

# **THE CONSTITUTION OF THE REPUBLIC OF SOUTH SUDAN, 2013**

## **PREAMBLE**

**We, the People of South Sudan,**

**Recalling** our long and heroic struggle for justice, freedom, equality and dignity, culminating in the attainment of our independence ;

**Remembering** and inspired by the selfless sacrifices of our martyrs, heroes and heroines;

**Dedicated** to a genuine national healing process and the building of trust and confidence in our society through dialogue;

**Determined** to lay the foundation for a united, peaceful and prosperous society based on justice, equality, respect for human rights and the rule of law;

**Committed** to establishing a federal 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;

**Conscious** of the need to manage our natural resources sustainably and efficiently for the benefit of the present and future generations and to eradicate poverty and attain the other objectives of the Millennium Development Goals;

**Do hereby**, adopt this Constitution and undertake to abide by, respect and defend it.

# **CHAPTER ONE**

## **SOUTH SUDAN**

### **PART ONE**

#### **SOVEREIGNTY OF THE PEOPLE AND THIS CONSTITUTION**

##### **Article 1: The Republic of South Sudan and its territory**

- (1) The Republic of South Sudan is an independent and sovereign state.
- (2) The territory of the Republic of South Sudan comprises all lands and air space that constituted South Sudan on the day of independence, and any additional territory as defined by an Act of Parliament.
- (3) South Sudan is governed on the basis of a federal democratic system based on citizenship. It is an all embracing homeland for its people, and is a multi-ethnic, multi-cultural, multi-lingual, multi-religious and multi-racial entity where such diversities peacefully co-exist.
- (4) South Sudan is founded on justice, equality, respect for human dignity and advancement of human rights and fundamental freedoms.

##### **Article 2: Sovereignty of the people**

1. Sovereign belongs to the people from whom all state authority is derived. It shall be exercised by the people through elections and other votes and through specific legislative, executive and judicial bodies.
2. The legislative shall be bound by the constitutional order, the executive and the judiciary by law and justice.

##### **Article 3: Supremacy of this Constitution**

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 at all levels of government throughout the country; and all states' constitutions and all laws shall conform to it.

#### **Article 4: Defence of this 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 attempts to overthrow the constitutional government, or suspend or abrogate this Constitution commits treason.
- (3) Every citizen has an obligation to respect, uphold and defend this Constitution.
- (5) 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.

#### **Article 5: National, official and other languages**

- (1) All indigenous languages of South Sudan are national languages and shall be respected, developed and promoted.
- (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:
  - (a) promote and protect the diversity of languages in South Sudan; and
  - (b) promote the development of a sign language, Braille and other communication formats accessible to persons with disabilities.

#### **Article 6: National symbols and national days**

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

#### **Article 7: Religion**

- (1) There shall be no State religion.
- (2) All religions shall be treated equally and religion or religious beliefs shall not be used for divisive purposes.

**PART TWO**  
**CITIZENSHIP AND NATIONALITY**

**Article 8: Citizenship and Rights**

- (1) Citizenship may be acquired by birth or naturalization.
- (2) Every person born to a South Sudanese mother or father shall have an inalienable right to enjoy South Sudanese citizenship and nationality.
- (3) Parliament shall enact legislation on the acquisition of citizenship by naturalization.
- (4) Citizenship is the basis of equal rights and duties for all South Sudanese.
- (5) Every citizen shall enjoy all the rights guaranteed by this Constitution.
- (6) 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.
- (7) A South Sudanese citizen by birth may acquire the nationality of another country as shall be prescribed by law.

**Article 9: Duties of the Citizen**

- (1) It shall be the duty of every citizen to uphold and abide by this Constitution and respect the laws of South Sudan.
- (2) Every citizen shall in particular:
  - (a) defend the country and respond to the call for national service in accordance with the provisions of this Constitution and the law;
  - (b) abhor violence and promote 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;
  - (g) abide by the law and co-operate with the appropriate agencies in the maintenance of law and order;

- (h) protect the environment and conserve natural resources;
- (i) be guided and informed in all actions by the interests of the nation and the principles enshrined in this Constitution;
- (j) promote democracy, good governance and the rule of law; and
- (k) respect the rights and freedoms of others.

#### **Article 10: Equal citizenship**

- (1) Every South Sudanese shall have in every state the same political rights and duties.
- (2) Every South Sudanese shall be equally eligible for any public office according to his aptitude, qualifications and professional achievements.

