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<u>Joint Communique</u>	<u>The Constitution</u>	<u>External Relations</u>	<u>Status of woman</u>
<u>Allegations of Slavery</u>	<u>Refugees in Sudan</u>	<u>Human Rights</u>	

## DRAFT CONSTITUTION OF THE REPUBLIC OF THE SUDAN

### **The Preamble**

*In the Name of God, the Creator of man and people,  
The Grantor of life and freedom,  
The Donor of guidance for societies,  
We the people of the Sudan,  
By the assistance of God,  
Considering the lessons of history,  
And by the thrust of the ever evolving  
National Salvation Revolution,  
Promulgated for ourselves this Constitution  
as a system of public life,  
We undertake to respect and protect the same,  
And may God help us.*

### **PART I**

### **THE STATE AND THE DIRECTIVE PRINCIPLES**

#### **Nature of the State**

1. The State of Sudan is an embracing homeland, wherein races and cultures coalesce and religions conciliate. Islam is the religion of the majority of the population. Christianity and customary creeds have considerable followers.

#### **Decentralized authority of the State**

2. The Sudan is a federal republic, the supreme authority thereof is based on the federal system drawn by the Constitution as a national

centre and States, and administered at the base by local government in accordance with the law, to ensure popular participation, consultation and mobilization, and to provide justice in the distribution of power and wealth.

### **Language**

3. Arabic is the official language in the Republic of the Sudan ; and the State shall allow the development of other local and international languages.

### **Supremacy and sovereignty**

4. Supremacy in the State is to God the creator of human beings, and sovereignty is to the vicegerent people of the Sudan who practice it as worship of God, bearing the trust, building up the country and spreading justice, freedom and public consultation. The Constitution and the law shall regulate the same.

### **Flag, emblem, medals and national festivals**

5. The law shall specify the flag, the emblem, medals and national festivals of the State.

### **National unity**

6. The country is united by the spirit of allegiance, in conciliation between all the people, and co-operation for the distribution of national power and wealth in justice and without grievance. The State and the society shall strive to entrench the spirit of conciliation and national unity between all the Sudanese for aversion of religious partisan, and sectarian fanaticism, and eradication of racism.

### **Defence of the country**

7. Defence of the country is an honour and strife for its cause is a duty. The State shall attend to the regular and popular forces defending the security and integrity of the country, care for the combatants afflicted in war and the families of martyrs.

### **National economy**

8. The State shall promote the development of national economy and guide it by planning on the basis of work, production and free market, in a manner fending off monopoly, usury and fraud, and strive for national self-sufficiency for the achievement of affluence and bounty and endeavour towards justice among states and regions.

### **Natural wealth**

9. Natural resources under or on the surface of the earth and in the territorial waters is public property regulated by law ; and the State shall provide plans and appropriate conditions for the development of the

financial and human resources necessary for utilizing such wealth.

#### **Zakat and fiscal levies**

10. Zakat is a financial duty, levied by the State, and the law shall regulate the manner of collection, expenditure and management thereof. Trusts, charities and self-aid are voluntary resources encouraged by the State and regulated by law, which as well regulates in a fair manner taxes, fees and other levies.

#### **Social justice and mutual aid**

11. The State shall give due regard to social justice and mutual aid in order to build the basic components of the society, to provide the highest standard of good living for every citizen, and to distribute national income in a just manner to prevent serious disparity in incomes, civil strife, exploitation of the enfeebled and to care for the aged and disabled.

#### **Sciences, art and culture**

12. The State shall enlist official capabilities and mobilize popular forces for the purpose of eradicating illiteracy and ignorance and intensifying the systems of education, shall strive to encourage sciences, scientific research and experimentation and facilitate acquiring the same, and shall as well strive to encourage all form of art and strenuously seek to elevate society towards values of religiousness, piety and good deeds.

#### **Public health, sports and environment**

13. The State shall promote public health, encourage sports and protect the environment, in its purity and natural balance in pursuance of safety and sustainable development for the benefit of generations.

#### **Children and youth**

14. The State shall care for children and youth and protect them against exploitation and physical and spiritual neglect, and shall direct policies of education, moral care, national guidance and spiritual cleansing to grow a good generation.

#### **Family and women**

15. The State shall care for the institution of the family, facilitate marriage and adopt policies to purvey progeny, child upbringing, pregnant women and mothers . The State shall emancipate women from injustice in all aspects and pursuits of life and encourage the role thereof in family and public life.

#### **Morals and unity of the society**

16. The State shall endeavour by law and directive policies to purge society from corruption, crime, delinquency, liquor among Muslims, and to promote the society as a whole towards good norms, noble customs

and virtuous morals, and towards such as may encourage the individual to actively and effectively participate in the life of society and guide the same towards rallying those around him for good collective gain, solidarity and fraternity by the firm divine cord in a way that preserves unity of the country, stability of governance and progress towards civilized renaissance and higher ideals.

### **Foreign policy**

17. The foreign policy of the Republic of the Sudan shall be conducted in dignity, independence, openness and interaction for the purpose of delivering the message of sublime principles, and achieving the higher interests of the country and humanity at large. That is by striving in particular to consolidate International peace and security, promoting measures for peaceful settlement of international disputes, and encouraging co-operation in all the fields of life with all States. And that is by observing the right of neighbourhood, non- intervening by aggression in the internal affairs of others ; respecting fundamental rights, freedoms and ideal religious duties and virtues towards mankind, sustaining dialogue of doctrines and civilizations, exchanging benefits, and establishing the international systems on the basis of justice, decisive consultation, rightness and human unitarity.

### **Religiousness**

18. Those in service in the State and public life shall envisage the dedication thereof for the worship of God, wherein muslims stick to the scripture and tradition, and all shall maintain religious motivation and give due regard to such spirit in plans, laws, policies and official business in the political economic, social and cultural fields in order to prompt public life towards its objectives, and adjust them towards justice and up-rightness to be directed towards the grace of God in The Hereafter.

### **Observance of directive principles**

19. The directive principles are general objectives which State organs and employees seek and are means that are guided by. They are not defined rules controlled by constitutional adjudication ; however, they are principles that the executive organ is guided by in its projects and are observed by the legislative organ in laws, recommendations and control measures, and for which, would aim all who are in the service of the State.

## **PART II: FREEDOMS SANCTITIES RIGHTS AND DUTIES**

### **CHAPTER I - FREEDOMS, SANCTITIES AND RIGHTS**

#### **Freedom and sanctity of life**

20. Every human being shall have the right to life, freedom, safety of person and dignity of honour save by right in accordance with the law; and he is free of subjection to slavery, forced labour, humiliation or torture.

### **Right to equality**

21. All people are equal before the courts of law. Sudanese are and duties as regards to functions of public life ; and there shall be no discrimination only by reason of race, sex or religious creed . They are equal in eligibility for public posts and offices not being discriminated on the basis of wealth.

### **Sanctity of nationality**

22. Every person born to a Sudanese mother or father shall have a non-alienable right to enjoy the country's nationality and its rights and bear its obligations. Whoever is brought up or is resident; in the Sudan for several years shall have the right to nationality as regulated by law.

### **Freedom and right of movement**

23. Every citizen shall have the right of freedom of movement, residence in, exit from and entry into the country; and his freedom shall not be restricted save under safeguards of the law.

### **Freedom of creed and worship**

24. Every human being shall have the right of freedom of conscience and religious creed and he shall have the right to declare his religion or creed, and manifest the same by way of worship, education, practice or performance of rites or ceremonies ; and no one shall be coerced to adopt such faith, as he does not believe in, nor to practice rites or services he does not voluntarily consent to ; and that is without prejudice to the right of choice of religion, injury to the feelings of others, or to public order, all as may be regulated by law.

### **Freedom of thought and expression**

25. There shall be guaranteed for citizens the freedom of pursuing any science or adopting any doctrine of opinion or thought without coercion by authority ; and there shall be guaranteed the freedom of expression, reception of information publication and the press without prejudice security, order, safety and public morals, all as regulated by law.

