrespective of the results of the Southern Sudan Referendum, with the following choices:-~~

~~(a) that Abyei Area retains its special administrative status in the north; or~~

~~(b) that Abyei Area be part of Warrap State.~~

### **177. Security Arrangements**

~~The security arrangements in Abyei Area shall be in accordance with the provisions of the Comprehensive Peace Agreement and the Interim National Constitution.~~

## ***Chapter IV***

### **178. Linkages and Cooperation with the Neighbouring Northern States**

~~In accordance with Article 26 (2) of the Interim National Constitution, the Government of Southern Sudan and its component states may conduct, maintain and promote inter-state coordination and cooperation with Northern states, particularly the neighbouring states of Southern Kordofan, Blue Nile, White Nile, Sennar and Southern Darfur on matters of mutual interest.~~

## **Part Twelve**

### **Finance and Economic Matters**

#### ***Chapter I***

### **169. Guiding Principles for Development and Equitable Sharing of National Wealth**

(1) [FA]

(2) Equitable economic development shall be based, *inter alia*, on the agricultural and agro-industrial sectors, and promotion of private sector conducted in accordance with the best known practices of sustainable development within a framework of transparent and accountable governance.

(3) [FA]

(4) [FA]

(5) [FA]

(6) [FA]

(7) The National Government shall fulfill its obligations to provide financial transfers to all levels of government, and shall, except as otherwise provided herein, apportion revenue equitably among the states and local governments *as shall be determined by law.*

(8) Revenue sharing shall reflect a commitment to devolution of powers and decentralization of decision-making in regard to development, service delivery and governance.

(9)

(10)

## **Chapter II**

### **Land and Natural Resources in Southern Sudan**

#### **180. Regulation of Land and Natural Resources**

(1) The regulation of land tenure, usage and exercise of rights thereon shall be a concurrent competence, exercised at the appropriate level of government in Southern Sudan.

(2) Rights in land owned by the Government of Southern Sudan shall be exercised through the appropriate or designated level of government in Southern Sudan, which shall recognize customary land rights under customary land law.

(3) All levels of government in Southern Sudan shall institute a process to progressively develop and amend the relevant laws to incorporate customary laws, practices, local heritage and international trends and practices.

(4) All lands traditionally and historically held or used by local communities or their members shall be defined, held, managed and protected by law in Southern Sudan.

(5) Customary seasonal access rights to land shall be respected, provided that these access rights shall be regulated by the respective states taking into account the need to protect agricultural production, community peace and harmony, and without unduly interfering with or degrading the primary ownership interest in the land, in accordance with customary law.

(6) Communities and persons enjoying rights in land shall be consulted and their views duly taken into account in decisions to develop subterranean natural resources in the area in which they have rights; they shall share in the benefits of that development.

(7) Communities and persons enjoying rights in land shall be entitled to prompt and equitable compensation on just terms arising from acquisition or development of land for the extraction of subterranean natural resources in their areas in the public interest.

(8) Revenue sharing shall reflect a commitment to devolution of powers and decentralization of decision-making in regard to development, service delivery and *good* governance.

(9)

(10) [FA]

## **Chapter II**

### **Land Ownership, Tenure and Natural Resources**

#### **170. Land Ownership**

(1) *All land in South Sudan is owned by the people of South Sudan and its usage shall be regulated by the government in accordance with the provisions of this Constitution and the law.*

(2) *Notwithstanding sub-Article (1) above, and the provisions of Article 28 of this Constitution, the government at all levels, may expropriate land in the public interest as shall be prescribed by law.*

#### **171. Land Tenure**

(1) *The regulation of land tenure, usage and exercise of rights thereon shall be governed by this Constitution and the law.*

(2) *Without prejudice to sub-Article (4) below, the land tenure system in South Sudan shall consist of:*

(a) *public land;*

(b) *community land; and*

(c) *private land.*

(3) *Public land shall include, but not be limited to:*

(a) *all land owned, held or otherwise acquired by any level of government as defined by law; and*

(b) *all land which is not otherwise classified as community or private.*

(4) *Regardless of the classification of the land in question, rights over all subterranean and other natural resources throughout South Sudan, including petroleum and gas resources and solid minerals, shall belong to the National Government and shall be regulated by law.*

(5) *Community land shall include all lands traditionally and historically held or used by local communities or their members. They shall be defined, held, managed and protected by law.*

(6) *Private land shall include:*

(a) *registered land held by any person under leasehold tenure in accordance with the law;*

(b) *investment land acquired under lease from the Government or community for purposes of social and economic development in accordance with the law; and*

(c) *any other land designated as private land by law.*

(7) *Rights in land and resources owned, held or otherwise acquired by the Government shall be exercised through the appropriate or designated level of government which shall recognize customary land rights under customary land law.*

(8) *All levels of government shall institute a process to progressively develop and amend the relevant laws to incorporate customary rights and practices and local heritage.*

### **181. Southern Sudan Land Commission**

(1) Without prejudice to the jurisdiction of the courts, there shall be established a Southern Sudan Land Commission that shall have the following functions:-

(a) entertain claims, at its discretion, and in respect of land, be they against any level of government or other parties interested in the land;

(b) arbitrate between willing contending parties on claims over land; the parties to the arbitration shall be bound by the decision of the Commission on the basis of mutual consent and upon registration of the award in a court of law;

(c) enforce the law applicable to the locality where the land is situated or such other law as the parties to the arbitration agree, including principles of equity;

(d) accept references on request from the relevant government, or in the process of resolving claims, make recommendations to the appropriate level of government concerning land reform policies and recognition of customary rights or customary land law;

(e) assess appropriate compensation for land including but not limited to monetary compensation, for applicants in the course of arbitration or in the course of a reference from a court;

(f) advise different levels of government on how to co-ordinate policies on Southern Sudan projects affecting land or land rights;

(g) study and record land use practices in areas where natural resource development occurs;

(h) conduct hearings and formulate its own rules of procedure; and

(i) any other functions that may be conferred upon it by law.

(2) The structure, composition, appointment, terms and conditions of service of the Commission shall be regulated by law.

(3) The chairperson of the Commission shall be appointed by the President of the Government of Southern Sudan.

(4) The Commission shall be independent and representative of all levels of government in Southern Sudan.

(5) The Commission shall have its budget approved by the Southern Sudan Legislative Assembly and shall be accountable to the President of the Government of Southern Sudan for the administrative performance of its functions.

### **182. Cooperation between National and Southern Sudan Land Commissions**

(1) The National Land Commission and Southern Sudan Land Commission shall co-operate and co-ordinate their activities so as to:

(a) use their resources efficiently;

(b) exchange information and decisions on land issues; and

*(9) Communities and persons enjoying rights in land shall be consulted in decisions that may affect their rights in lands and resources.*

*(10) Communities and persons enjoying rights in land shall be entitled to prompt and equitable compensation on just terms arising from acquisition or development of land in their areas in the public interest.*

### **172. Land Commission**

(1) *There shall be established an independent commission to be known as the Land Commission, and it shall be composed of persons of proven competence, experience, integrity and impartiality.*

(2) The Chairperson, Deputy Chairperson and Members of the Commission shall be appointed by the President in accordance with this Constitution and the law.

(3) *The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Commission shall be regulated by law.*

### ~~**182. Cooperation between National and Southern Sudan Land Commissions**~~

~~(1) The National Land Commission and Southern Sudan Land Commission shall co-operate and co-ordinate their activities so as to:~~

~~(a) use their resources efficiently;~~

~~(b) exchange information and decisions on land issues; and~~

(c) resolve any conflict between their findings or recommendations.

(2) In case of conflict between the findings or recommendations of the National Land Commission and Southern Sudan Land Commission which cannot be resolved or reconciled by agreement pursuant to sub-Article (1) (c) above, the matter shall be referred to the Constitutional Court.

(3) The Southern Sudan Land Commission may carry out certain functions of the National Land Commission, including collection of data and research.

### ***Chapter III***

#### **183. Framework for Petroleum Development and Management in Southern Sudan**

(1) The Government of Southern Sudan and the oil producing states in Southern Sudan shall be represented in the National Petroleum Commission in accordance with Article 191 of the Interim National Constitution.

(2) The governments of Southern Sudan and the oil producing states shall participate in development and management of the various stages of petroleum development in Southern Sudan in consultation with the relevant communities, within the overall framework of petroleum development during the Interim Period.

(3) The Government of Southern Sudan in conjunction with the governments of oil producing states, shall prioritize areas of petroleum development and make recommendations that are consistent with such priorities to the National Petroleum Commission taking into account:

(a) the impact from petroleum development on the environment of the area;

(b) the effect of petroleum development on traditional and community rights in land in the areas affected by such development;

(c) the expected economic yield and benefits from the petroleum reserves; and

(d) the required production facilities and the transportation system to be put in place.