## **CHAPTER TWO**

### **BASIC RIGHTS**

#### **PART ONE**

##### **The Bill of Rights**

##### **Article 11: Nature of the Bill of Rights**

(1) The Bill of Rights is a covenant among the people of South Sudan and between them and their government at every level and a commitment to respect and promote human rights and fundamental freedoms enshrined in this Constitution; it is the cornerstone of social justice, equality and democracy.

(2) The rights and freedoms of individuals and groups enshrined in this Bill shall be respected, upheld and promoted by all organs and agencies of Government and by all persons.

(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.

##### **Article 12: Sanctity of rights and freedoms**

Subject to Article 205 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 and other competent courts; the Human Rights Commission shall monitor its application in accordance with this Constitution and the law.

#### **PART TWO**

##### **Rights and Fundamental Freedoms**

##### **Article 13: Right to life and human dignity**

Every person has the inherent right to life, dignity and the integrity of his or her person which shall be protected by law; no one shall be arbitrarily deprived of his or her life.

#### **Article 14: Personal Liberty**

Every person has the right to liberty and security of person; no person shall be subjected to arrest, detention, deprivation or restriction of his or her liberty except for specified reasons and in accordance with procedures prescribed by law.

#### **Article 15: Freedom from slavery, servitude and forced labour**

(1) Slavery and slave trade in all forms are prohibited. No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced or compulsory labour except as a penalty upon conviction by a competent court of law.

#### **Article 16: Equality and freedom from discrimination**

All persons are equal before the law and are entitled to the equal protection of the law without discrimination as to race, ethnic origin, colour, sex, language, religious creed, political opinion, birth, locality or social status.

#### **Article 17: Privacy**

The privacy of all persons shall be inviolable; no person shall be subjected to interference with his or her private life, family, home or communications.

#### **Article 18: Freedom of conscience, religion, belief and opinion**

(1) Every person has the right to freedom of conscience, religion, thought, belief and opinion.

(2) Every person has the right, either individually or in community with others, in public or in private, to manifest any religion or belief through worship, practice, teaching or observance, including observance of a day of worship.

(3) A person may not be compelled to act, or engage in any act, that is contrary to the person's belief or religion.

#### **Article 19: Freedom of expression**

(1) Every person has the right to freedom of expression, which includes:

(a) freedom to seek, receive or impart information or ideas;

(b) freedom of artistic creativity; and

(c) academic freedom and freedom of scientific research.

(2) The right to freedom of expression does not extend to

(a) propaganda for war;

(b) incitement to violence;

- (c) hate speech; or
- (d) advocacy of hatred that
  - (i) constitutes ethnic incitement, vilification of others or incitement to cause harm; or
  - (ii) is based on any ground of discrimination specified or contemplated in Article 16.
- (3) In the exercise of the right to freedom of expression, every person must respect the rights and reputation of others.

#### **Article 20: Freedom of the media**

- (1) Freedom and independence of electronic, print and all other types of media is guaranteed, but does not extend to any expression specified in Article 19.
- (2) The State shall not
  - (a)- exercise control over or interfere with any person engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium; or
  - (b)- penalize any person for any opinion or view or the content of any broadcast, publication or dissemination.
- (3) All media shall abide by professional ethics.

#### **Article 21: Access to information**

- (1) Every citizen has the right of access to
  - (a) information held by the State; and
  - (b) information held by another person and required for the exercise or protection of any right or fundamental freedom.
- (2) Every person has the right to the correction or deletion of untrue or misleading information that affects the person.

#### **Article 22: Freedom of association**

Every person has the right to freedom of association with others, including the right to form, join or participate in the activities of an association of any kind for the protection of his or her interests.

#### **Article 23: Assembly, demonstration, picketing and petition**

Every person has the right, peacefully and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities.

#### **Article 24: Political rights**

- (1) Every citizen is free to make political choices, which includes the right:
  - (a) to form, or participate in forming, a political party;
  - (b) to participate in the activities of, or recruit members for, a political party; or
  - (c) to campaign for a political party or cause.
- (2) Every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors for
  - (a) any elective public body or office established under this Constitution; or
  - (b) any office of any political party of which the citizen is a member.
- (3) Every adult citizen has the right, without unreasonable restrictions
  - (a) to be registered as a voter;
  - (b) to vote by secret ballot in any election or referendum; and
  - (c) to be a candidate for public office, or office within a political party of which the citizen is a member and, if elected, to hold office.

#### **Article 25: Freedom of movement and residence**

- (1) Every citizen has the right to freedom of movement and the liberty to choose his or her residence except for reasons of public health and safety as shall be regulated by law.
- (2) Every citizen has the right to leave and to return to South Sudan.