### **Freedom of association and organization**

26. (1) Citizens shall have the right of association-and organization for cultural social, economic, professional or trade union purposes without restriction save in accordance with the law.

(2) There shall be guaranteed for citizens the right to organize political association ; and shall not be restricted save by the condition of

consultative decision making and democracy in the leadership of the organization , and use of propagation not material force in competition and abiding by the fundamentals of the Constitution, that as regulated by law.

### **Sanctity of cultural communities**

27. There shall be guaranteed for every community or group of citizens the right to preserve their particular culture, language or religion, and rear children freely within the framework of their particularity, and the same shall not by coercion be effaced.

### **Sanctity of earning and property**

28. (1) Every person shall have his right to acquire property and knowledge, and shall enjoy the privacy of his earning and there shall be no expropriation of whatever he has gained of livelihood property, land, invention, or manual scientific, literary or artistic production save by such law as may charge him with the tax of contribution for public need or public interest in consideration of just compensation. No taxes, fees or other fiscal dues .shall be levied save by law.

### **Inviolability of communication and privacy**

29. (1)There shall be guaranteed for citizens the freedom and secrecy of communication and correspondence ; and the same shall neither be tapped nor perused save upon controls provided by law.  
(2)All privacies of a human being in residence, livings, effects and family shall be inviolabilities not to be infringed save upon permission or by law.

### **Immunity against detention**

30. A human being is free. He shall neither be arrested, detained, nor confined, save by such law that shall require stating the charge, the duration of detention, facilitation of release and respect for dignity in treatment.

### **Right and sanctity in litigation**

31. The right to litigate shall be guaranteed for all persons and no one shall be denied the right to sue or shall be involved in a criminal or civil litigation save in accordance to the procedures and rules of law.

### **Right of innocence and defence**

32. No person shall be incriminated or punished for an act save in accordance with a prior law incriminating the act and punishing therefor a person accused of an offence shall be innocent until his conviction is judicially proved and he shall have the right to a prompt and fair trial and to defend himself and choose whoever may represent him in defence.

### **Sanctity from death save in justice**

33. (1) No death penalty shall be inflicted, save as retribution or punishment for extremely serious offences by law.  
(2) No death penalty shall be inflicted for offences committed by a person under eighteen years of age ; and such penalty shall be executed upon neither pregnant nor suckling women, save after two years of lactation ; nor shall the same be inflicted upon a person who passed seventy years of age other than in retribution and prescribed penalties (hudud).

#### **Protection of freedoms sanctities and rights**

34. Every aggrieved person who has exhausted means of grievance and complaint to the executive and administrative organs, shall have the right of access to the Constitutional Court to protect the freedoms, sanctities and rights set out in this Chapter; and the Constitutional Court may according to due process exercise the power to annul any law or order that contravenes the Constitution and restore the right to the aggrieved or compensate him for damage sustained.

## **CHAPTER II - PUBLIC DUTIES AND OBSERVANCE THEREOF**

35. (1) Every citizen shall:-  
(a) owe allegiance to the Republic of the Sudan not to an enemy thereof ;  
(b) defend the country and respond to the call for national defence and national service ;  
(c) respect the Constitution and the law, revere and obey legitimate institutions abiding by legal, financial and practical obligations ;  
(d) safeguard public funds, property and utilities and avert corruption and sabotage ;  
(e) wield best opinion, tender public counsel, enjoin commendable and forbid reprehensible ;  
(f) care for the sanctities of society and its public interests, preserve a pure environment, good morals and justice ;  
(g) quest for the earning of a living, general development, co-operation in charity and participation in the duty of national production ;  
(h) exercise rights and freedoms guaranteed for him in the good guidance of public work and for selecting leaderships for the community and the State.  
(2) The duties of a citizen shall be a general obligation observed by conscience and by the vigilant society. They are the source of policies and legislations upon which a legal obligation secured by sanction may be imposed.

## **CHAPTER I - PRESIDENCY OF The REPUBLIC**

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

36. The Republic of the Sudan shall have a President elected by the



people.

### **Conditions of eligibility for nomination for the Presidency**

37. There shall be required for eligibility for nomination for the Presidency of the Republic , that the candidate shall be:-

- (a) Sudanese ;
- (b) of sound mind ;
- (c) forty years of age ;
- (d) not previously for the last seven years convicted of an offence involving honour or honesty.

### **Nomination and election**

38. (1) Every member of the electorate may nominate whoever he deems fit for the Presidency of the Republic ; provided that the candidate shall be seconded in accordance with the law.

(2) The winning candidate for the President's office is the one who obtains the highest number of votes; provided that the votes shall be more than fifty percent of the total votes of the polling electorate

(3) Where the percentage mentioned in Sub-article (2) has not been achieved, polling shall be repeated between the two candidates who have obtained highest number of votes.

### **Postponement of the elections of the Presidency of the Republic**

39. Where the election of the President of the Republic is not possible for any compelling reasons as decided by the General Elections Board it shall as urgently as possible return to elections, and the mean-time the incumbent President of the Republic shall continue as President and his tenure shall automatically extended pending conducting the election and until taking by the elected President of the oath of assumption of office.

### **Oath of assuming the Presidency of the Republic**

40. The elected President of the Republic shall take, before assuming office, before the National Assembly, the following oath:-

" I swear by Almighty God, to assume the Presidency of the Republic in the worship and obedience of God, performing my duties diligently and honestly and striving for the renaissance and progress of the country, detached of any fanaticism or personal fancy ; and swear by Almighty God to respect the Constitution, the law and the consensus of public opinion, and accept public consultancy and advice, and God to what I say is witness ".

### **Term of office of the Presidency of the Republic**

41. The term of office of the President of the Republic shall be five years, commencing from the date of his assumption of office, and the same President may be re-elected for another term only.



### **Vacation of the office or absence of the President of the Republic**

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

- (a) expiry of the term of office ;
  - (b) death ;
  - (c) disabling mental or physical infirmity by resolution of the National Assembly ;
  - (d) removal from office in accordance with the provisions of the Constitution ;
  - (e) acceptance of his resignation by the National Assembly.
- (2) If the President of the Republic is absent or his office falls vacant, his first Vice-President shall temporarily assume the functions of the Presidency of the Republic pending the return of the President or the election of a new President.
- (3) Upon vacation of office of the President, elections for the Presidency of the Republic shall be conducted within a period of sixty days of such date.

### **Functions of the President of the Republic**

43. The President of the Republic shall represent government and the supreme sovereignty of the land . He shall stand as the supreme commander of the people's armed forces and other regular forces, have competence as to maintenance of the security of the country against dangers, preserving its integrity and mission and supervising the foreign relations thereof. He supervises the process of justice and public morals, cares for constitutional institutions and mobilize the enhancement of public life. He shall, in this respect, in accordance with provisions of the Constitution and the law, have the following functions and powers, to:-

- (a) appoint holders' of constitutional federal posts ;
- (b) preside over the Council of Ministers ;
- (c) declare war in accordance with the provisions of the Constitution and the law ;
- (d) declare the state of emergency in accordance with the provisions of the Constitution and the law
- (e) have the right to initiate draft constitutional amendments, legislations and sign the same ;
- (f) approve death sentences, and grant pardon, remit conviction or penalty ;
- (g) represent the State in its foreign relations with States and international organizations, appoint the ambassadors from the State, and accredit the ambassadors dispatched thereto ;
- (h) generally represent the authority of the State and the people's will before the public opinion and in public occasions ;
- (i) any other functions as may be prescribed by the Constitution or the law.

### **The two Vice-Presidents of the Republic and assistants**

44. The President of the Republic shall appoint two vice- Presidents having the same qualification of the President, and appoint assistants and advisers, and define their seniorities and functions. Each one of them shall take before the President the oath taken by the President.