(4) Any petroleum development in Southern Sudan shall be conducted in a manner that will ensure that:

(a) the interests of the people of Southern Sudan are safeguarded;

(b) it does not violate national, Southern Sudan and state environmental laws and policies, biodiversity conservation guidelines and protection of cultural heritage;

(c) it recognizes and protects rights in land, including customary and traditional land rights;

(d) the communities in whose areas development of subterranean natural resources occurs have the right to participate, through their respective states, in the negotiation of contracts for the development of those resources; and

(e) it is in conformity with internationally recognised industry standards of environmentally sensitive natural resource extraction or development.

~~(c) resolve any conflict between their findings or recommendations.~~

~~(2) In case of conflict between the findings or recommendations of the National Land Commission and Southern Sudan Land Commission which cannot be resolved or reconciled by agreement pursuant to sub-Article (1) (c) above, the matter shall be referred to the Constitutional Court.~~

~~(3) The Southern Sudan Land Commission may carry out certain functions of the National Land Commission, including collection of data and research.~~

### ***Chapter III***

#### ***Petroleum and Gas Development and Management***

#### ***173. Guiding Principles for Petroleum and Gas Development and Management***

*(1) Ownership of petroleum and gas shall be vested in the people of South Sudan and shall be developed and managed by the National Government on behalf of and for the benefit of the people.*

*(2) Petroleum and gas development and management shall be guided by the following principles:*

*(a) safeguarding National interests;*

*(b) creating lasting benefits for society;*

*(c) promoting efficient and sustainable resource management;*

*(d) using oil revenues to develop other sectors of the economy, especially agriculture;*

*(e) ensuring transparency and accountability;*

*(f) promoting fair competition to increase productivity and efficiency in the petroleum and gas sector;*

*(g) promoting balanced and equitable development;*

*(h) creating a secure and healthy investment environment;*

*(i) protecting the environment and biodiversity;*

*(j) building the capacity of South Sudanese within the petroleum and gas sector;*

*(k) establishing oil infrastructure within South Sudan, such as pipelines, refineries, storage, processing and transport facilities;*

*(m) safeguarding interests of future generations;*

*(n) ensuring accountability for violations of human rights and degradation to the environment caused by petroleum and gas-related operations; and*

*(o) ensuring restoration of land and resources affected by development and management.*

#### ***174. National Petroleum and Gas Commission***

*(1) A National Petroleum and Gas Commission shall be established as a policy-making body with respect to petroleum and gas resources as shall be regulated by law.*

*(2) The National Petroleum and Gas Commission shall report to the President and the National Legislative Assembly and Council of States.*

*(3) The National Petroleum and Gas Commission shall consist of relevant national Ministries, other relevant institutions, and representatives of oil producing states*

(5) It shall be the responsibility of the Government of Southern Sudan and the oil producing states in Southern Sudan to ensure the sustainable development and management of petroleum resources within Southern Sudan by:

(a) formulating public policies, guidelines, legislations, regulations and procedures in relation to the development and management of the Southern Sudan petroleum sector in line with the guidelines developed by the National Petroleum Commission or as a supplement thereto;

(b) monitoring and assessing the implementation of policies developed by the National Petroleum Commission and their impact on the communities in the areas of petroleum development;

(c) formulating strategies and programmes for the development of the necessary technical cadres from Southern Sudan; and

(d) requiring that all petroleum projects be subjected to environmental impact assessment before approval and implementation.

## **Chapter IV**

### **Sources of Revenue in Southern Sudan**

#### **184. Sources of Revenue for the Government of Southern Sudan**

(1) The Government of Southern Sudan, through the legislative process, shall legislate for raising revenue or collecting taxes from the following sources:

(a) the national revenue allocation to the Government of Southern Sudan and states from the National Revenue Fund as set out in Article 197 of the Interim National Constitution;

(b) revenue from any of the sources listed as state revenue sources referred to in Article 186 of this Constitution;

(c) oil revenue as set out in Article 185 (1) of this Constitution;

(d) taxes of the Government of Southern Sudan, which do

*appointed by the President in accordance with the law.*

*(4) The Chairperson, Deputy Chairperson and members of the Commission shall be appointed by the President with the approval of the National Legislative Assembly.*

*(5) The Structure, Composition, Functions, powers, terms and conditions of service of the chairperson, Deputy Chairperson, Members and employees of the Commission shall be regulated by law.*

#### **175. Ministry in Charge of Petroleum and Gas**

*(1) The Ministry in charge of petroleum and gas shall be the policy implementing body of the Government with respect to petroleum affairs. It shall act in accordance with this Constitution and the law.*

*(2) The functions of the Ministry shall include:*

*(a) negotiating all oil contracts for the exploration and development of oil and ensuring that they are consistent with its principles, policies and guidelines;*

*(b) initiating legislation, rules, and regulations regarding the petroleum and gas sector;*

*(c) managing the relations of the Government with petroleum and gas companies operating in South Sudan;*

*(d) formulating strategies and programmes for the development and management of the petroleum and gas sector;*

*(e) developing the necessary technical cadres for the petroleum and gas sector;*

*(f) in consultation with affected communities, ensuring that all petroleum*

*and gas projects be subjected to environmental and social impact assessment; and*

*(g) signing contracts on behalf of the Government upon the approval of the National Petroleum and Gas Commission.*

#### **176. National Petroleum and Gas Corporation**

*There shall be established a national petroleum and gas corporation which shall participate in the upstream, midstream and downstream activities of the petroleum and gas sector on behalf of the National Government. Its structure, management, and functions shall be determined by law.*

## **Chapter IV**

### **Sources of Revenue**

#### **177. Sources of Revenue for the National Government**

(1) there shall be established a National Revenue Authority. Its structure, composition and functions shall be regulated by law.

(2) The National Government shall legislate for raising revenue or collecting taxes from the following sources:

(a) petroleum, Gas/oil, mineral, and other natural resources;

(b) national personal income tax;

(c) corporate and business profit tax;



not encroach on the exclusive National Government taxing powers;

(e) service charges of the Government of Southern Sudan;

(f) enterprises and projects of the Government of Southern Sudan;

(g) grants-in-aid and foreign financial assistance;

(h) taxes and levies on small and medium businesses;

(i) excise duties on goods within Southern Sudan deemed to be luxury consumables;

(j) personal income tax of Southern Sudan;

(k) loans and borrowing in accordance with Article 193 (1) of this Constitution; and

(l) any other taxes as may be determined by law.

(2) The Government of Southern Sudan shall be allocated fifty per cent of the national non-oil revenue collected in Southern Sudan, as provided for under Article 196 (1) of the Interim National Constitution to partially meet development costs during the Interim Period. This arrangement shall be reviewed during the mid-term review process, with the view to the National Government allocating additional resources to the Government of Southern Sudan if need arises.

(3) All funds and special accounts referred to in this Constitution and future accounts shall be on-budget operations in accordance with the public budget.

### **185. Oil Revenue for the Government of Southern Sudan**

(1) The Government of Southern Sudan shall be allocated oil revenue from the following sources:

(a) fifty percent of net oil revenue derived from oil producing wells in Southern Sudan after the payment to the Oil Revenue Stabilization Account and to the oil producing states in Southern Sudan as of the beginning of the pre-interim period, and the remaining fifty percent to the National Government and states in Northern Sudan;

(b) forty-two percent of net oil revenue derived from oil producing wells in Abyei Area as provided in the Comprehensive Peace Agreement; and

(c) withdrawals from its share from the Oil Revenue Stabilization Account as provided in the Comprehensive Peace Agreement.

(2) The Government of Southern Sudan shall establish a Southern Sudan Future Generation Fund from its share of net oil revenue once oil production in Southern Sudan reaches one million barrels per day.

### **186. Sources of Revenue of States in Southern Sudan**

(a)

(b)

(c) licences;

(d)

(e)

(f) at least two percent of net oil revenue for oil producing states; in proportion to output produced in the state, taking into account the special allocation of two percent of net oil revenue produced in Abyei Area to Bahr El Ghazal as

(d) customs duties and import taxes;

(e) airports, rail, road, and river transport revenue;

(f) service charges, fees and fines;

(g) national government enterprises and projects;

(h) value added tax or general sales tax on goods and services;

(i) excise duties;

(j) loans and borrowing from the Bank of South Sudan and the public;

(k) grants-in-aid and foreign financial assistance;

(l) fees from nationality, passports, immigration and visas;

(m) royalties; and

(n) any other tax or revenue as may be determined by law.

### **178. National Oil Revenue**

(1) The National Government oil revenue shall derive from the net oil revenue after payment to the Oil Revenue Stabilization Account. The two percent payable to the oil producing states shall be increased to five percent and shall be allocated as follows:

(a) Two percent shall be allocated to the states; and

(b) Three percent to the communities,

The above allocations shall be regulated by law.

(2) An Oil Revenue Stabilization Account shall be established from government oil net revenue derived from actual export sales above an agreed benchmark price. The benchmark price will be established annually as part of the national budget.

(3) The National Government shall establish a Future Generation Fund from its share of net oil revenue.