#### **Article 26: Freedom from torture**

No person shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment.

#### **Article 27: Fair trial**

- (1) An accused person is presumed to be innocent until his or her guilt is proved in a court of law.
- (2) Any person who is arrested shall be informed, at the time of arrest, of the reasons for his or her arrest and shall be promptly informed of any charges against him or her
- (3) In all civil and criminal proceedings, every person shall be entitled to a fair

and public hearing by a competent court of law in accordance with procedures prescribed by law.

(4) No person shall be charged with any act or omission which did not constitute an offence at the time of its commission.

(5) Every accused person shall be entitled to be tried in his or her presence in any criminal trial without undue delay; the law shall regulate trial in absentia.

(6) Any accused person has the right to defend himself or herself in person or through a lawyer of his or her own choice or to have legal aid assigned to him or her by the government where he or she cannot afford a lawyer to defend him or her in any serious offence.

#### **Article 28: Right to litigation**

The right to litigation shall be guaranteed for all persons; no person shall be denied the right to resort to courts of law to redress grievances whether against government or any individual or organization.

#### **Article 29: Restriction on death penalty**

(1) No death penalty shall be imposed, save as punishment for extremely serious offences in accordance with the law.

(2) No death penalty shall be imposed on a person under the age of eighteen or a person who has attained the age of seventy.

(3) No death penalty shall be executed upon a pregnant or lactating woman, save after two years of lactation.

#### **Article 30: Right to own property**

(1) Every person shall have the right to acquire or own property as regulated by law.

(2) No private property may be expropriated save by law in the public interest and in consideration for prompt and fair compensation. No private property shall be confiscated save by an order of a court of law.

#### **Article 31: Right to found a family**

(1) The family is the natural and fundamental unit of society and the necessary basis of social order, and enjoys the recognition and protection of the State.

(2) Every person of marriageable age shall have the right to marry a person of the opposite sex and to found a family according to their respective family laws, and no marriage shall be entered into without the free and full consent of the man and woman intending to marry.

### **Article 32: Consumer rights**

(1) Consumers have the right

- (a) to goods and services of reasonable quality;
- (b) to the information necessary for them to gain full benefit from goods and services;
- (c) to the protection of their health, safety, and economic interests; and
- (d) to compensation for loss or injury arising from defects in goods or services.

(2) Parliament enacts legislation to provide for consumer protection and for fair, honest and decent advertising.

(3) This Article applies to goods and services offered by public entities or private persons.

### **Article 33: Labour relations**

(1) Every person has the right to fair labour practices.

(2) Every worker has the right

- (a) to fair remuneration;
- (b) to reasonable working conditions;
- (c) to form, join or participate in the activities and programmes of a trade union; and
- (d) to go on strike.

(3) Every employer has the right

- (a) to form and join an employers organisation; and
- (b) to participate in the activities and programmes of an employers organisation.

(4) Every trade union and every employers' organisation has the right

- (a) to determine its own administration, programmes and activities;
- (b) to organise; and
- (c) to form and join a federation.

(5) Every trade union, employers' organisation and employer has the right to engage in collective bargaining.

### **Article 34: The Environment**

Every person has the right to a clean and healthy environment, which includes the right

- (a) to have the environment protected for the benefit of present and future generations through legislative and other measures; and
- (b) to have obligations relating to the environment.

### **Article 35: Economic and social rights**

- (1) Every person has the right
  - (a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;
  - (b) to accessible and adequate housing, and to reasonable standards of sanitation;
  - (c) to be free from hunger, and to have adequate food of acceptable quality;
  - (d) to clean and safe water in adequate quantities;
  - (e) to social security; and
  - (f) to education.
- (2) A person may not be denied emergency medical treatment.
- (3) The State shall provide appropriate social security to persons who are unable to support themselves and their dependants.

### **Article 36: Language and culture**

- (1) Every person has the right to use the language, and to participate in the cultural life, of the person's choice.
- (2) A person belonging to a cultural or linguistic community has the right, with other members of that community
  - (a) to enjoy the person's culture and use the person's language; or
  - (b) to form, join and maintain cultural and linguistic associations and other organs of civil society.
- (3) A person may not compel another person to perform, observe or undergo any cultural practice or rite.
- (4) National languages shall be taught in the first four years of the primary level of education.

## **PART THREE**

### **Specific Applications of Rights**

#### **Article 37: Interpretation of this Part**

This part elaborates certain rights to ensure greater certainty as to the application of those rights and fundamental freedoms to certain groups of persons. It should not be construed as limiting or qualifying any right.