### **Criminal responsibility of the President of the Republic**

45. The criminal responsibility of the President of the Republic shall be as follows:-

1. no criminal proceedings shall be initiated against him save by a permission to be issued by the National Assembly in writing ;
- (b) the proceedings provided for in paragraph (a) shall be initiated before the Constitutional Court ;
- (c) any decision of criminal conviction shall be submitted to the National Assembly to take such action with respect to the same, as they may deem appropriate ;
- (d) the Assembly may, by the majority of two-thirds of members remove the President of the Republic from office in case of conviction of the offence of treason or any other offence involving honour or honesty.

### **Contesting acts of the President of the Republic**

46. Any person aggrieved by the acts of the President of the Republic, may contest the same:-

- (a) before the Constitutional Court where the contest is aimed at any excess against the constitutional federal system or constitutional rights, freedoms or sanctities ;
- (b) before a court where the contest is aimed at excess against the law.

## **CHAPTER II - THE FEDERAL EXECUTIVE AUTHORITY**

### **THE COUNCIL OF MINISTERS**

#### **The Council of Ministers**

47. (1) There shall be established a Council of Ministers of a number to be appointed by the President of the Republic.

(2) The Council of Ministers shall have the supreme federal executive authority in the State in accordance with the provisions of the Constitution and the law, and the decisions thereof shall be adopted by consultation and unanimity and where not possible by majority, and the decisions thereof shall prevail over any other executive measures.

#### **Oath of the minister**

48. The Minister shall upon his appointment and before assuming the functions of his office take the following oath before the President of the Republic:-

" I swear by Almighty God, to assume my office as a minister in the

worship and obedience of God performing my duties diligently and honestly and striving for the order and progress of the country, detached of any fanaticism or personal fancy ; and swear by Almighty God, to respect the Constitution and the law and accept consultancy and advice, and God to what I say is witness ."

### **Functions and powers of the Council of Ministers**

49. The Council of Ministers shall have the following functions and powers:-

- (a) general planning for the procession of authority, objectives, stages and measures of the State ;
  - (b) approval of the higher policies of any federal ministry or ministerial sector ;
  - (c) assuming the executive and administrative business of any ministry or ministerial sector as may be provided by law or the decision of the Council.
  - (d) initiation of draft international conventions and agreements, legislative bills - provisional decrees - general budgets and any such measures as may be submitted to the National Assembly
  - (e) requiring reports about ministerial executive performance and questioning of a minister in the light of the reports thereof or the policies of the Council of Ministers ;
  - (f) requiring reports on States' executive performance for enlightenment and co-ordination with respect to any State and for check and decision on matters that are concurrent or delegated by the federal authority ;
  - (g) making regulations to organize its work ;
  - (h) performing any public political role by statement or mobilization of the movement of the people for the objectives of the public policy and public life ;
- a. any other functions or powers conferred thereupon by law.

### **Functions of the minister**

50. (1) The Minister shall have functions and powers by law or delegation.

(2) The Minister shall be the highest responsible authority in his ministry and his decisions shall prevail therein The Council of Ministers may amend or cancel the same.

(3) The President of the Republic may suspend the decision of a minister pending submitting the same to the Council of Ministers.

(4) There shall be between a federal and State's minister a relation of co ordination, co-operation and complementation of the federal and State's roles.

### **Several and joint responsibility of ministers**

51. (1) The Minister shall be responsible for the business of his ministry to the President of the Republic, the Council of Ministers and the

National Assembly.

(2) Ministers shall be jointly responsible the executive performance to the National Assembly.

#### **Prohibition of commercial business**

52. The President of the Republic , any of his vice- Presidents, assistants or advisers and the minister shall not their tenure practice any private profession or commercial business with the State.

#### **Vacancy of the office of minister**

53. The office of minister shall fall vacant in any of the following cases:-

- (a) acceptance of resignation by the President of the Republic ;
- (b) relief from office by a decision of the President of the Republic ;
- (c) death.

#### **Secrecy of the deliberations of the Council of Ministers**

54. Deliberations of the Council of Ministers shall be confidential ; and whatever goes in the sittings shall not be disclosed outside, save upon permission.

#### **Contesting ministerial acts**

55. An aggrieved. person may contest any of the acts of the federal Council of Ministers or a minister:-

- 1. before the Constitutional Court in any contest of excess against the constitutional Federal system or the constitutional freedoms, sanctities and rights ;
- (b) before a court in any contest of excess against the law.

## **CHAPTER III - THE STATES' EXECUTIVE AUTHORITY**

### **THE GOVERNOR AND THE COUNCIL OF MINISTERS**

#### **The Governor - eligibility and election**

56. (1) There shall be a Governor for each State, elected by the people in the State in accordance with the Constitution and the law.

(2) There shall be required for whoever is a candidate for the office of the Governor, the same conditions of eligibility of a candidate for the Presidency of the Republic.

(3) There shall be established a nomination college for the office of the Governor to be composed of members of the National Assembly, as deputies from State, members of the States Assembly and chairmen of localities in the State to present to the President of Republic a list of nomination for governorship of not less than six candidates, before sixty days of the expiry of the term of the incumbent Governor.

(4) The President of the Republic shall select three candidates form the

list and submit them to the General Elections Board for decision as to their eligibility for the office, and they shall be the candidates who shall be presented for general elections in the State.

(5) The winning candidate for assumption of Governor's office shall be the one who obtained more than fifty percent of the total number of votes cast.

(6) Where the percentage mentioned in Sub-article (5) is not obtained, polling shall be repeated between the two candidates who have obtained the highest number of votes.

### **Postponement of the Governor's elections**

57. Where conducting the election of a Governor is not possible for any compelling reasons as decided by the General Elections Board, the President of the Republic may appoint a Governor for the State pending the cessation of such reasons by a decision of the General Elections Board.

### **Oath of assumption of office of Governor**

58. The elected Governor shall before assuming office take before the President of the Republic the oath of the same text of oath of assumption of the Presidency of the Republic.

### **Term of office of the Governor**

59. The term of office of the Governor shall be four years commencing as from the date of his assumption of office, and the same Governor may be re- elected for another term only.

### **Vacancy of office, or absence of the Governor**

60. (1) The office of the Governor shall fall vacant in any of the following cases:-

(a) expiry of the term of office ;

(b) death ;

(c) disabling mental or physical infirmity by resolution of the State Assembly ;

(d) removal from office in accordance with the provisions of the Constitution ;

(e) acceptance of his resignation by the President of the Republic.

(2) If the Governor is absent or his office falls vacant, his deputy shall temporarily assume the functions of office pending the return of the Governor or the election of the new Governor.

(3) Upon the Governor's office falling vacant, elections shall be conducted for the new Governor within a period of sixty days of such date.

### **Functions of the Governor**

61. The Governor shall have the following functions, to:-

- (a) appoint ministers of the State after consultation with the President of the Republic ;
  - (b) preside over the State Council of Ministers ;
  - (c) supervise generally the security of the state and co-ordinate its good administration ;
4. represent the State.

#### **Individual responsibility of the Governor**

62. The Governor shall individually be responsible to the President of the Republic.

#### **Criminal responsibility of the Governor**

63. Provisions of the criminal responsibility of the President of the Republic shall apply to the Governor's criminal responsibility, except that the State Assembly takes the place of the National Assembly.

#### **The Council of Ministers**

64. (1) There shall be established a council of ministers for the State.
- (2) There shall apply to the State's executive authority the provisions set out in Articles 47(2), 48 and 49, save initiating draft international conventions and agreements and that it only assumes the affairs of the State and submits legislative bills to the State Assembly.
- (3) Powers of the State minister shall be the same powers of the federal minister set out in Article 50, Sub-articles (1), (2) and (3), except that the Governor takes the place of the President of the Republic.
- (4) There shall apply to the State's executive authority the provisions set out in Articles 50 to 55, except that the Governor takes the place of the President of the Republic.