### **179. Sources of Revenue of the States**

[FA]

(a)

(b)

(c) licences *issued by the state*;

(d)

(e)

(f) at least two percent of net oil *and other mineral revenues for each producing state*;

- provided in the Comprehensive Peace Agreement;  
 (g) state government projects and national parks;  
 (h)  
 (i) agricultural taxes;  
 (j)  
 (k)  
 (l) border trade charges or levies in accordance with national legislation;  
 (m) [(m) → (l)]  
 (n) [(n) → (m)]  
 (o) [(o) → (n)]

**Chapter V**  
**Fiscal and Financial Institutions in Southern Sudan**

**187. Southern Sudan Revenue Fund**

- (1) [FA]  
 (2)  
 (3)

**188. Southern Sudan Fiscal and Financial Allocation and Monitoring Commission**

- (1) [FA]  
 (2)

- (a) monitor and ensure that equalization grants from the Southern Sudan Revenue Fund are promptly transferred to the respective levels of government;  
 (b) guarantee appropriate sharing and utilization of financial resources; and

(c) [(c) → (d)]

(3) The Commission shall be composed of representatives from the Government of Southern Sudan and the states as follows:-

- (a) three representatives of the Government of Southern Sudan; and  
 (b) the finance minister from each state of Southern Sudan.

(4) The chairperson of the Commission shall be appointed by the President of the Government of Southern Sudan after consultation with the Vice President of the Government of Southern Sudan.

(5) The Commission shall quarterly report to the President of the Government of Southern Sudan and the Southern Sudan Legislative Assembly about its performance, and the President of the Government of Southern Sudan shall take appropriate remedial action in case of failure by the Southern Sudan Ministry of Finance and Economic Planning to discharge any of the functions stipulated in sub-Article 2 above.

(6) The Commission shall set its rules and procedures

**189. Southern Sudan Reconstruction and**

- (g) state government projects and national parks;  
 (h)  
 (i) agricultural *production* taxes;  
 (j)  
 (k)

- (l) [FA]  
 (m) [FA]  
 (n)

**Chapter V**  
**Fiscal and Financial Institutions**

**180. National Revenue Fund**

- (1) [FA]  
 (2) [FA]  
 (3) [FA]

(4) *The criteria and conditions for allocation of revenue to the states shall be determined by law.*

**181. Fiscal and Financial Allocation and Monitoring Commission**

- (1) [FA]  
 (2)

(a) *recommend criteria for allocation of National revenue to the state and local government levels;*

(b) *ensure and monitor that grants from the National Revenue Fund are promptly transferred to the respective levels of government;*

(c) *guarantee appropriate sharing and utilization of financial resources at the state and local government levels;*

(d) [FA]

(e) *monitor allocation and utilization of grants to and by the state and local government levels; and*

(f) *perform any other function as may be prescribed by law.*

(3) *The Commission shall submit a quarterly report to the President and the National Legislative Assembly and the Council of States about its performance, and the President shall take appropriate remedial action to resolve any problems affecting the work of the Commission.*

(4) *The President shall appoint the Chairperson, Deputy Chairperson, and Members of the Commission.*

(5) *The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Commission shall be regulated by law.*

~~**189. Southern Sudan Reconstruction and**~~

## **Development Fund**

(1) There shall be established a Southern Sudan Reconstruction and Development Fund to solicit, raise and collect funds from domestic and international donors and disburse such funds for the rehabilitation and reconstruction of the infrastructure of Southern Sudan, the resettlement and reintegration of internally and externally displaced persons, and to address any imbalances in regional development and infrastructure.

(2) The Government of Southern Sudan shall be responsible for expenditure from the fund and shall be entitled to raise additional funds by way of donation from foreign States, multilateral organizations or other bodies for the purposes of the reconstruction and development of Southern Sudan states.

(3) The Fund shall be transparently administered and professionally managed by a body established by the Government of Southern Sudan which shall also appoint an oversight committee having on it a representative of the National Ministry of Finance and of the National Audit Chamber; the Southern Sudan Legislative Assembly shall supervise the performance of the Fund.

(5) A monitoring and evaluation system shall be established to ensure accountability, transparency, efficiency, equity and fairness in the utilization of resources.  
[ENUMERATION ERROR]

## **Chapter VI**

### **Banking in Southern Sudan**

#### **190. Banking System in Southern Sudan**

There shall be established in Southern Sudan a conventional banking system in accordance with the provisions of Article 201 (2) of the Interim National Constitution.

#### **191. Establishment of Bank of Southern Sudan**

(1) There shall be established a Bank of Southern Sudan as a branch of the Central Bank of Sudan to provide, *inter alia*, conventional banking services within the framework of a single national monetary policy.

(2) The Bank of Southern Sudan shall use the market-based conventional banking instruments developed by the Central Bank of Sudan to regulate and supervise the implementation of the national monetary policy in Southern Sudan.

(3) The Bank of Southern Sudan shall be headed by a Deputy Governor of the Central Bank of Sudan who shall be a member of the Board of Directors of the Central Bank of Sudan.

(4) The Bank of Southern Sudan, being a branch of the Central Bank of Sudan, shall manage the conventional window using conventional financing instruments in implementing the national monetary policy in Southern Sudan in relation to the following:

(a) [(a) → (c)]

(b) [(b) → (d)]

(c) taining sound, effective and efficient banking and

## **Development Fund**

~~(1) There shall be established a Southern Sudan Reconstruction and Development Fund to solicit, raise and collect funds from domestic and international donors and disburse such funds for the rehabilitation and reconstruction of the infrastructure of Southern Sudan, the resettlement and reintegration of internally and externally displaced persons, and to address any imbalances in regional development and infrastructure.~~

~~(2) The Government of Southern Sudan shall be responsible for expenditure from the fund and shall be entitled to raise additional funds by way of donation from foreign States, multilateral organizations or other bodies for the purposes of the reconstruction and development of Southern Sudan states.~~

~~(3) The Fund shall be transparently administered and professionally managed by a body established by the Government of Southern Sudan which shall also appoint an oversight committee having on it a representative of the National Ministry of Finance and of the National Audit Chamber; the Southern Sudan Legislative Assembly shall supervise the performance of the Fund.~~

~~(5) A monitoring and evaluation system shall be established to ensure accountability, transparency, efficiency, equity and fairness in the utilization of resources.~~

## **Chapter VI**

### **Banking in South Sudan**

#### **190. Banking System in Southern Sudan**

~~There shall be established in Southern Sudan a conventional banking system in accordance with the provisions of Article 201 (2) of the Interim National Constitution.~~

#### **182. Establishment of the Bank of South Sudan**

*(1) There shall be established a central bank in South Sudan to be known as the Bank of South Sudan to provide for banking services in accordance with this Constitution and the law. The Bank shall be an independent corporate legal entity.*

*(2) The Bank of South Sudan shall be responsible for the formulation, conduct and implementation of monetary policy.*

*(3) The Bank of South Sudan shall use the market-based banking instruments developed by the Bank to regulate and supervise the implementation of the national monetary policy in South Sudan in relation to the following:*

*(a) formulating monetary policy;*

*(b) issuing currency;*

*(c)*

creditsystem;

(d) [(d) → (f)]

(e) performing any other functions not inconsistent with the national monetary policy.

(5) All financial institutions in Southern Sudan shall be subject to internationally recognized regulatory and prudential standards for conventional finance as well as to rules and regulations set by the Central Bank of Sudan.

## **192. Management of Foreign Exchange Resources**

(1) All foreign exchange resources of the Government of Southern Sudan shall be considered part of the national foreign exchange reserve and the Government of Southern Sudan shall use them to meet its foreign exchange requirements. The Government of Southern Sudan foreign exchange transactions shall be conducted through the Bank of Southern Sudan.

(2) All domestic banking operations and transactions of the Government of Southern Sudan shall be in the national currency and any other circulating currencies in Southern Sudan until a new currency is issued as provided in Article 207 of the Interim National Constitution.

(3) The Bank of Southern Sudan shall open a foreign correspondent account in a prime bank of its choice in which all foreign exchange resources of the Government of Southern Sudan shall be deposited.

(d)

(e) *maintaining* sound, effective and efficient banking and credit system;

(f) [FA]

(g) *performing any other function as may be prescribed by law.*

(4) *The Bank of South Sudan shall be independent in the performance of its functions and the exercise of its powers.*

(5) *All financial institutions shall be subject to rules and regulations set by the Bank of South Sudan as well as to internationally recognised regulatory and prudential standards for finance.*

(6) *All financial institutions shall be bound to implement monetary policies set by the Bank of South Sudan.*

(7) *The Bank of South Sudan shall be headed by a Governor and assisted by two Deputy Governors, appointed by the President and approved by two-third majority of members of the National Legislative Assembly present and voting.*

(8) *The Governor of the Bank of South Sudan shall appoint other senior officers within the Bank of South Sudan in consultation with the Board of Directors and in accordance with the law.*

(9) *There shall be established a Board of Directors for the Bank of South Sudan appointed by the President. It shall consist of nine members as follows:*

(a) *Governor of the Bank of South Sudan, Chairperson;*

(b) *two Deputies of the Governor, members; and*

(c) *six non-executive, highly qualified, competent and experienced South Sudanese who are not employees of the Bank, members.*

(10) *The Board of Directors shall be the highest policy-making body of the Bank and shall be responsible to the President.*

(11) *Decisions of Board of Directors on matters that may affect adversely the interests of the clientele shall be by consensus.*

(12) *The tenure and terms and conditions of service of the Governor, Deputy Governors, members of the Board of Directors and other officials of the Bank shall be prescribed by law.*

## **~~192. Management of Foreign Exchange Resources~~**

~~(1) All foreign exchange resources of the Government of Southern Sudan shall be considered part of the national foreign exchange reserve and the Government of Southern Sudan shall use them to meet its foreign exchange requirements. The Government of Southern Sudan foreign exchange transactions shall be conducted through the Bank of Southern Sudan.~~

~~(2) All domestic banking operations and transactions of the Government of Southern Sudan shall be in the national currency and any other circulating currencies in Southern Sudan until a new currency is issued as provided in Article 207 of the Interim National Constitution.~~

~~(3) The Bank of Southern Sudan shall open a foreign correspondent account in a prime bank of its choice in which all foreign exchange resources of the Government of Southern Sudan shall be deposited.~~

(4) The Bank of Southern Sudan shall manage this foreign correspondent account on the basis of the best banking practices in favour of the Government of Southern Sudan and disburse it in such manner as to ensure macro-economic stability and compliance with national monetary policy objectives and requirements.