### **Article 38: Rights of women**

- (1) Women shall be accorded full and equal dignity of the person with men.
- (2) Women shall have the right to equal pay for equal work and other related benefits with men.
- (3) Women shall have the right to participate equally with men in public life.
- (4) All levels of government shall enact laws to combat harmful customs and traditions which undermine the dignity and status of women.
- (5) Women shall have the right to own property and share in the estates of their deceased husbands together with any surviving legal heir of the deceased.

### **Article 39: Rights of the Child**

- (1) Every child has the right:
  - (a) to life, survival and development;
  - (b) to a name and nationality;
  - (c) to know and be cared for by his or her parents or legal guardian;
  - (d) not to be subjected to exploitative practices or abuse, nor to be required to serve in the army nor permitted to perform work which may be hazardous or harmful to his or her education, health or well-being;
  - (e) to be free from any form of discrimination;
  - (f) to be free from corporal punishment and cruel and inhuman treatment by any person including parents, school administrations and other institutions;
  - (g) to be taught his mother tongue in the primary level of education;
  - (g) not to be subjected to negative and harmful cultural practices which affect his or her health, welfare or dignity; and
  - (h) to be protected from abduction and trafficking.
- (2) In all actions concerning children undertaken by public and private welfare institutions, courts of law, administrative authorities or legislative bodies, the paramount consideration shall be the best interest of the child.
- (3) All levels of government shall accord special protection to orphans and other vulnerable children; child adoption shall be regulated by law.

(4) For the purposes of this Constitution, a child is any person under the age of eighteen years.

#### **Article 40: Rights of persons with special needs and the elderly**

(1) All levels of government 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.

(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.

#### **Article 41: Youth**

The State takes measures, including affirmative action programmes, to ensure that the youth

- (a) access relevant education and training;
- (b) have opportunities to associate, be represented and participate in political, social, economic and other spheres of life;
- (c) access employment; and
- (d) are protected from harmful cultural practices and exploitation.

#### **Article 42: Rights of ethnic and cultural communities**

Ethnic and cultural communities shall have the right to freely enjoy and develop their particular cultures. Members of such communities shall have the right to practise their beliefs, use their languages, observe their religions and raise their children within the context of their respective cultures and customs in accordance with this Constitution and the law.

### **PART FOUR**

#### **PRINCIPLES GUIDING STATE POLICY**

##### **Article 43: National Unity**

The State shall promote national unity and the spirit of solidarity among all South Sudanese.

##### **Article 44: The Democratic System**

The State shall promote the democratic system and shall endeavour to ensure the participation of all citizens in public life through its democratic institutions.

#### **Article 45: Political parties**

The political system is founded on the freedom to form political parties. The law shall protect all the political parties that abide by the democratic values and methods contained in this constitution.

#### **Article 46: Independence of the judiciary**

The judicial authority is an independent authority and neither the executive nor the legislative authorities has the right to interfere in its work or supervision thereof.

#### **Article 47: The rule of law**

The State and every person, physical or corporate, shall be subjected to the rule of law as applied by the courts.

#### **Article 48: Independence of the universities**

The State shall guarantee the independence of, and freedom of thought and scientific research in the universities and higher institutes of learning.

#### **Article 49: Impartiality of the civil service**

The civil service shall be independent and impartial. The law shall regulate its functions.

#### **Article 50: Independence of the public media**

The State shall guarantee the independence and national character of the state-owned media and shall endeavour to create equal opportunities of expression within them.

#### **Article 51: The economy**

The State shall endeavour to increase national income; attain social justice; just distribution; raising the standard of living; eradication of poverty and unemployment; promote employment and production; maintain the rights of workers; guarantee public, private and co-operative ownership; narrow the income gap; and to direct the economy through sound planning to ensure sustained growth and high productivity.

#### **Article 52: Foreign policy**

The State's foreign policy shall be based on the principles of non-alignment, consolidation of international peace and security, resolving international and regional disputes by peaceful means, good neighbourliness, African economic integration, and the consolidation of co-operation between all the peoples of the world.

### **Article 53: The Armed Forces**

The armed forces are part and parcel of the people of South Sudan and their duty is to protect the country and its territorial integrity.

### **Article 54: The federal system of rule**

South Sudan shall be governed through a federal system. The powers of the federation and the states are as specified in this constitution.

### **Article 55: Culture**

Culture is the foundation of the nation. The State shall promote all forms of cultural expression through literature, traditional celebrations, science, publications, mass media, libraries and other cultural heritage.