## **PART IV - THE LEGISLATIVE POWER**

### **CHAPTER I: GENERAL PRINCIPLES**

#### **Sources of legislation**

65. Islamic law and the consensus of the nation, by referendum, Constitution and custom shall be the sources of legislation ; and no legislation in contravention with these fundamentals shall be made ; however, the legislation shall be guided by the nation's public opinion, the learned opinion of scholars and thinkers, and then by the decision of those in charge of public affairs.

#### **Referendum**

66. (1) The President of the Republic or the National Assembly by resolution of half the members may refer to referendum any matter that expresses higher values, the national will or public interests.
- (2) The General Elections Board shall conduct the referendum of all the electorate, and the subject submitted for referendum would achieve the

confidence of the people by obtaining more than half the number of votes cast.

(3) Any resolution which has achieved the consent of the people by referendum shall have authority above the law. Thus, it shall not be annulled save by another referendum or by a resolution of two-thirds of the members of the National Assembly.

## **CHAPTER II: THE FEDERAL LEGISLATIVE AUTHORITY**

### **THE NATIONAL ASSEMBLY**

#### **The National Assembly - Composition**

67. (1) There shall be established an elected National Assembly to assume the legislative authority and any other powers by virtue of the Constitution.

(2) The National Assembly shall be composed of a number of members, elected by direct, special or indirect general election as follows:-

(a) seventy five percent (75%), of full membership by way of general direct suffrage from the geographical constituencies which are divided by fair representation of the population in the country ;

(b) twenty five percent (25%), of full membership by special or indirect suffrage in representation of women and scientific and professional classes representing States or national electoral colleges , as may be prescribed by law.

(3) Where it is not possible by decision of the General Elections Board to conduct elections for the National Assembly for compelling security reasons in any constituency or college, the President of the Republic may appoint a member to occupy the seat in the National Assembly pending conducting elections as urgently as possible.

#### **Conditions of membership of the National Assembly**

68. (1) There shall be required for eligibility for membership of the National Assembly, that the candidate shall be:-

(a) Sudanese ;

(b) twenty one years of age ;

(c) of sound mind ;

(d) not previously during the last seven years convicted of an offence involving honour or honesty.

(2) Whoever is a member in a State Assembly or assumes the office of Governor, or is a member of a State Council of Ministers shall not be eligible for nomination for membership of the Assembly or for continuing in the same.

#### **Lapse of membership of the National Assembly**

69. (1) Membership of the National Assembly shall lapse by a resolution passed by the Assembly in any of the following cases:-



- (a) disabling mental or physical infirmity ;
- (b) conviction of an offence involving honour or honesty ;
- (c) absence from attending one full session of the sittings of the Assembly without permission or acceptable excuse ;
- (d) written resignation announced in the Assembly ;
- (e) death.

(2) Upon the vacancy of the seat of a member his successor shall be elected, as the case may be within a period of sixty days as may be possible.

### **Seat of the National Assembly**

70. The National Assembly shall convene at its seat in Umdurman ; and the Speaker may call the Assembly to convene exceptionally in any other place.

### **Oath of members of the National Assembly**

71. Every member of the National Assembly shall, before exercising his functions take the following oath before the Assembly:-

" I swear by Almighty God to assume the assignments of representing the people as a member of the National Assembly in obedience of God, performing my duties with every strength and honesty, being truthful and perseverent in attendance and deliberation, detached of any fanaticism or personal fancy, giving due regard to the requirements of the office, preserving the safety of the country and interests of the people, respecting the Constitution, law and conventions, and God to what I say is witness. "

### **Term of the National Assembly**

72. The term of the National Assembly shall be four years commencing from the date of its first convening.

### **Functions of the National Assembly**

73. (1) The National Assembly represents the popular will, in legislation, planning, control and questioning of the Executive and in the general social and political mobilization. Without prejudice to the generality of the foregoing, it shall assume the following functions, to : -

- (a) pass plans, programmes and policies relating to the State and the society ;
- (b) pass the draft constitutional amendments and pass legislative bills and provisional decrees ;
- (c) pass the general budget of revenues and expenditure ;
- (d) pass bills ratifying international conventions and agreements ;
- (e) monitor the performance of the Executive ;
- (f) initiate or participate in the political and social mobilization ;
- (g) issue resolutions on public affairs.

(2) The National Assembly may, in the course of executing its functions,

monitoring of executive performance, recommend to the President of the Republic to remove any federal minister where the Assembly after subjecting him to the procedure of interrogation resolves by a majority of its members that he has lost the confidence of the Assembly.

#### **Immunity of members of the National Assembly**

74. Save where he is in the very act of crime, no criminal proceedings shall be initiated against a member of the National Assembly, nor shall any of the detection measures be taken against his person, residence or belongings without permission from the Speaker of the Assembly.

#### **Convening and sessions of the National Assembly**

75. (1) The National Assembly shall hold its first sitting upon convocation by the President of the Republic within the thirty days following the declaration of the results of elections. The sitting shall be presided over by the eldest of the members present.

(2) The Assembly shall determine the beginning and end of every session of sittings.

(3) The Assembly shall convene for an emergency session upon a resolution thereof on the request of half of its members or upon a call from the President of the Republic.

#### **Leaders of the National Assembly**

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

(2) The Speaker of the National Assembly shall preside sittings, control the public order and supervise the administrative affairs of the Assembly; and shall represent the Assembly inside and outside the Sudan.

(3) The Assembly shall select, in accordance with the regulations, all its leaders to deputize for the Speaker, to lead deliberation, preside committees or to assume other functions.

(4) The Speaker of the Assembly shall, upon approval of the Assembly, appoint a secretary general from non-members. The Secretary General shall assume the preparatory and administrative affairs of the Assembly under the supervision of the Speaker.

#### **Committees of the National Assembly**

77. The Assembly shall constitute from among its members specialized standing or ad hoc Committees for the performance of its functions in accordance with the regulations.

#### **The regulations of the National Assembly**

78. The National Assembly shall, on the initiative of the Speaker, make regulations for the conduct of its business.

#### **Quorum of convening of the National Assembly**

79. The quorum of convening of the National Assembly shall not be attained save by the attendance of one-third of its members unless the subject is a legislation in its final presentation, or the Speaker decides the importance of the subject on the agenda, whereupon the quorum shall not be attained save by the attendance of half the members.

#### **Sittings open**

80. Sittings of the National Assembly shall be open, its deliberations public and proceedings shall be published, save in cases when the Assembly deems that necessity requires otherwise.

#### **Passing resolutions**

81. The National Assembly shall give due regard to unanimity in passing resolutions. Where that is not possible, resolutions may be passed by the opinion of the majority of those present, except in the cases provided for otherwise by the Constitution.

#### **Freedom of expression in the National Assembly**

82. Members in the National Assembly shall freely and responsibly express their opinions subject to the provisions of the regulations ; and no member shall be accountable before any court, nor shall any legal proceedings be initiated against him by reason of views or opinions he may express in the course of performing his functions in the National Assembly.

#### **Address by the President of the Republic or a minister**

83. (1) The President of the Republic may address the National Assembly in person or by way of a message. He may request the opinion of the Assembly on any subject and the Assembly shall grant the response to such request priority over the other business.

(2) A federal minister may request to address the National Assembly, and the Assembly shall provide the opportunity for that as urgently as possible.

#### **Addressing questions - requesting statements**

84. (1) Subject to the provisions of the regulations, a member of the National Assembly may address any question to a federal minister on any subject relating to his functions ; and the minister shall supply him with the reply.

(2) Subject to the provisions of the regulations, the Assembly or any of its committees may request a federal minister to deliver a statement.

#### **Interrogation of a minister**

85. The National Assembly may in accordance with the regulations, resolve to interrogate any minister on any matter relating to the functions of his ministry Opinion on the result of the interrogation shall be taken in

a subsequent sitting where a proposal of no confidence in the minister has been presented. Where the proposal succeeds, the President of the Republic shall be addressed with the same.

### **Summons of persons and inquiry**

86. The National Assembly or any of its committees may summon any public official or any other person to address the Assembly or the committee, adduce any testimony or tender consultancy. Inquiry on any matter that falls within the direct responsibility of the federal executive authority may be made after notification to the President of the Republic.