---- Insertion for the purpose of text comparison ----

### **197. Circulating Currencies in Southern Sudan**

(1) The Central Bank of Sudan shall issue a new currency, the design of which shall reflect the cultural diversity of the Sudan. Priority shall be given to meet currency demand and replacement of the circulating currencies in Southern Sudan.

(2) Until a new currency is issued on the recommendation of the Central Bank of Sudan, the circulating currencies in Southern Sudan shall be recognised.

---- Insertion for the purpose of text comparison ----

### **193. Borrowing**

(1) The governments of Southern Sudan and the states may borrow money with the approval of the respective legislature. The appropriate legislature may by law exempt any categories of loans from the requirement of approval and in this case determine the extent of the money value of the loan subject to such conditions as it may prescribe. Neither the Government of Southern Sudan nor the Bank of Southern Sudan shall be required to guarantee borrowing by any State government in Southern Sudan.

(2) The governments of Southern Sudan and the states shall report financial and fiscal data relating to such loans to the relevant institutions in Southern Sudan for statistical purposes.

(3) [Shifted for the purpose of text comparison.]

(4) Foreign borrowing by the governments of Southern Sudan and the states shall be in a manner that does not undermine national macro-economic policies and shall be consistent with the objective of maintaining external financial viability. All foreign borrowing transactions of all levels of government in Southern Sudan shall conform to the specifications of the Central Bank of Sudan.

---- Insertion for the purpose of text comparison ----

(2) The governments of Southern Sudan and the states shall report financial and fiscal data relating to such loans to the relevant institutions in Southern Sudan for statistical purposes.

---- Insertion for the purpose of text comparison ----

## **Chapter VII Accounting Standards**

### **194. Accounting Procedures, Standards and Fiscal Accountability**

(1)

~~(4) The Bank of Southern Sudan shall manage this foreign correspondent account on the basis of the best banking practices in favour of the Government of Southern Sudan and disburse it in such manner as to ensure macro-economic stability and compliance with national monetary policy objectives and requirements.~~

### **183. Circulating Currencies in South Sudan**

(1) *The Bank of South Sudan shall have the exclusive right to issue a currency to be the legal tender of South Sudan, the design of which shall reflect the historical and cultural diversity of the country.*

(2) *Until a new currency is issued on the recommendation of the Bank of South Sudan, the circulating currency in South Sudan shall be recognized as a legal tender.*

### **184. Borrowing**

(1)

(a) The National and state governments may borrow money with the approval of their respective legislatures. The appropriate legislature may by law exempt any categories of loans from the requirement of approval and in this case determine the extent of the money value of the loan subject to such conditions as it may prescribe; and  
(b) Neither the National Government nor the Bank of South Sudan shall guarantee borrowing by any state government without their prior approval.

(2) The National and state governments may borrow money from foreign sources depending on their respective credit worthiness.

(3) Foreign borrowing by the governments of the states shall be in a manner that does not undermine national macro-economic policies and shall be consistent with the objective of maintaining external financial viability. All foreign borrowing transactions of National and state governments shall conform to the specifications of the Bank of South Sudan.

(4) The National and state governments shall report financial and fiscal data relating to such loans to the Bank of South Sudan for statistical purposes.

## **Chapter VII Accounting Standards**

### **185. Accounting Procedures, Standards and Fiscal Accountability**

(1) [FA]

|   |   |
|---|---|
| <p>(2)<br/>(3)</p> <p><b>195. Southern Sudan Audit Chamber</b></p> <p>(1) There shall be established an independent Southern Sudan Audit Chamber.</p> <p>(2) The Southern Sudan Audit Chamber shall, in accordance with the provisions of Article 205 (2) of the Interim National Constitution, supervise the financial performance of all levels of government in Southern Sudan, including revenue collection and expenditure, in accordance with the budgets approved by their respective legislatures.</p> <p>(3) The President of the Government of Southern Sudan, with the approval of a two-thirds majority of all members of the Southern Sudan Legislative Assembly shall appoint from qualified persons the Southern Sudan Auditor General who shall be the head of the Southern Sudan Audit Chamber. He or she shall take oath before the President of the Government of Southern Sudan and shall not be removed except in the same manner in which he or she is appointed.</p> <p>(4) The Southern Sudan Audit Chamber shall assume auditing of the accounts of the Southern Sudan Executive, the Southern Sudan Legislative Assembly, the Judiciary of Southern Sudan and the accounts of states, local governments, independent commissions, public institutions and corporations and any other institutions in Southern Sudan as may be determined by law.</p> <p>(5) The Southern Sudan Auditor General shall present an annual report to the President of the Government of Southern Sudan and the Southern Sudan Legislative Assembly.</p> <p>(6) The Southern Sudan Auditor General shall be prohibited from engaging in all businesses in which constitutional office holders are not allowed to engage, pursuant to Article 121 (2) of this Constitution.</p> <p>(7) The law shall organize the Southern Sudan Audit Chamber and shall specify the functions, terms and conditions of service of its employees.</p> | <p>(2) [FA]<br/>(3) [FA]</p> <p><b>186. National Audit Chamber</b></p> <p>(1) <i>There shall be established an independent institution to be known as the National Audit Chamber, consisting of persons of proven professional competence, experience, integrity and impartiality.</i></p> <p>(2) <i>The National Audit Chamber shall set auditing standards for the whole country and supervise the financial performance of all levels of government, including revenue collection and expenditure, in accordance with the budgets approved by their respective legislatures.</i></p> <p>(3) The President, with the approval of a two-third majority of all members of the National Legislative Assembly, shall appoint from qualified professionals the National Auditor General who shall be the head of the National Audit Chamber.</p> <p>(4) <i>To assume office, the National Auditor General shall take oath before the President.</i></p> <p>(5) <i>The office of the National Auditor General shall fall vacant under the following circumstances:</i></p> <p>(a) <i>removal from office by the President on the following grounds:</i></p> <p>(i) <i>serious violations of the Constitution or any other law;</i></p> <p>(ii) <i>gross misconduct, whether in performance of his or her office functions or otherwise;</i></p> <p>(iii) <i>physical and mental incapacity to perform the functions of office;</i></p> <p>(iv) <i>incompetence or inefficiency; and</i></p> <p>(v) <i>bankruptcy;</i></p> <p>(b) <i>resignation;</i></p> <p>(c) <i>by a resolution of two third majority of Members of National Legislative Assembly present and voting; or</i></p> <p>(d) <i>death.</i></p> <p>(6) <i>The National Auditor General shall be accountable to the President for the performance of the Chamber.</i></p> <p>(7) <i>The National Audit Chamber shall assume auditing of the accounts of the National, state and local government levels, independent commissions, public institutions and corporations and any other institutions as may be determined by law.</i></p> <p>(8) <i>The National Auditor General shall present an annual report to the President and the National Legislative Assembly or the Council of States, as the case may be.</i></p> <p>(9) <i>The National Auditor General and senior officials of the National Audit Chamber shall be prohibited from engaging in all businesses in which constitutional office holders are not allowed to engage, pursuant to Article 120 (2) of this Constitution.</i></p> <p>(10) <i>The law shall organize the National Audit Chamber and shall specify the tenure, functions, and terms and conditions of service of the National Auditor General and the employees of the Chamber.</i></p> |
|---|---|

## **Chapter VIII**

### **196. Interstate Trade and Commerce**

- (1)
- (2) There shall be no levies or fees or any other charges on interstate trade and commerce.

---- Insertion for the purpose of text comparison ----

### **198. Government Liabilities and Assets**

- (1)
- (2) [(2) → (2)+(3)]

---- Insertion for the purpose of text comparison ----

## **Chapter IX: Transitional Provisions for Finance and Banking**

### **197. Circulating Currencies in Southern Sudan**

[Shifted for the purpose of text comparison.]

### **198. Government Liabilities and Assets**

[Shifted for the purpose of text comparison.]