# **CHAPTER THREE**

## **THE FEDERATION AND THE STATES**

### **PART ONE**

#### **THE FEDERAL SYSTEM OF GOVERNANCE**

##### **Article 56: Levels of Government**

South Sudan shall have a federal system of government with the following levels:

- (a) the federal level of government, which shall exercise authority to protect the sovereignty of South Sudan and its territorial integrity and promotes the welfare of its people;
- (b) the state level of government, which shall exercise authority at the level of the states all over South Sudan, and render public services to the people; and
- (c) local government level, which shall be throughout South Sudan.

##### **Article 57: Distribution of Powers**

- (1) The following principles shall guide the distribution of powers between the various levels of government:
  - (a) affirmation of the need for norms and standards of governance and administration at the federal and state levels that reflect the unity of the people of South Sudan while recognizing their diversity;
  - (b) acknowledgement of the role of the State in the promotion of the welfare of the people and protection of their human rights and fundamental freedoms;
  - (c) recognition of the need for the involvement and participation of all people of South Sudan at all levels of government as an expression of national unity; and
  - (d) attainment of good governance through democracy, transparency, accountability and respect for the rule of law to enhance peace, socio-economic development and political stability.
- (2) The federal government shall:
  - (a) exercise its competences in accordance with this Constitution and the law; and
  - (b) respect the powers allocated to the states and local governments.

## **Article 58: Inter-Governmental Linkages**

- (1) In the administration of the federal system of governance, the following principles of inter-governmental linkages shall be observed:
  - (a) the linkage between the federal government and the local government shall be through the government of the relevant state;
  - (b) in their relationships with each other or with other government organs, all levels of government shall observe the following:
    - (i) respect each other's powers and competences; and
    - (ii) collaborate in the task of governing and assist each other in fulfilling their respective constitutional obligations.
  - (c) government organs at all levels shall perform their functions and exercise their powers so as:
    - (i) not to encroach on powers or functions conferred upon any other level;
    - (ii) not to assume powers or functions conferred upon any other level except as provided for in this Constitution
    - (iii) to promote co-operation between all levels of government;
    - (iv) to promote communication and coordination between all levels of government;
    - (v) to render assistance and support to other levels of government;
    - (vi) to promote co-ordination of government responsibilities;
    - (vii) to adhere to procedures of inter-governmental interaction;
    - (viii) to promote amicable settlement of disputes before resorting to litigation.
    - (ix) to respect the status and institutions of other levels of government; and
  - (d) the harmonious and collaborative interaction of the different levels of government shall be within the context of national unity and for the achievement of a better quality of life for all.
- (3) Any two or more states may agree on mechanisms or arrangements to enhance inter-state co-ordination and co-operation.

## **PART TWO**

### **The Federal Government**

#### **Article 59: The National Capital**

- (1) The City of Juba shall be the National Capital of South Sudan and the seat of the Federal Government.
- (2) Without prejudice to sub-Article (1) above, the Federal Government may relocate the National Capital to any other location within the territory of South Sudan.

#### **Article 60: Organs of the Federal Government**

The Federal Government shall have the following organs:

- (a) the Legislature;
- (b) the Executive; and
- (c) the Judiciary.

#### **Article 61: Powers and Competences of the Federal Government**

The National Government shall exercise exclusive legislative and executive authority on all functional areas in Schedule (A); it shall also exercise legislative and executive authority on all concurrent matters as set forth in Schedule (C) read together with Schedule (D) herein.

#### **Article 62: Primary Responsibilities of the Federal Government**

- (1) The primary responsibilities of the Federal Government shall be:
  - (a) maintenance of peace and security;
  - (b) reconstruction and development;
  - (c) promotion of good governance and welfare of the people;
  - (d) exercising authority in respect of South Sudan; and
  - (e) ensuring the protection of the rights and interests of the people.
- (2) The Federal Government shall discharge its duties and exercise its powers as set forth in this Constitution and the law.

### **PART THREE**

#### **STATES OF SOUTH SUDAN**

##### **Article 63: The States**

- (1) The territory of South Sudan is composed of federal states; their number, boundaries, names and capital towns shall be specified by law.
- (2) Each state shall have a constitution that shall conform to this Constitution.
- (3) State boundaries shall not be altered except by a resolution of the Senate approved by two-thirds of all members, and only after the approval of the legislative assemblies of the states affected.
- (4) Names of states and their capital towns shall not be altered except by a resolution of the Senate approved by a simple majority of all members on the request of the relevant State Assembly.