### **Tabling legislative bills**

87. (1) The President of the Republic, the Council of Ministers, any federal Minister as well as any committee of the National Assembly or any member by private initiative, may table a legislative bill to the Assembly.

(2) Where the bill is by private initiative, it shall not be tabled to the Assembly save after referring it to the concerned committee to decide that it involves an important public interest.

### **Procedure of presentation consideration the bill**

88. (1) The bill presented to the National Assembly shall be submitted for first presentation by citing the title for tabling it before the Assembly, it shall thereafter be presented the second presentation for deliberation focused on the general features and purports thereof for passing it on point of principle. If it has been so passed, there shall be a third presentation for deliberation in detail and introducing any amendments and passing the same Then the bill shall in its final form be presented a final presentation without involving the core of the provisions thereof, but to pass the same section by section then to pass it as a whole ;

(2) The Speaker of the Assembly shall refer the bill after its first presentation to the concerned committee to present a general evaluation report in preparation for the second presentation for deliberation and passing it on point of principle, then to present a report on such amendments as the committee may or may not have passed in preparation for the third presentation for deliberation on the details of the bill and passing any amendments. The Speaker of the Assembly may also refer it to the concerned committee to present a report involving a final drafting of the provisions of the bill in preparation for its final presentation to pass the same by section and as a whole.

(3) The Speaker or the concerned committee, may submit the bill to any body of competence outside the Assembly for consideration and reporting on the legitimacy and rationale thereof, or to any body having interest to consider and report upon the impact and acceptability of the same.

(4) The Assembly may by a special procedural resolution as a general

commission or by summary procedure decide upon the bill submitted to it.

### **Coming of law into force**

89. (1) No bill which has been passed by the National Assembly shall become a law in force, save when the same has been signed by the President of the Republic or upon lapse of thirty days after submitting it to him, and he neither signs nor decides to have it revised.

(2) Where the Assembly passes the bill with provisions not acceptable to the President of the Republic, he may decide to have the same revised by returning it to the Assembly accompanied by comments and the Assembly may thereupon give due regard thereto and amend the bill and submit it to him once more or may neglect the same.

(3) Where the President of the Republic returns the bill for revision and the bill is passed again by the Assembly with the same provisions by the majority of two-thirds of members, it shall thereupon become law in force.

### **Provisional ordinances**

90. (1) The President of the Republic may in case of absence of the National Assembly, and for an urgent matter upon a decision of the Council Of Ministers or as he may decide, issue a provisional ordinance having the force of law; provided that the provisional ordinance shall be submitted to the Assembly forthwith after its convening . Where the ordinance has been ratified by the Assembly with the same provisions it shall be a promulgated law ; however, where the same has been rejected by the Assembly or the session lapses without it being ratified the effect thereof shall cease without retrospective effect. Where the National Assembly ratifies the same with any amendments these amendments shall be subject to the same provisions of Article 89 ; provided that the amendment shall not have any retrospective effect.

(2) The President of the Republic shall not make any provisional ordinance in matters affecting constitutional freedoms, sanctities and rights, or federal and States' relations, the provisions of general elections, criminal or financial provisions, or in matters of international conventions and agreements amending the borders of the State

(3) Every law annulled or amended according to a provisional ordinance which has become null and void, shall be revived into force from the date of annulment of the provisional ordinance.

(4) The Assembly may delegate to the President of the Republic the power to ratify by a republican decree having the force of promulgated law without a subsequent ratification by the National Assembly, the power to ratify international conventions and agreements in the absence of the Assembly ; provided that the same shall be deposited before the Assembly after its convening.

### **General budget bill**

91. (1) The Council of Ministers shall present to the National Assembly before the beginning of the financial year the bill of the general budget of the State, including a general evaluation of the economic and financial situation of the country, detailed estimates of the proposed revenues and expenditure for the coming year compared with the practice of the previous year, a statement of the manner of general balance of the budget any reserve funds , transfers thereto or allocations therefrom, and explanations of any special budgets or financial statements, policies or measures to be taken by the State in the financial and economic affairs relating to the general budget ;

(2) There shall be submitted to the Assembly by the Council of Ministers proposals of total expenditure entered into the budget as an appropriation bill, there shall also be submitted the proposed taxes, fees and other levies as financial bills, and there shall also be submitted any proposals for borrowing, investment or saving bonds by the State as financial bills.

(3) The Assembly shall pass the bill of the general budget of the State, chapter by chapter and the schedules, and it shall pass the total appropriation bill Where the law is promulgated detailed estimates as appropriated in the general budget shall not be exceeded save by a supplementary law. Surplus funds over revenue estimates and funds out of the reserve legally separated shall also not be spent save by a supplementary law.

### **Special financial bills**

92. No member in the National Assembly shall by a private initiative outside the context of the deliberations of the draft general budget present any bill which requires imposition or rescinding any tax, fee, public revenue or appropriation or burden upon public funds save where the bill only requires service fees or financial penalties.

### **Provisional and supplementary financial measures**

93. (1) Notwithstanding the provisions of Article 90 (2), the President of the Republic may, upon the decision of the Council of Ministers, wherever he deems that public interest so requires, make a provisional decree having the force of law, whereby the imposition of any tax, or fees or the amendment thereof shall be in force, pending submission of the bill requiring the same to the National Assembly. Where a financial law is promulgated or the bill has been rejected, the force of the provisional decree shall cease without the rejection or amendment of the bill having retrospective effect.

(2) Where the procedure of passing the general budget , and the appropriation law have been delayed beyond the beginning of the financial year, expenditure shall continue pending passing the general budget in accordance with the estimates thereof for the year which has



elapsed as if the same has been appropriated by law for the new year.  
(3) The Council of Ministers may during the financial year, whenever new circumstances emerge or a public interest appears as may not be satisfied by the general budget and the laws thereof, present a financial bill, a supplementary appropriation or an allocation out of the reserve funds ; to which shall apply the same provisions set out with respect to the general budget bill and its related bills.

#### **Final accounts**

94. The Council of Ministers shall present to the National Assembly during the six months following the end of the financial year, final accounts about all revenues and expenditure as are set forth in that year, as well as expenditure withdrawn from the reserve funds ; and the Auditor General shall present his report on such accounts to the National Assembly.

#### **Delegation of the power of subsidiary legislation**

95. The National Assembly may by law delegate to President of the Republic, the Council of Ministers or any Public body, the power to make any regulations, rules, orders or any other subsidiary instruments having the force of law ; provided that such subsidiary legislations shall be tabled before the Assembly, and are subject to annulment or amendment by a resolution in accordance with the provisions of the regulations.

#### **Authority of the business of the National Assembly**

96. No court or other authority shall interfere into the business of the National Assembly, nor shall the same review any law or resolution passed thereby on the allegation of contravention of the provisions of the regulations or rules of procedure ; and authority of the business of the Assembly shall be proved by the issue of a certificate bearing the signature of the Speaker.

## **CHAPTER III - THE STATES LEGISLATIVE AUTHORITY**

### **THE STATE ASSEMBLY**

#### **Establishment of the State Assembly**

97. There shall be established in each State an elected Assembly for the State to assume the legislative authority and any other functions or powers by virtue of the Constitution.