## **Part Thirteen: Natural Disasters**

### **199. Natural Disasters**

- (1) The President of the Government of Southern Sudan, in consultation with the Southern Sudan Legislative Assembly, may upon the occurrence of any natural disaster or epidemic which may threaten the civil life of the people of Southern Sudan, take appropriate control measures to address the situation.
- (2) Should the situation contemplated in sub-Article (1) above require the declaration of a state of emergency, the President of the Government of Southern Sudan shall request the President of the Republic to declare the state of emergency in accordance with Article 210 of the Interim National Constitution.

## **Chapter VIII**

## **Interstate Trade, Commerce and Liabilities and Assets**

### **187. Interstate Trade and Commerce**

- (1) [FA]
- (2) There shall be no levies, *taxes* or fees or any other charges on interstate trade and commerce.

### **188. Government Liabilities and Assets**

- (1) [FA]
- (2) [FA]
- (3)

## **Part Thirteen**

## **State of Emergency and Declaration of War**

### **Declaration of a State of Emergency**

- (1) *The President, may upon the occurrence of an imminent danger, whether it is war, invasion, blockade, natural disaster or epidemics, as may threaten the country, or any part thereof or the safety or economy of the same, declare a state of emergency in the country, or in any part thereof, in accordance with this Constitution and the law.*
- (2) *The declaration of a state of emergency shall be submitted to the National Legislature within fifteen days of the issuance of the declaration. When the National Legislature is not in session, an emergency session shall be convened.*
- (3) *When the National Legislature approves the declaration of a state of emergency, all laws, orders or measures issued or taken by the President pursuant to the state of emergency shall continue to remain in force.*

### **Powers of the President in a State of Emergency**

*During a state of emergency, the President may, by law or orders, take any measures that shall not derogate from the provisions of this Constitution except as provided herein:*

- (a) *to suspend part of the Bill of Rights; however, there shall be no infringement on the right to life, prohibition against slavery, prohibition against torture, the right of non-discrimination on the basis of race, sex, religious creed, the right to litigation or the right to fair trial;*
- (b) *to dissolve or suspend any institution of the National Executive;*

(c) to dissolve or suspend any of the state organs or suspend such powers conferred upon the states under this Constitution; and (d) to take any such measures as deemed necessary to the state of emergency, which shall have the force of law.

#### **191. Duration of a State of Emergency**

The duration of the measures relating to the state of emergency shall expire in the following cases:

- (a) lapse of thirty days as from the date of issuance of the declaration if the National Legislature does not approve by a resolution the extension of its duration;
- (b) lapse of the duration approved by the National Legislature; or
- (c) issuance of a declaration by the President lifting the state of emergency.

#### **192. Declaration of War**

(1) The President shall declare war whenever the country is under external aggression and such declaration shall be legal and enforceable subject to approval of the National Legislature by two-thirds of all the members.

(2) The declaration of war shall be submitted to the National Legislature within seventy-two hours of the issuance of the declaration if the National Legislature is in session.

(3) If the National Legislature is not in session, an emergency session shall be convened and the declaration shall be submitted within fourteen days of its issuance.

## **Part Fourteen: Census and Elections**

### **Chapter I: Census and Statistics**

#### **200. The Southern Sudan Centre for Census, Statistics and Evaluation**

- (1)
- (2)
- (a)
- (b)
- (c)
- (d)
- (3)
- (4)

#### **201. Southern Sudan Population Census**

(1) Population census in Southern Sudan shall be conducted and completed by the end of the second year of the Interim Period.

(2) The population census in Southern Sudan shall be conducted by the Southern Sudan Centre for Census, Statistics and Evaluation in coordination with the national Central Bureau of Statistics.

(3) In the interest of effectiveness in the execution of the population census or surveys throughout the Sudan, the national Central Bureau of Statistics and Southern Sudan

## **Part Fourteen: Census, Referenda and Elections**

### **Chapter I: Census and Statistics**

#### **193. The National Bureau of Statistics**

- (1) [FA]
- (2) [FA]+[LA]
- (a) [FA]
- (b) [FA]
- (c) [FA]
- (d) [FA]
- (3) [FA]
- (4) [FA]

#### **194. Population Census**

The National Government shall during the Transitional Period conduct a population census the outcome of which shall, inter alia, determine the number of electoral constituencies for the next general elections.



Centre for Census, Statistics and Evaluation shall co-ordinate, co-operate and assist each other in the fulfilment of their functions and may to this end, establish the necessary mechanisms and channels of implementation.

## **Chapter II: Elections in Southern Sudan**

### **202. Time of Elections in Southern Sudan**

General Elections at all levels of government in Southern Sudan shall be held not later than the end of the fourth year of the Interim Period.

### **203. Referenda in Southern Sudan**

(1) Pursuant to Schedule B (11) herein, the President of the Government of Southern Sudan, or the Southern Sudan Legislative Assembly, through a resolution passed by more than half of all its members, may refer for a referendum any matter of public interest within the competence of the Government of Southern Sudan.

(2)

(3)

### **204. Running for Elections in Southern Sudan**

Whoever runs in any elections in Southern Sudan shall respect, abide by and enforce the Comprehensive Peace Agreement, this Constitution and the Interim National Constitution.

## **Part Fifteen: Interim and Miscellaneous Provisions**

### **205. Coming into Force**

(1) This Constitution shall be cited as the Interim Constitution of Southern Sudan, 2005; its English and Arabic versions are equally official and authentic. In case of any contradiction between the English and Arabic texts, the English text shall be authoritative as English was the language of the drafting of this Constitution. Any reference to the masculine gender in the Arabic text also denotes the feminine gender.

## **Chapter II Referenda**

### ~~**202. Time of Elections in Southern Sudan**~~

~~General Elections at all levels of government in Southern Sudan shall be held not later than the end of the fourth year of the Interim Period.~~

### **195. Referenda**

(1) Pursuant to Schedule A (30) herein, the President, or the National Legislature, through a resolution passed by more than half of all its members, may refer for a referendum any matter of public interest.

(2) [FA]

(3) [FA]

### **196. Running for Elections**

Whoever runs in any election shall respect and abide by this Constitution and the law.

### **197. The National Elections Commission**

(1) There shall be established within one month after enactment of the National Election Law, an Independent Commission which shall be known as the National Elections Commission.

(2) There shall be enacted a National Elections Law within three months following the adoption of this Constitution.

(3) The Chairperson, Deputy Chairperson, and Members of the Commission shall be persons of proven integrity, competence, non-partisan and impartial, and shall be appointed by the President in accordance with the provisions of this Constitution and the law.

(4) The structure, composition, functions, powers and terms and conditions of service of the Chairperson, Deputy Chairperson, Members and employees of the Commission shall be regulated by law.

## **Part Fifteen Miscellaneous Provisions**

### **198. Coming into Force of this Constitution**

This Constitution shall be assented to and signed by the President of the Government of Southern Sudan, and shall come into force on July 9, 2011.

(2) Upon the adoption of this Constitution by the Southern Sudan Legislative Assembly, it shall be presented to the National Ministry of Justice which shall, within two weeks from the date of receipt, declare its compatibility with the Interim National Constitution.

(3) This Constitution shall come into force on the date of signature by the President of the Government of Southern Sudan.

#### **206. Amendment of this Constitution**

(1) This Constitution shall not be amended unless the proposed amendment is approved by two-thirds of all members of the Southern Sudan Legislative Assembly and only after introduction of the draft amendment at least two months prior to the deliberations.

(2) Any amendment affecting the provisions of the Comprehensive Peace Agreement shall be introduced only with the approval of both Parties signatory to the Comprehensive Peace Agreement.

#### **207. Incorporation of the Comprehensive Peace Agreement in this Constitution**

The Comprehensive Peace Agreement is deemed to have been duly incorporated in this Constitution; any provisions of the Comprehensive Peace Agreement which are not expressly incorporated herein shall be considered as part of this Constitution.

#### **208. Interim and Miscellaneous Provisions**

(1) This Constitution derives its authority from the will of the people of Southern Sudan, the Comprehensive Peace Agreement and the Interim National Constitution of the Republic of the Sudan, 2005.

(2) For the purposes of this Constitution and the Comprehensive Peace Agreement, the Interim Period commenced on July 9, 2005 and any measures taken or institutions established by the President of the Government of Southern Sudan pursuant to the Comprehensive Peace Agreement and the Interim National Constitution prior to the adoption of this Constitution, shall be deemed to have been taken or established by virtue of this Constitution.

(3) All current laws shall remain in force and all judicial and civil servants shall continue to perform their functions, unless new actions are taken in accordance with the provisions of this Constitution.

(4) This Constitution shall govern the Interim Period in Southern Sudan, subject to any amendment or review in accordance with Article 206 herein.