#### **Article 64: State Organs**

- (1) Each state shall have exclusive executive and legislative competences as set forth in Schedule (B) and Schedule (C), read together with Schedule (D) herein.
- (2) Except as otherwise provided by this Constitution, the exercise of state powers and the discharge of state functions is a matter for the states.
- (3) Elections to the state institutions, including local government, shall be organized and conducted by the National Elections Commission in accordance with the provisions of the states' constitutions and the law.
- (4) In fulfillment of the principle of affirmative action, women shall be allocated at least twenty-five per cent of the seats in the legislative of each state, without prejudice to their right to compete for the remaining seats in such organs.

#### **Article 65: State Legislative Assembly**

- (1) Legislation in each state shall be performed by the state Legislative Assembly elected through secret universal adult suffrage; and shall adopt the state constitution, provided that it shall be in conformity with this Constitution.
- (2) The term of a state Legislative Assembly shall be four years commencing from the date of its first sitting.
- (3) Governors, members of state Legislative Assemblies and the state council of ministers shall have such immunities as are provided by law.

### **Article 66: State Executive**

The Governor of the state shall be the head of the executive organ in the state and shall appoint and relieve the Deputy Governor and other members of the state executive in accordance with the state constitution.

### **Article 67: Election and removal of the Governor**

- (1) The Governor shall be elected by the state Legislative Assembly without debate.
- (2) The person who receives the votes of a majority of the members of the state Legislative Assembly shall be elected. The person elected shall be appointed by the President.
- (3) If no Governor is elected within fourteen days, the President shall dissolve the Legislative Assembly and new election will be carried out.
- (4) The outgoing Governor remains in office until his successor is appointed by the President.
- (5) The Governor may be removed any time through a vote of no confidence by the state Legislative Assembly. A new Governor shall be elected in the same sitting.

### **Article 68: Local Government**

- (1) Pursuant to Article 56 (c) of this Constitution and the state constitutions, the states shall enact laws for the establishment of a system of local government based on urban and rural councils for which they shall provide structures, composition, finance and functions.
- (2) Without prejudice to the existing forms of the local government structures, local government councils shall be established by law taking into account, but not limited to, the following criteria:
  - (a) size of territory;
  - (b) population;
  - (c) economic viability;
  - (d) common interest of the communities; and
  - (e) administrative convenience and effectiveness.
- (3) Local government tiers shall consist of Province, District and Locality in the rural areas and towns, and Municipality in a city.
- (4) No town shall be declared a city or municipality except by a resolution of the Senate and its population shall not be less than five hundred thousand persons.

- (5) Local governments shall have powers to levy, charge, collect and appropriate fees and taxes in accordance with the law.
- (6) The Federal Government may pay grants-in-aid to states in support of their budgetary deficits and that of local government councils.

#### **Article 69: Traditional Authority**

Legislation of the states shall provide for the role of Traditional Authority as an institution at local government level on matters affecting local communities.

### **PART FOUR**

### **REFERENDA**

#### **Article 70: Referring a public matter to a referendum**

- (1) Pursuant to Schedule A(40) herein, the President, or Parliament, through a resolution passed by more than half of all its members, may refer for a referendum any matter of public interest.
- (2) Any matter submitted for a referendum shall be deemed to have been approved by the people of South Sudan if it has obtained more than half of the number of votes cast provided that not less than half of the registered voters have voted.
- (3) Any matter which has been approved by the people of South Sudan in a referendum shall have authority above any legislation. It shall not be annulled save by another referendum.

### **PART FIVE**

### **STATE LEADERS**

#### **Article 71: Declaration of Wealth and Prohibition of Private Business**

- (1) All executive and legislative constitutional office holders, Justices, and senior Civil Service officials at all levels of government shall, upon assumption of their offices, make confidential declaration of their assets and liabilities including those of their spouses and children in accordance with the law.

- (2) The President, the Prime Minister, Ministers, and Assistant Ministers of the National Government, Governors, state Ministers, and other constitutional office holders shall, during their tenure of office, neither practice any private profession, transact commercial business, nor receive remuneration or accept employment of any kind from any source other than the National Government or a state government as the case may be.

### **Article 72: Emoluments and Remuneration**

The President, the Prime Minister, Ministers, and Assistant Ministers of the National Government, Governors, state Ministers and other constitutional office holders shall be paid such emoluments and other remuneration and, on leaving office, receive such benefits as shall be regulated by law.