#### **Provisions of the State Assembly**

98. Taking into consideration that its the Assembly of the State concerned, that the Governor takes the place of the President and the State Minister takes the place of a federal Minister, there shall govern every State's Assembly the same constitutional provisions which govern



the National Assembly, as follows:-

- (a) the Assembly, and composition ( Article 67) ;
- (b) conditions of membership of the Assembly ( Article 68 (1)), and shall not be qualified for nomination to the State Assembly whoever is a member of the National Assembly or the Assembly of another State or holds a federal ministerial office ;
- (c) lapse of membership of the Assembly ( Article 69 (1) and (2)) ;
- (d) seat of Assembly ( Article 70), taking into consideration that its seat at the capital of the State ;
- (e) oath of members of the Assembly ( Article 71) ;
- (f) term of the Assembly ( Article 72) ;
- (g) functions of the Assembly (Article 73 ), except drafting constitutional amendment and ratification of international conventions and agreements ;
- (h) immunity of members of the Assembly ( Article 74) ;
- (i) convening and sessions of the Assembly ( Article 75) ;
- (j) leaders of the Assembly ( Article 76);
- (k) committees of the Assembly ( Article 77) ;
- (l) regulations of the Assembly ( Article 78) ;
- (m) quorum of convening of the Assembly ( Article 79) ;
- (n) sittings open ( Article 80) ;
- (o) passing resolutions ( Article 81) ;
- (p) freedom of expression in the Assembly ( Article 82) ;
- (q) address by the President of the Republic or a minister ( Article 83 ) ;
- (r) addressing questions - request of statements ( Article 84) ;
- (s) interrogation of a minister ( Article 85 ) ;
- (t) summons of persons and inquiry ( Article 86):
- (u) tabling bills ( Article 87) ;
- (v) procedure of presentation and consideration of the bill (Article 88) ;
- (w) coming of law into force ( Article 89) ;
- (x) provisional ordinances ( Article 90) ;
- (y) general budget bill (Article 91) ;
- (z) special financial bills ( Article 92) ;
- (zi) provisional and supplementary financial measures ( Article 93 ) ;
- (zii) final accounts ( Article 94) ;
- (ziii) delegation of the power of subsidiary legislations ( Article 95 ) ;
- (ziv) authority of the business of the Assembly ( Article 96).

## **PART V: THE JUSTICE SYSTEM**

### **CHAPTER I - THE JUDICIAL AUTHORITY**

#### **The Judiciary**

99. Judicial competence in the Republic of the Sudan shall vest into an independent authority to be known as the " Judiciary " to assume the judicial power in adjudication of disputes and judgments on the same in accordance with the Constitution and the law.

### **Responsibility of the Judiciary**

100. The Judiciary shall be responsible for the performance of its work before the President of the Republic.

### **Independence of judges**

101. (1) Judges are independent in the performance of their duties and have full judicial competence with respect to their functions ; and they shall not be influenced in their judgments.

(2) A judge shall be guided by the principle of the supremacy of the Constitution and the law and he shall protect this principle, giving due regard to the establishment of justice in thoroughness and impartiality without fear or favour.

(3) The State organs shall execute judicial judgments.

### **Administration of the Judiciary**

102. (1) The Judiciary shall have a president to be known as the, " Chief Justice ", who shall ex - officio be the president of the Supreme Court and the Supreme Council of the Judiciary, and shall be responsible for the administration of the Judiciary before Supreme Council of the Judiciary.

(2) The Judiciary shall have a council to be known as the " Supreme Council of the Judiciary ", its composition and functions shall be prescribed by law. There shall be among its functions the planning and general supervision over the Judiciary, and the presenting of recommendation to the President of the Republic for the appointment promotion and termination of service of the judges, as well as the preparation of the budget of the Judiciary and expressing opinion on legislative bills relating to the Judiciary.

### **The judicial structure**

103. The judicial structure shall consist of a supreme court, appeal courts and courts of first instance. The structure shall be organized by a law which shall specify divisions, jurisdiction and any other matters relating to the Judiciary.

### **Appointment and terms of service of judges**

104. (1) The President of the Republic shall appoint the Chief Justice and his deputies according to law.

(2) The President of the Republic shall appoint all the other judges upon the recommendation of the Supreme Council of the Judiciary.

(3) The law shall determine the terms of service , discipline and immunities of judges.

(4) No judge shall be removed save under disciplinary measures and upon a recommendation from the Supreme Council of the Judiciary.

## **CHAPTER II - OTHER JUSTICE SYSTEM**

### **The Constitutional Court**

105. (1) There shall be established an independent Constitutional Court ; and the President of the Republic shall appoint its president and members from persons of high experience in matters of justice, with the approval of the National Assembly.

(2) The Constitutional Court shall be the custodian of the Constitution, and shall have the jurisdiction to consider and adjudge any matter relating to the following:-

(a) interpreting constitutional and legal provisions submitted by the President of the Republic, the National Assembly, half the number of Governors or half the States' Assemblies ;

(b) claims by the aggrieved for the protection of freedoms, sanctities or rights guaranteed by the Constitution ;

(c) claims of conflict of competence between federal and State organs ;

(d) any other matters referred thereto by virtue of the Constitution or the law.

(3) The law shall determine the number, emoluments of the judges and the procedure of the court.

### **Public legal counsels and attorneys**

106. Legal Counsels working in the public service and attorneys shall strive to express the values of justice, truth, legality, protection of public and private rights, tender advice and render legal services to the State and citizens, and shall perform their functions truthfully and impartially in accordance with the Constitution and the law.

### **Advocacy**

107. (1) The profession of advocacy shall be established to express the values of justice, the righteousness and legality, fend off injustice and seek conciliation between adversaries, observe neutrality in the just proof of right, impartiality in pursuit of the truth and facilitate legal aid for the needy in accordance with the provisions of the law.

(2) The law shall regulate the conditions for the practice of the profession

## **PART VI: THE FEDERAL SYSTEM**

### **CHAPTER I - THE STATE**

#### **The division of the Sudan into States**

108. The Republic of the Sudan shall be divided into states each state shall have a capital, as follows:-

(a) Upper Nile state ; capital is Malakal ;

(b) Red Sea state ; capital is Port Sudan ;

(c) Bahr - Al-Jabal state ; capital is Juba ;

(d) Lakes state ; capital is Rumbek ;

(e) Gezira state ; capital is Wad Medani;

(f) Jungoli state ; capital is Bor ;

- (g) South Darfur state ; capital is Nyal;
- (h) South Kordufan state ; capital is Kadugli ;
- (i) Khartoum state ; capital is Khartoum ;
- (j) Sennar state ; capital is Sinja;
- (k) East Equatoria state ; capital is Kapoita ;
- (l) North Bahr-Al-Ghazal state ; capital is Awil ;
- (m) North Darfur state ; capital is AL -Fashir ;
- (n) North Kordufan state ; capital is Al-Obied ;
- (o) Northern state ; capital is Dongula ;
- (p) West Equatoria state ; capital is Yambio ;
- (q) West Bahr-Al-Ghazal state ; capital isWau ;
- (r) West Darfur state ; capital is Geneina ;
- (s) West Kordufan state ; capital is Al -Fula ;
- (t) Gedarif state ; capital is Gedarif ;
- (u) Kassala state ; capital is Kassala ;
- (v) River Nile state ; capital is M-Damar ;
- (w) White Nile state ; capital is Rabak ;
- (x) Blue Nile state ; capital is Al-Damazin ;
- (y) Warap state ; capital is Warap ;
- (z) Unity state ; capital is Bantio.

### **Boundaries of States**

109. Boundaries of States shall be as they are on the day on which the Constitution comes into force. Boundaries between them may be amended by a law to be passed by the National Assembly and signed by the President of the Republic, after hearing the opinion of the Assembly and Governor for any states concerned.

## **CHAPTER II - DIVISION OF POWER**

### **Federal powers**

110. Federal organs shall exercise the power for planning, legislation and execution in the following affairs :-

- (a) defence, armed forces, police, security and disciplined people's forces ;
- (b) the Sudan international borders and settlement of border disputes between states ;
- (c) nationality, passports, immigration and aliens' affairs ;
- (d) foreign relations ;
- (e) rules of general elections for constitutional, federal, state and local institutions ;
- (f) advocacy ;
- (g) general professions organized by federal laws ;
- (h) currency, financial, fiscal and credit policies ;
- (i) specifications, weights, measures and dates and times ;
- (1) federal financial resources ;
- (k) foreign trade ;

- (l) national projects, corporations and companies ;
- (m) federal lands and natural resources, mineral and subterranean wealth ;
- (n) inter states waters ;
- (o) national electricity projects ;
- (p) federal air transport, inter states land and sea routes and inter states federal transport and communications
- (q) epidemics ; and general disasters ;
- (r) archeology and archeological sites.