(5) All the interim provisions contained in the various parts and chapters of this Constitution shall cease to have effect

#### **199. Amendment of this Constitution**

*This Constitution shall not be amended unless the proposed amendment is approved by two-thirds of all members of each House of the National Legislature sitting separately and only after introduction of the draft amendment at least one month prior to the deliberations.*

#### **200. Continuity of Laws and Institutions**

*All current Laws of Southern Sudan shall remain in force and all current institutions shall continue to perform their functions and duties, unless new actions are taken in accordance with the provisions of this Constitution.*

### **Part Sixteen**

## **Transitional Provisions and the Permanent Constitution Process**

### **Chapter I**

#### **201. Transitional Provisions**

*(1) Upon the Declaration of Independence and statehood of the Republic of South Sudan, on July 9, 2011, the President of the Government of Southern Sudan shall:*

*(a) assent to and sign into law the amended Interim Constitution of Southern Sudan, 2005, after its adoption by the Southern Sudan Legislative Assembly, which shall thereafter be known as the Transitional Constitution of the Republic of South Sudan, 2011;*

*(b) be sworn in as the President of the Republic of South Sudan in the same ceremony;*

*(c) establish the Council of States in accordance with the provisions of Article 94 (3) of this Constitution; and*

*(d) convene the National Legislature in accordance with the provisions of this Constitution.*

*(2) This Constitution shall remain in force until the adoption of a permanent constitution.*

### **Chapter II**

## **Permanent Constitution Process**

#### **202. National Constitutional Review Commission**

after the holding of the general elections stipulated under Article 202 of this Constitution.

(6) Should the outcome of the referendum on self-determination confirm unity, the current system of governance established under this Constitution shall remain in force and all the institutions established under it shall continue to function in accordance with the provisions thereof until a permanent Constitution is promulgated.

(7) If the outcome of the referendum on self-determination favours secession, this Constitution shall remain in force as the Constitution of a sovereign and independent Southern Sudan, and the parts, chapters, articles, sub-articles and schedules of this Constitution that provide for national institutions, representation, rights and obligations shall be deemed to have been duly repealed.

*(1) There shall be established by the President of the Republic a Commission to be known as National Constitutional Review Commission within six months from coming into force of this constitution.*

*(2) The President of the Republic shall, after consultation with the Political Parties, Civil Society and other stakeholders appoint the Chairperson, Deputy Chairperson and members of the Commission.*

*(3) The term of reference of the Commissions, its procedures shall be detailed out in the instrument of the appointment.*

*(4) The Commission shall submit its report to the President after one year of its establishment.*

*(5) The Commission shall be established with due regard for gender, political, social and regional diversity of South Sudan in recognition of the need for inclusiveness, transparency and equitable participation. Each member of the Commission shall have the requisite competence and technical expertise and experience to contribute to fulfilling the mandate of the Commission.*

*(6) The Commission shall review the Transitional Constitution and collect views and suggestions from all the stakeholders including any changes that may need to be introduced to the current system of governance.*

*(7) The Commission may seek the assistance of other experts.*

*(8) The Commission shall conduct a nation-wide public information programme and civic education on constitutional issues.*

*(9) The Commission shall adopt its own rules of procedure.*

*(10) The Commission shall adopt and present the Draft Constitutional Text and an Explanatory Report to the President one year after its formation.*

*(11) The President after receiving the Draft Constitutional Text and the Explanatory Report shall present the same to the Constitutional Conference as established below for deliberation.*

### **203. National Constitutional Conference**

*(1) Upon the presentation of the Draft Constitutional Text and Explanatory Report by the Commission, the President of the Republic shall, after consultation with relevant stakeholders, constitute and convene a National Constitutional Conference comprising delegates representing the following categories:*

*(a) Political Parties;*

*(b) civil society organizations;*

*(c) women organizations;*

*(d) youth organizations;*

*(e) faith-based organizations;*

*(f) people with special needs;*

*(g) Traditional Leaders;*

*(h) war widows, veterans and war wounded;*

*(i) business leaders;*

*(j) trade unions;*

*(k) professional associations;*

*(l) the academia; and*

*(m) other categories to be determined.*

*(2) Each of the categories in sub-Article (1) above shall*

*nominate its delegates and present them to the President for appointment to the National Constitutional Conference.*

*(3) The National Constitutional Conference shall: (a) formulate its rules of procedure;*

*(b) deliberate on the Draft Constitutional Text;*

*(c) keep the public informed of its proceedings which shall be conducted in a transparent manner and open to the media; and*

*(d) approve and pass the Draft Constitutional Text by simple majority of all the delegates.*

*(e) submit the Draft Constitutional Text to the President within six months.*

*(4) A Judge of the Supreme Court of South Sudan shall be the Chairperson of the National Constitutional Conference. The Conference shall have a Secretariat.*

*(5) The National Constitutional Conference shall commence its work as soon as it receives the Draft Constitutional Text and the Explanatory Report from the President.*

*(6) The National Constitutional Conference shall approve the Draft Constitutional Text and the Explanatory Report and the Conference shall thereafter be considered dissolved.*

*(7) The President shall, upon receipt of the Draft Constitutional Text, cause the same to be tabled before the National Legislature, at least one year before the end of the Transitional Period, for deliberation and adoption within three months.*

*(8) The Speaker of the National Legislature shall thereafter present the adopted Constitution to the President for assent and signature.*

## **Schedules**

### **Schedule (A)**

#### **National Powers**

1. [(1) → (2)]
2. [(2) → (3)]
3. [(3) → (4)]
4. [(4) → (5)]
5. [(5) → (6)]
6. [(6) → (7)]
7. Constitutional Court and other National Courts;
8. National Police (including Criminal Investigation Department – CID, coordination of international, regional and bilateral criminal matters, and standards and regulations including the standards for training the police in the National Capital);
9. The fixing of and providing for salaries and allowances of civil and other officers of the National Government;
10. [(10) → (11)]
11. [(11) → (12)]

### **Schedule (A)**

#### **National Powers**

1. *The adoption or amendment of the National Constitution;*
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
8. *The Judiciary;*
9. ~~National Police (including Criminal Investigation Department – CID, coordination of international, regional and bilateral criminal matters, and standards and regulations including the standards for training the police in the National Capital);~~
10. *Establishment and Maintenance of National Prisons, Wildlife and the Fire Brigade Services;*
- 11.
- 12.