# **CHAPTER FOUR**

## **PARLIAMENT**

### **PART ONE**

#### **COMPOSITION AND FUNCTIONS**

##### **Article 73: Composition of Parliament**

- (1) Parliament shall consist of the National Assembly and the Senate.
- (2) Members of Parliament are elected in general, direct, free, equal and secret elections, in which any person who has attained the age of eighteen years is entitled to vote. Members of Parliament shall be the representatives of the whole people, not bound by instructions, responsible only to their conscience.
- (3) National Assembly and the Senate perform their respective functions in accordance with this Constitution.
- (4) Parliament, as well as each of its Houses, shall make its own Conduct of Business Regulations.

##### **Article 74: Competences of Parliament**

- (1) Parliament represents the will of the people of South Sudan and shall foster unity and nationhood, exercise legislative functions, oversee the Executive, and promote the federal system of government.
- (2) The legislative competences of the National Government shall vest in Parliament in respect of all matters assigned to it in Schedules (A) and (C) read together with Schedule (D) herein.
- (3) Without prejudice to the generality of sub-Article (1) above, Parliament shall be competent to:
  - (a) Consider and approve the Constitution and amendments thereto;
  - (b) Enact legislation on all matters assigned to it by this Constitution;
  - (c) Discuss statements by the Prime Minister and take decisions as may be necessary;
  - (d) Authorize annual allocation of resources and revenue, in accordance with Article 135 of this Constitution;
  - (e) Reconsider a bill which has been rejected by the President under Article 132 (2) herein;
  - (f) Approve a declaration of war;
  - (g) Confirm the declaration of a state of emergency or termination thereof;
  - (h) Impeach the President in accordance with Article 109 of this Constitution; and

### **Article 75: Election of Parliament**

The election of Parliament shall be conducted by the National Elections Commission defined in this Constitution.

### **Article 76: Term of Parliament**

The term of the Parliament shall be four years from the day of its first sitting.

### **Article 77: Seat of Parliament**

(1) Parliament 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 Parliament elsewhere inside South Sudan.

(3) Notwithstanding sub-Article (1) above, the Speaker of each House may call that House to convene in any other location in South Sudan.

### **Article 78: Eligibility for membership**

(1) A candidate for membership of Parliament shall:

- (a) be a South Sudanese;
- (b) be at least twenty-one years of age;
- (c) be of sound mind;
- (d) be literate; and
- (e) not have been convicted during the last seven years of an offence involving honesty or moral turpitude.

(2) Members of Parliament and the Council of Ministers shall not be eligible for membership of state legislatures or state councils of ministers while occupying the aforementioned positions.

(3) Membership of the National Assembly shall not be combined with representation at the Senate.

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

### **Article 79: Loss of Membership of Parliament**

(1) Membership of the National Assembly or the Senate shall be lost by a resolution passed by the appropriate House in any of the following cases:

- (a) mental infirmity or physical incapacity as certified by a medical board;
- (b) conviction for an offence involving honesty or moral turpitude;
- (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) ruling of the court against his membership in accordance with Article 81 ;
- (f) resignation, in writing, to the appropriate House;
- (g) change of political affiliation or party on whose ticket he or she was elected to Parliament;
- (h) assumption of any constitutional office in a state or local government level; or
- (i) death.

(2) Upon vacation of the seat of a member of the National Assembly or the Senate his or her seat shall be filled in accordance with the provisions of Article 80 herein.

### **Article 80: By-elections**

(1) When a vacancy occurs in respect of any seat in the National Assembly or the Senate, the Speaker of the appropriate House shall, in writing, notify the National Elections Commission within ten days from the occurrence of that vacancy.

(2) A by-election to fill the vacancy shall be held by the National Elections Commission within sixty days following notification with the occurrence of the vacancy.

(3) No by-election to fill a vacancy shall be held within the last three months of the term of the relevant House.

### **Article 81: Determination of questions of membership**

Questions regarding whether a person had been validly elected or to continue as a member of Parliament shall be lodged with the Supreme Court within thirty days from the declaration of the final results of the elections, and the court shall decide on such cases within sixty days from the day they were lodged. In the event that it is decided that the election was invalid, the membership is lost from the date the relevant House is informed of the verdict.

## **Article 82: Oath of a Member of Parliament**

To assume his or her functions, every member of the National Assembly or the Senate shall take the following oath before the appropriate House:

“I, ....., as a Member of the National Assembly/Senate, 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 Assembly/Senate and serve the people of the Republic of South Sudan to the best of my ability.”

## **Article 83: Immunity of Members of Parliament**

(1) No criminal proceedings shall be initiated against a member of the National Assembly or the Senate; nor shall any measure be taken against his or her person or belongings without permission from the Speaker of the appropriate House, except where he or she is caught committing an offence for which the police may arrest without warrant.