### **State powers**

111. The State organs, each within the boundaries of the State shall exercise the power of planning, legislation and execution, in the following affairs:-

- (a) government and good administration of the State and care for its, security and public order ;
- (b) State's financial resources ;
- (c) trade and supply ;
- (d) State's lands, natural resources, animal and wild-life wealth ;
- (e) non-transit waters and electric power ;
- (f) State's roads, transport, means of communications and telecommunications ;
- (g) missionary and charitable affairs ;
- (h) registration of births, deaths and marriage documents ;
- (i) matters as may be compatible with federal laws in affairs peculiar to the State including custom compilation and codification.

### **Concurrent powers**

112. (1) Each of the federal organs throughout the Sudan and State organs, as to what concern the State, shall exercise power in the following affairs, in accordance with federal legislations:-

- (a) public service ;
- (b) public counsels and attorneys ;
- (c) local government ;
- 4. information, culture and means of publication ;
- (e) education and scientific research ;
- (f) health ;
- (g) social welfare ;
- (h) economic policy ;
- (i) co-operation ;
- (j) industry ;
- (k) quarries ;
- (l) border trade ;
- (m) building development planning and housing ;
- (n) survey ;
- (o) statistics ;

- (p) environment ;
- (q) tourism ;
- (r) Meteorology.

(2) There shall be established by a federal law, councils representing the federal and States' executive authorities to assume division and planning of lands and forests between the federal authority and the States.

(3) The residual powers not mentioned in the division of federal and State or concurrent powers shall be deemed to be concurrent

## **CHAPTER II - DIVISION OF FINANCIAL RESOURCES**

### **Federal financial resources**

113. The federal financial resources shall be:-

- (a) customs revenues and the revenues of international ports and airports ;
- (b) companies profits tax, personal income tax and stamp duty of federal and inter state dealings ;
- (c) profits of national projects; provided that there shall be allocated to the states to which they extend a percentage as the law may specify ;
- (d) federal industries' excise duty ;
- (e) expatriates' taxes and foreign institutions and activities taxes ;
- (t) any such other taxes or fees that do not affect the State's or the local government resources ;
- (g) grants, loans and credit facilities.

### **State's financial resources**

114. The state's financial resources shall be:-

- (a) business profits tax ; provided that there shall be a percentage allocated to localities by a federal law ;
- (b) state's industries excise duty ;
- (c) state's licences returns ;
- (d) state's taxes and fees ;
- (e) state's projects' profits ;
- (f) internal grants loans and credit facilities.

### **Localities' financial resources**

115. The localities' financial resources shall be:-

- (a) estates tax ;
- (b) sales tax ;
- (c) agricultural and animal production tax ; provided that there shall be allocated a percentage to the state by a federal law ;
- (d) local land and river means of transport ;
- (e) local industrial and artisan excise duty ;
- (f) any other local resources.

## **CHAPTER IV - FEDERAL RELATION**

### **Federal Government Chamber**

116. (1) There shall be established by law federal government chamber, under the supervision of the President of the Republic to assume, with respect to the process of the federal and State government co-ordination, communication and organization of conferences between Governors and States' organs and the Presidency and federal organs.

(2) There shall be established under the supervision of the Federal Government Chamber a fund to be contributed to by the federal budget and budgets of able States to support the needy States according to fair criteria that give due regard to the size of population, level of development and other factors as the law may regulate.

### **National immunities**

117. The States shall not, save by permission of the federal organs, infringe on the following:-

- (a) federal constitutional institutions and holders of federal constitutional posts ;
- (b) ministries, administrations, public institutions and corporations, federal public sector companies and projects, and their employees ;
- (c) federal lands, estates and utilities.

### **Prohibition of measures impeding transit**

118. The States shall not take any measures which impede the transit of persons, goods or communications services nor shall they levy fees on any of the same, save upon permission of the concerned federal organs.

### **Request of data**

119. The States shall supply federal organs with data and information whenever the same have been required therefrom for the purposes of laying down national policies and plans.

### **Request for deferral of legislation**

120. The National Assembly and the State's Assembly may request each other to deferr the passing of any bill, pending expressing the opinion thereon, where the bill has a national or special impact on the state.

### **Exchange of laws**

121. The National Assembly shall exchange with the State's Assembly and States' Assemblies shall exchange between them, the laws they promulgate.

## **PART VII: OTHER SYSTEMS AND ORGANS**

### **CHAPTER I - DISCIPLINED FORCES**

#### **People's Armed Forces**

122. (1) The People's Armed Forces are military forces of national



composition ; their mission is the protection, security, preservation of the safety and participation in the construction of the nation , they also protect the achievements of the people, and the civilisational orientation of the national community. They also safeguard the constitutional order.

(2) The law shall regulate the order of the People's Armed Forces and the reserve forces, the terms of service and emoluments of the member thereof.

(3) The law shall regulate the establishment and constitution of military courts, their forms , jurisdiction, powers and procedure, and shall also regulate military legal ser.

### **Police Forces**

123. (1) The Police Forces are regular forces of national composition whose mission is to serve the security of the country and citizens, combat crime, protect property, prevent disasters and preserve the morality and conduct of the society and the public order.

(2) The Police Forces shall be regulated by the federal authority as to planning, preparation and training, and supervision of sectors thereof. The States shall supervise some sectors within the State. In a state of emergency supervision of all shall be under federal authorities.

(3) The law shall specify the order, functions, terms of service and the relation between the federal and State's organs and sectors of the Police Forces.

### **Security Forces**

124. (1) Security Forces are national regular forces whose mission is to care for the internal and external security of the Sudan, monitor relevant events, analyze the significance and dangers of the same and recommend protection measures.

(2) The law shall organize the order of the Security Forces and terms of service of their members.

### **Popular Forces**

125. (1) The State may establish voluntary popular military forces for the people's defence or security, and may also establish other disciplined forces to be composed of Sudanese individuals, and work under the command of the Armed Forces or the Police for the needs of defence, security, order and other public functions.

(2) The law shall specify the order of the popular forces, their duties and the relations of the federal and State supervision.

## **CHAPTER II - THE PUBLIC SERVICE AND EMPLOYEES JUSTICE CHAMBER**

### **Public Service**

126. (1) The Public Service is all those employees in the State to carry out the functions assigned to them.

- (2) The State shall abide by fairness in assigning public posts on the basis of academic and practical qualification with regard to due balance.
- (3) The law shall organize the duties of the public service and shall as well determine the terms of service and the rights of the employees.

#### **Employees Justice Chamber**

127. (1) There shall be established by federal or State law an Employees Justice Chamber for employees in public service, having competence to consider and determine the grievances of employees ; and the law shall specify its functions and powers The supervision and appointment of the president of the Chamber shall be by the President of the Republic or the Governor as the case may be.

(2) Decisions of the Employees Justice Chamber shall be final, not to be reviewed by courts.

### **CHAPTER III - GENERAL ELECTIONS BOARD**

#### **General Elections Board**

128. (1) There shall be established an independent organ to be known as the " General Elections Board " . Its chairman and members shall be appointed by the President of the Republic with the approval of the National Assembly. They shall be persons of efficiency, impartiality and propriety. The Board shall be responsible to the President of the Republic and the National Assembly for its work.

(2) The Board shall be the sole and only body to assume the following functions:-

- (a) preparation of the general electoral roll, and its revision annually ;
- (b) conduct of the elections for the Presidency of the Republic, deputies in the National and State Assemblies and in local councils in accordance with the law ;
- 1. any general referendum in accordance with the Constitution ;
- (d) fair and equal introduction of candidates to the electorate in the means of public address and communication ;
- (e) any other electoral functions as the law may specify or the President of the Republic may assign to the Board.

(3) The law shall specify the rules, powers, procedure and terms of service of employees of the General Elections Board.