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| <p>12. Maritime shipment;</p> <p>13. [(13) → (15)]</p> <p>14. [(14) → (16)]</p> <p>15. [(15) → (17)]</p> <p>16. Central Bank, the Incorporation of National banks and issuing of paper money;</p> <p>17. [(17) → (19)]</p> <p>18. [(18) → (20)]</p> <p>19. [(19) → (21)]</p> <p>20. Establishment and Maintenance of National Prisons;</p> <p>21. National Institutions as envisaged under the Peace Agreement or as set forth in this Constitution;</p> <p>22. [(22) → (23)]</p> <p>23. Intellectual Property Rights, including Patents and Copyright;</p> <p>24. [Shifted for the purpose of text comparison.]</p> <p>25. Signing of International Treaties on behalf of the Republic of the Sudan;</p> <p>26. [Shifted for the purpose of text comparison.]</p> <p>27. [Shifted for the purpose of text comparison.]</p> <p>28. National States of Emergency;</p> <p>29. International and Inter-State Transport, including roads, airports, waterways, <i>harbours</i> and railways;</p> <p>30. [Shifted for the purpose of text comparison.]</p> <p>31. [(31) → (28)]</p> <p>32. [Shifted for the purpose of text comparison.]</p> <p>33. Nile Water Commission, the management of the Nile Waters, trans-boundary waters and disputes arising from the management of interstate waters between Northern states and any dispute between Northern and Southern states;</p> <p>---- Insertion for the purpose of text comparison ----</p> <p>26. National Debt and borrowing on public credit;</p> <p>---- Insertion for the purpose of text comparison ----</p> <p>32. National Economic Policy and Planning;</p> <p>34. [Shifted for the purpose of text comparison.]</p> <p>35. National Taxation and National Revenue Raising;</p> <p>36. [(36) → (41)]</p> <p>30. [(30) → (42)]</p> | <p><del>12. Maritime shipment;</del></p> <p>13. <i>Regulation of Airspace;</i></p> <p>14. <i>River Transport;</i></p> <p>15.</p> <p>16.</p> <p>17.</p> <p>18. <i>Central Bank, the incorporation of commercial banks, issuing of currency, and regulation of banking system and insurance policy;</i></p> <p>19.</p> <p>20.</p> <p>21.</p> <p>22. <del>National Institutions as envisaged under the Peace Agreement or as set forth in this Constitution;</del></p> <p>23.</p> <p>24. Intellectual Property Rights;</p> <p>25. International, regional and bilateral treaties and conventions;</p> <p>26. State of Emergency;</p> <p>27. International and Inter-State Transport, including roads, airports, waterways, <i>river ports</i> and railways;</p> <p>28.</p> <p>29. The management of the Nile Waters, trans-boundary waters, national rivers and lakes;</p> <p>30. <i>Elections and referenda at all levels of Government;</i></p> <p>31. <i>Regulation of Political Parties;</i></p> <p>32. <i>Security and military forces;</i></p> <p>33. Borrowing;</p> <p>34. National <del>Economic Policy and Planning;</del></p> <p>35. <i>Appointments and emoluments of national constitutional post holders;</i></p> <p>36. <i>The determination of salary structure and allowances for public sector employees including the fixing of the minimum wage for both the public and private sectors;</i></p> <p>37. <i>Regulation of National Civil Service;</i></p> <p>38. <i>Development of financial resources for the National Government;</i></p> <p>39. <i>The co-ordination of services or the establishment of minimum national standards or uniform norms in respect of any matter or service referred to in Schedule B or Schedule C, read together with Schedule D, with the exception of Item 1 of Schedule B;</i></p> <p>40. National taxation and revenue;</p> <p>41.</p> <p>42.</p> |
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| <p>---- Insertion for the purpose of text comparison ----<br/> 24. National Flag, National Emblem and National Anthem;<br/> ---- Insertion for the purpose of text comparison ----</p> <p>---- Insertion for the purpose of text comparison ----<br/> 34. National information, publications, telecommunications regulations;<br/> ---- Insertion for the purpose of text comparison ----</p> <p>37. Laws providing for National elections and their supervision by the National Elections Commission; and</p> <p>---- Insertion for the purpose of text comparison ----<br/> 27. National Census, National Surveys and National Statistics;<br/> ---- Insertion for the purpose of text comparison ----</p> <p>38. Issuance of National Identity Card.</p>  | <p>43. National flag, emblem, anthem, coat of arms and medals;</p> <p>44. National reconstruction and development;</p> <p>45. Telecommunications, and national information, publications and mass media;</p> <p><i>46. Rehabilitation of and benefits to disabled war veterans, orphans, widows and care for the dependents of deceased war fallen heroes and heroines;</i></p> <p><i>47. Any matter relating to an item referred to in Schedule C that cannot be dealt with effectively by a single state and requires National legislation or intervention;</i></p> <p>48. National census, surveys and statistics;</p> <p>49. National identity cards <i>and any other appropriate documentation;</i></p> <p><i>50. Traffic regulations;</i></p> <p><i>51. Non-governmental, civil society, and faith based organizations;</i></p> <p><i>52. Incorporation of companies and registration of business names;</i></p> <p><i>53. National Public Holidays;</i></p> <p><i>54. National Capital territory;</i></p> <p><i>55. Names of states, state capital towns and state boundaries;</i></p> <p><i>56. Regulation of professional associations and trade unions;</i></p> <p><i>57. Licensing of Firearms; and</i></p> <p><i>58. Any other function as may be authorized by this Constitution and the law.</i></p> |
| <p><b>Schedule (B)</b><br/> <b>Powers of the Government of Southern Sudan</b></p> <p>The exclusive legislative and executive powers of Government of Southern Sudan shall be as follows:</p> <ol style="list-style-type: none"> <li>1. The adoption and amendment of the Constitution of the Government of Southern Sudan;</li> <li>2. Police, Prisons and Wildlife Services;</li> <li>3. Security and military forces during the Interim Period;</li> <li>4. Legislation relating to the Government of Southern Sudan structures for the delivery of services at all levels of Government of Southern Sudan;</li> <li>5. Borrowing of money on the sole credit of the Government of Southern Sudan within the national macro-economic policy;</li> <li>6. Planning for Southern Sudan Government services including health, education, and welfare, etc;</li> <li>7. The appointment, tenure and payment of Government of Southern Sudan (GOSS) officers and civil servants;</li> </ol> | <p><del><b>Schedule (B)</b></del><br/> <del><b>Powers of the Government of Southern Sudan</b></del></p> <p><del>The exclusive legislative and executive powers of Government of Southern Sudan shall be as follows:</del></p> <ol style="list-style-type: none"> <li><del>1. The adoption and amendment of the Constitution of the Government of Southern Sudan;</del></li> <li><del>2. Police, Prisons and Wildlife Services;</del></li> <li><del>3. Security and military forces during the Interim Period;</del></li> <li><del>4. Legislation relating to the Government of Southern Sudan structures for the delivery of services at all levels of Government of Southern Sudan;</del></li> <li><del>5. Borrowing of money on the sole credit of the Government of Southern Sudan within the national macro-economic policy;</del></li> <li><del>6. Planning for Southern Sudan Government services including health, education, and welfare, etc;</del></li> <li><del>7. The appointment, tenure and payment of Government of Southern Sudan (GOSS) officers and civil servants;</del></li> </ol>   |

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| <p>8. Development of financial resources for the Government of Southern Sudan;</p> <p>9. The co-ordination of Southern Sudan services or the establishment of minimum Southern Sudan standards or the establishment of Southern Sudan uniform norms in respect of any matter or service referred to in Schedule C or Schedule D, read together with Schedule E, with the exception of Item 1 of Schedule C, including but not limited to, education, health, welfare, police (without prejudice to the National Standards and Regulations), prisons, state public services, such authority over civil and criminal laws and judicial institutions, lands, reformatories, personal law, intra-state business, commerce and trade, tourism, environment, agriculture, disaster intervention, fire and medical emergency services, commercial regulation, provision of electricity, water and waste management services, local Government, control of animal diseases and veterinary services, consumer protection, and any other matters referred to in the above Schedules;</p> <p>10. Any power that a state or the National Government requests the Government of Southern Sudan to exercise on its behalf, subject to the agreement of the Government of Southern Sudan or that for reasons of efficiency the Government of Southern Sudan itself requests to exercise in Southern Sudan and that other level agrees;</p> <p>11. Referenda in Southern Sudan on matters affecting Southern Sudan within the competencies of Southern Sudan Government;</p> <p>12. Taxation and revenue raising in Southern Sudan;</p> <p>13. Southern Sudan Budget;</p> <p>14. Public utilities of Government of Southern Sudan;</p> <p>15. Government of Southern Sudan flag and emblem;</p> <p>16. Reconstruction and development of the Southern Sudan;</p> <p>17. Government of Southern Sudan information, publications, media and telecommunications utilities;</p> <p>18. Rehabilitation and benefits to disabled war veterans, orphans, widows and care for the dependents of deceased war fallen heroes;</p> <p>19. Any matter relating to an item referred to in schedule D that cannot be dealt with effectively by a single state and requires Government of Southern Sudan legislation or intervention including, but not limited to the following:-</p> <p>(1) Matters relating to businesses, trade licenses and conditions of operation;</p> <p>(2) Natural resources and forestry;</p> <p>(3) Town and rural planning;</p> <p>(4) Disputes arising from the management of interstate waters within Southern Sudan;</p> <p>(5) Fire fighting and ambulance services;</p> <p>(6) GOSS reformatory institutions;</p> <p>(7) Firearms licenses within Southern Sudan; and</p> <p>(8) Government of Southern Sudan recreation and sports.</p> <p>20. Such matters relating to taxation, royalties and economic planning as is specified in the Agreement on Wealth Sharing;</p> <p>21. Southern Sudan census and statistics within the competence of the Southern Sudan Government;</p> <p>22. Issuance of identity cards within Southern Sudan, driving licenses and any other appropriate documentation.</p> | <p><del>8. Development of financial resources for the Government of Southern Sudan;</del></p> <p><del>9. The co-ordination of Southern Sudan services or the establishment of minimum Southern Sudan standards or the establishment of Southern Sudan uniform norms in respect of any matter or service referred to in Schedule C or Schedule D, read together with Schedule E, with the exception of Item 1 of Schedule C, including but not limited to, education, health, welfare, police (without prejudice to the National Standards and Regulations), prisons, state public services, such authority over civil and criminal laws and judicial institutions, lands, reformatories, personal law, intra state business, commerce and trade, tourism, environment, agriculture, disaster intervention, fire and medical emergency services, commercial regulation, provision of electricity, water and waste management services, local Government, control of animal diseases and veterinary services, consumer protection, and any other matters referred to in the above Schedules;</del></p> <p><del>10. Any power that a state or the National Government requests the Government of Southern Sudan to exercise on its behalf, subject to the agreement of the Government of Southern Sudan or that for reasons of efficiency the Government of Southern Sudan itself requests to exercise in Southern Sudan and that other level agrees;</del></p> <p><del>11. Referenda in Southern Sudan on matters affecting Southern Sudan within the competencies of Southern Sudan Government;</del></p> <p><del>12. Taxation and revenue raising in Southern Sudan;</del></p> <p><del>13. Southern Sudan Budget;</del></p> <p><del>14. Public utilities of Government of Southern Sudan;</del></p> <p><del>15. Government of Southern Sudan flag and emblem;</del></p> <p><del>16. Reconstruction and development of the Southern Sudan;</del></p> <p><del>17. Government of Southern Sudan information, publications, media and telecommunications utilities;</del></p> <p><del>18. Rehabilitation and benefits to disabled war veterans, orphans, widows and care for the dependents of deceased war fallen heroes;</del></p> <p><del>19. Any matter relating to an item referred to in schedule D that cannot be dealt with effectively by a single state and requires Government of Southern Sudan legislation or intervention including, but not limited to the following:-</del></p> <p><del>(1) Matters relating to businesses, trade licenses and conditions of operation;</del></p> <p><del>(2) Natural resources and forestry;</del></p> <p><del>(3) Town and rural planning;</del></p> <p><del>(4) Disputes arising from the management of interstate waters within Southern Sudan;</del></p> <p><del>(5) Fire fighting and ambulance services;</del></p> <p><del>(6) GOSS reformatory institutions;</del></p> <p><del>(7) Firearms licenses within Southern Sudan; and</del></p> <p><del>(8) Government of Southern Sudan recreation and sports.</del></p> <p><del>20. Such matters relating to taxation, royalties and economic planning as is specified in the Agreement on Wealth Sharing;</del></p> <p><del>21. Southern Sudan census and statistics within the competence of the Southern Sudan Government;</del></p> <p><del>22. Issuance of identity cards within Southern Sudan, driving licenses and any other appropriate documentation.</del></p> |
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**Schedule (C)  
Powers of States**