(4) The law shall organize the system of the general electoral roll, the general rules and measures of elections and the procedure of conducting the same.

### **CHAPTER IV - GENERAL AUDITING CHAMBER**

129. (1) There shall be established an independent organ to be known as the, " General Auditing Chamber " . Its president who is the Auditor General and all other members of leadership of the Chamber shall be appointed by the President of the Republic with the approval of the

National Assembly. The leadership shall be responsible to the President of the Republic and the National Assembly.

(2) The General Auditing Chamber shall assume auditing of the accounts of the federal executive organs, the National Assembly, and the Judiciary, as well as federal public organs, institutions, corporations and companies.

(3) The President of the Republic may assign to the General Auditing Chamber, the auditing of the accounts of the States, or of any other private or public body.

(4) The law shall organize the General Auditing Chamber and specify the functions and terms of service of its employees.

## **CHAPTER V - PUBLIC GRIEVANCES AND CORRECTIONS BOARD**

130. (1) There shall be established an independent organ, to be known as the " Public Grievances and Corrections Board ". Its president and members shall be appointed by the President of the Republic with the approval of the National Assembly from persons of efficiency and propriety. The Board shall be responsible to the President of the Republic and the Assembly.

(2) Without prejudice to the jurisdiction of the Judiciary, the Board shall work at the federal level to clear away grievances, assure efficiency and purity in the practice of the State and in systems, or the final executive or administrative acts, and also to extend justice after the final decisions of the institutions of justice.

(3) The Board shall work in co-ordination with the various organs of the State and submit its recommendations to the President of the Republic, the National Assembly or any public organ.

(4) The law shall regulate the functions, procedure and terms of service of the employees of the Board.

(5) There shall be established public grievances and corrections boards in the States by state law observing accordance with the foregoing provisions.

## **PART VIII: STATE OF EMERGENCY AND DECLARATION OF WAR**

### **CHAPTER I - STATE OF EMERGENCY**

#### **Declaration of the state of emergency**

131. (1) The President of the Republic may, upon the occurrence or approach of any emergent danger, whether it is war, invasion, blockade disaster or epidemics, as may threaten the country, or any part thereof or the safety or economy of the same, declare the state of emergency in the country, or in any part thereof, in accordance with the Constitution and the law.

(2) The declaration of the state of emergency shall be submitted to the

National Assembly within fifteen days of its issue. When the Assembly is not in session, an emergency meeting shall be convoked.

(3) When the National Assembly approves the declaration of the state of emergency, there shall continue the effect of any law as may have been standing for the state of emergency or any exceptional order.

### **Powers of the President of the Republic**

132. The President of the Republic may during the state of emergency take by virtue of law or exceptional order any of the following measures:-

(a) to suspend part or all the provisions provided for in the constitutional freedoms, sanctities and rights Chapter. There shall not therein be infringement of the freedom from slavery or torture, right of non-discrimination only for race, sex or religious creed, the right and sanctity in litigation or the right of innocence and defence ;

(b) to dissolve or suspend any of the State organs or suspend such powers, as may be conferred upon the States under the Constitution. The President of the Republic shall assume the functions of such organs and exercise the powers or prescribe the manner in which the affairs of the State concerned may be managed ;

(c) to issue any such measures as he may deem necessary responding to the state of emergency, and such measures shall have the force of law.

### **Powers of the National Assembly**

133. (1) The National Assembly may approve the extension of the state of emergency.

(2) The President of the Republic shall submit to the Assembly every exceptional measures as he may take for the state of emergency and the Assembly may pass, amend or revoke any exceptional order.

### **Duration of state of emergency**

134. The duration of the measures of the state of emergency shall expire in the following cases:-

(a) lapse of thirty days of the issue of the declaration if the National Assembly does not approve by a resolution the extension of its term ;

(b) lapse of the term resolved by the National Assembly ;

(c) issue of a declaration by the President of the Republic lifting the state of emergency.

## **CHAPTER II - DECLARATION OF WAR**

135. The President of the Republic shall declare war whenever he decides that the country is subject to external aggression ; and the declaration shall upon approval of the National Assembly be legally in force.

## **PART IX: GENERAL AND TRANSITIONAL**

## **PROVISIONS**

### **Salaries and emoluments**

136. The law shall prescribe the salaries, emoluments, privileges and remuneration pertaining to the President of the Republic, his two vice-Presidents, assistants and advisers, the Speaker and members of the National Assembly, Governors, federal and State ministers, and advisers, members of the State Assemblies and holders of other constitutional posts.

### **Repeal and saving**

137. (1) There shall be repealed as from the date of the Constitution coming into force all the Constitutional Decrees.

(2) Notwithstanding the provisions of Sub article (1), the 14th.

Constitutional Decree (Implementation of the Peace Agreement), 1997, shall remain in force, and shall expire upon termination of the transitional period mentioned therein.

### **Constitution coming into force**

138. The Constitution shall come into force after approval by the people in the referendum on the date of signature by the President of the Republic.

### **Amendment of the Constitution**

139. (1) The President of the Republic, one-third of the members of the National Assembly or one-third of the States' Assemblies shall have the right to propose amendment of the Constitution.

(2) The National Assembly shall pass the text of amendment by the majority of two-thirds of members and the amendment shall come into force.

(3) The text of the amendment passed in accordance with Sub-article (2), shall not come into force where it amends the provisions of the basic fundamentals, save after the same is also passed by the people in a referendum and signed by the President of the Republic. The basic provisions and fundamentals are:-

(a) Islamic law and the legislative consensus of the people by the referendum, the Constitution or custom are the prevalent sources of law ;

(b) the human being has the freedom of creed and worship, and the citizen has the freedom of expression and the organization of political association, in accordance with the provisions set out in this Constitution ;

(c) the country is governed in accordance with a federal system, wherein powers and financial resources are divided between federal and States' organs and States thereby exercise their share of powers independently in accordance with the Constitution ;

(d) the system of leadership is presidential, wherein the President of the

Republic is elected as symbol of the State, a leader of the executive organ and a participant in legislation ;

(e) the authority of legislation and control of execution is exercised by an elected National or State Assembly with respective competence, and the President of the Republic or the Governor participates therein. The general referendum may exercise legislation according to the Constitution and law ;

(f) the judicial and justice system exercise their function independently to settle disputes and has a supreme power to consider and decide the constitutionality of laws that affect the balance of the federal system or the constitutional freedoms, sanctities and rights ;

(g) the Southern Sudan has a transitional system for a term, during which the same is federal and co-ordinatory for the Southern States, and shall expire by the exercise of the right of self-determination.

### **Continuation of offices organs and laws**

140. (1) The President of the Republic , who is incumbent upon the Constitution coming into force shall continue with functions and powers in accordance with the Constitution, and his tenure shall expire by termination of the term of five years as of the day of his assumption of Presidency.

(2) The National Assembly in power upon the Constitution coming into force shall continue with functions and powers in accordance with the Constitution, and its tenure shall expire by the end of the term of four years as of the day of convening the first sitting.

(3) The Governors who are incumbent upon the Constitution coming into force shall continue in office with functions and powers in accordance with the Constitution, and their tenure shall expire by the end of the term of four years as of the day of assumption of governorship.

(4) The States' Assemblies in power upon the Constitution coming into force shall continue with functions and powers in accordance with the Constitution, and the term of each Assembly shall expire as the President of the Republic may decide.

(5) Until the issue of new measures in accordance with the provisions of the Constitution, all laws shall continue, and all current constitutional organs, and all persons holding public offices or posts shall continue to exercise functions and powers in accordance with the Constitution.

### **Procedures**

\* The original draft of the Constitution of the Republic of The Sudan in Arabic has been passed by the National Assembly on the 28th of March 1998.

\* The President of the Republic has signed his agreement there to on the 29th of March 1998.

\* The Draft was handed over by the National Assembly to the General Elections Board on the 1st of April 1998 to present it to the people of the Sudan for referendum.



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