The exclusive executive and legislative powers of a state of the Sudan shall be as follows:-

1. The Constitution of the state, subject to compliance with the National Constitution, and, as relevant, the Constitution of Southern Sudan;
2. State Police, prisons;
- 3.
4. State information, state publications and *state* media;
- 5.
6. The Civil Service at the state level;
7. The State Judiciary and administration of justice at state level including maintenance and organization of state Courts, and subject to national norms and standards, civil and criminal procedure;
8. [(8) → (7)]
9. [(9) → (8)]
10. [(10) → (9)]
11. [(11) → (10)]
12. The establishment, tenure, appointment, and payment of state officers;
13. [(13) → (11)]
14. The establishment, maintenance and management of *reformatory institutions*;
15. [(15) → (13)]
16. [(16) → (14)]
17. [(17) → (15)]
18. [(18) → (16)]
19. Enforcement of state laws;
20. Statutes enacted under the penal law power, save for the penalization for the breach of National laws relating to the national competencies;
21. [(21) → (18)]
22. Primary and secondary schools and education administration in regard thereto;
23. Laws in relation to agriculture within the state;
24. Airstrips other than international and national airports *within civil aviation regulations*;
25. [(25) → (22)]
26. [(26) → (23)]
27. [(27) → (24)]
28. [(28) → (25)]
29. State referenda;
30. [(30) → (26)]
31. Quarrying regulations;
32. [(32) → (28)]
33. [(33) → (29)]
34. Traditional and customary law;
35. [(35) → (31)]
36. [(36) → (32)]
37. [(37) → (33)]
38. [(38) → (34)]
39. Direct and indirect taxation within the state in order to raise revenue for the state;
40. [(40) → (36)]
41. [(41) → (37)]

**Schedule (B)  
Powers of States**

The exclusive executive and legislative powers of a state shall be as follows:

1. *Adoption or amendment of the state constitution subject to conformity with the National Constitution*;
2. State Police, Prisons, *Wildlife, Fire Brigade Services*;
- 3.
4. State information, publications and *mass* media;
- 5.
6. The state Civil Service;
- ~~7. The State Judiciary and administration of justice at state level including maintenance and organization of state Courts, and subject to national norms and standards, civil and criminal procedure;~~
- 7.
- 8.
- 9.
- 10.
- ~~12. The establishment, tenure, appointment, and payment of state officers;~~
- 11.
12. The establishment, maintenance and management of *state prisons and reformatories*;
- 13.
- 14.
- 15.
16. [LA]
17. Enforcement of *National and* state laws;
- ~~20. Statutes enacted under the penal law power, save for the penalization for the breach of National laws relating to the national competencies;~~
- 18.
19. Pre-school, primary and secondary education;
20. Agriculture within the state;
21. Airstrips other than international and national airports *managed by the civil aviation authority*;
- 22.
- 23.
- 24.
- 25.
- ~~29. State referenda;~~
- 26.
27. Quarrying ~~regulations~~;
- 28.
- 29.
30. Traditional *Authority* and customary law;
- 31.
- 32.
- 33.
- 34.
35. State taxes;
- 36.
- 37.



42. [(42) → (38)]  
 43. [(43) → (39)]  
 44. Firearms Licenses; and  
 45. [(45) → (40)]

#### **Schedule (D)**

##### **Concurrent Powers**

The National Government, the Government of Southern Sudan and state governments, shall have legislative and executive competencies on any of the matters listed below:

1. Economic and Social Development in Southern Sudan;
2. Legal and other professions and their associations;
3. Tertiary education, education policy and scientific research;
4. [(4) → (3)]
5. [(5) → (4)]
6. [(6) → (5)]
7. [(7) → (6)]
8. [(8) → (7)]
9. [(9) → (8)]
10. [(10) → (9)]
11. Airports, only with respect to the Government of Southern Sudan in accordance with Civil Aviation standards and regulations;
12. [(12) → (10)]
13. [(13) → (11)]
14. Traffic regulations;
15. [(15) → (12)]
16. Information, Publications, Media, Broadcasting and Telecommunications;
17. [(17) → (14)]
18. [(18) → (15)]
19. Without prejudice to the National Regulation, and in the case of Southern states, the regulation of Government of Southern Sudan, the initiation, negotiation and conclusion of International and Regional Agreements on culture, sports, trade, investment, credit, loans, grants and technical assistance with foreign governments and foreign non-governmental organizations;
20. [(20) → (17)]
21. Women's empowerment;
22. [(22) → (19)]
23. [(23) → (20)]
24. [(24) → (21)]
25. [(25) → (22)]
26. Mother, Child protection and care;
27. [(27) → (24)]
28. Notwithstanding Schedules A, B and C, such matters relating to taxation, royalties and economic planning;
29. Southern Sudan and state Courts responsible for enforcing or applying National laws;
30. Such matters relating to taxation, royalties and economic planning as a matter or matters in regard to which the Government of Southern Sudan is accorded concurrent authority;
31. [(31) → (26)]
32. [(32) → (27)]

38. [LA]  
 39.  
~~44. Firearms Licenses; and~~ [now: National Power]  
 40.  
 41. *Issuance of driving licenses and number plates; and*  
 42. *Customary law courts.*

#### **Schedule (C)**

##### **Concurrent Powers**

The National and state governments shall have legislative and executive competences on any of the matters listed below:

1. Economic and Social Development;
- ~~2. Legal and other professions and their associations;~~
2. Tertiary education, ~~education policy~~ and scientific research;
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- ~~11. Airports, only with respect to the Government of Southern Sudan in accordance with Civil Aviation standards and regulations;~~
- 10.
- 11.
- ~~14. Traffic regulations;~~ [now: National Power]
- 12.
13. Information, Publications, Media and Broadcasting;
- 14.
- 15.
16. *Subject to regulation by and approval of the National Government, the initiation, negotiation and conclusion of Bilateral and Regional Agreements on culture, sports, trade, investment, credit, loans, grants and technical assistance with foreign governments and foreign non-governmental organizations;*
- 17.
18. Empowerment of women;
- 19.
- 20.
- 21.
22. [FA]
23. Mother, Childcare and protection;
- 24.
25. Matters relating to taxation, royalties and economic planning;
- 26.
- 27.

- 28. *Matters relating to businesses, trade licenses and conditions of operation;*
- 29. *Natural resources and forestry;*
- 30. *Fire control and ambulance services;*
- 31. *Prisons and reformatories;*
- 32. *Firearms control; and*
- 33. *Recreation and sports.*

**Schedule (E)**

**Residual Powers**

The residual powers shall be dealt with according to its nature (e.g., if the power pertains to a national matter, requires a national standard, or is a matter which cannot be regulated by a single state, it shall be exercised by the National Government. If the power pertains to a matter that is usually exercised by the state or local government, it shall be exercised by the state). Where a matter is susceptible to Southern Sudan regulation, in respect of the states of Southern Sudan, it shall be exercised by the Government of Southern Sudan.

**Schedule (F)**

**Resolution of Conflicts in Respect of Concurrent Powers**

If there is a contradiction between the provisions of Southern Sudan law and/or a state law and/or a National law, on the matters referred in Schedule D, the law of the level of government which shall prevail shall be that which most effectively deals with the subject matter of the law, having regard to:-

1. The need to recognize the sovereignty of the Nation while accommodating the autonomy of Southern Sudan or of the states;
2. Whether there is a need for National or Southern Sudan norms and standards;
3. The principle of subsidiarity; and
4. The need to promote the welfare of the people and to protect each person's human rights and fundamental freedoms.

**Schedule (D)**

**Residual Powers**

*Residual powers shall be dealt with according to their nature. If the power pertains to a national matter, requires a national standard, or is a matter which cannot be regulated by a single state, it shall be exercised by the National Government. If the power pertains to a matter that is usually exercised by the state or local government, it shall be exercised by the state or local government.*

**Schedule (E)**

**Resolution of Conflicts in Respect of Concurrent Powers**

*If there is a contradiction between the provisions of National law and a state law on the matters that are concurrent, the National law shall prevail to the extent of the contradiction.*

**Short cuts:**

FA = functional adaptation (means that the nomenclature of an institution changed)  
 LA = linguistic adaptation (means linguistic adaptations like „Southern“ to „South“ Sudan, grammatical or orthographic adaption)

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