(2) In case a member is charged with a serious crime before a court of law, the appropriate House may waive the immunity of the member concerned to allow the legal process to proceed.

## **Article 84: Sessions of Parliament**

(1) Each House of Parliament shall hold its first sitting upon convocation by the President within fifteen days following the declaration of the final results of the general elections.

(2) The first sitting of each House shall be chaired by the eldest of the members present.

(3) The President acting on the advice of the Prime Minister shall determine the dates of commencement and closure of the sessions of Parliament. However, Parliament must be convened at least once a year so that the beginning of each new session shall be within three months from the date of the last sitting of the previous session.

(4) Parliament 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.

### **Article 85: Quorum**

- (1) The quorum for ordinary sittings of the National Assembly shall be more than half of the members.
- (2) Except as otherwise provided for in this Constitution, the decisions of the National Assembly shall be by the majority 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 Senate shall be more than half of its representatives.

### **Article 86: Speakers and Deputy Speakers of Parliament**

- (1) There shall be a Speaker and a Deputy Speaker for each House of Parliament who are elected by the members of that House from amongst its members at the first sitting.
- (2) 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.
- (3) The office of the Speaker or Deputy Speaker becomes vacant
  - (a) when the House serves its term;
  - (b) if the office holder, as a member of the relevant House, vacates office under Article 79;
  - (c) if the relevant House so resolves by resolution supported by the votes of at least two-thirds of its members; or
  - (d) if the office holder resigns from office in a letter addressed to the relevant House.
- (4) In the event that the office of the Speaker falls vacant, the election of a new Speaker takes priority over the conduct of the normal business of the relevant House.
- (5) At any sitting of the National Assembly or the Senate the Speaker presides; in his absence the Deputy Speaker presides; and in the absence of both another member of the House elected by the House presides.
- (6) At a joint sitting of the Houses of Parliament, the Speaker of the National Assembly presides, assisted by the Speaker of the Senate.
- (7) The Speaker of Parliament or of each House shall ensure that the relevant Conduct of Business Regulations are respected and enforced.

### **Article 87: Clerk of each House**

- (1) Each House of Parliament shall have a Clerk appointed by the Speaker subject to confirmation by the votes of two-thirds of its members.
- (2) The Clerk may not be relieved from office except through an order issued by the Speaker in execution of a resolution approved by a vote of at least two-thirds of members of the House.
- (3) The Speaker of each House shall appoint a Clerk for the respective House in accordance with the Conduct of Business Regulations.

- (4) 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.

#### **Article 88: Emoluments of members of Parliament**

- (1) Members of Parliament shall be paid emoluments and provided with facilities as determined by law.
- (2) A member of Parliament, other than the Speakers, Deputies, Leader of the Opposition, 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.

#### **Article 89: Committees of Parliament**

- (1) Each House shall have standing specialized committees and may establish ad hoc committees for the efficient discharge of its functions.
- (2) The functions of the standing and ad hoc committees of each House shall be determined by its Conduct of Business Regulations.
- (3) Each House shall elect chairpersons and deputy chairpersons of the specialized Committees.
- (4) Membership of the standing specialized committees are drawn from members of the House based on their preferences.
- (5) Notwithstanding sub-Article 4, any member of the House may attend a meeting of a committee of which he is not a member on permission of the committee's chairperson;
- (6) Each House shall consider broad inclusiveness in the election and apportionment of its officers and staff.
- (7) The two Houses may form inter-House ad hoc committees for specific matters that are of concern to the two Houses.

#### **Article 90: Publicity of Sitzings of Parliament**

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

### **Article 91: Language of deliberations**

Deliberations of Parliament, workings of its committees and its correspondence shall be in English. However, Arabic or any other national language may be used with the permission of the Speaker or the Chairperson of a committee, as the case may be.

### **Article 92: Freedom of Debate**

- (1) Subject to the provisions of the Conduct of Business Regulations, any member of Parliament may address questions to a Minister of the Federal Government on any subject relating to his or her duties; the said Minister shall provide the appropriate House with a prompt reply.
- (2) The relevant Conduct of Business Regulations shall specify the procedure for the Prime Minister's Question Time in Parliament or the National Assembly.
- (3) Members of Parliament 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.
- (4) 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. This provision shall not apply to defamatory insults.

### **Article 93: Right of Ministers to take part in the procedures**

Any Minister has the right to take part in the deliberations of Parliament and any of its committees.

### **Article 94: Voting**

- (1) All matters that require a resolution of Parliament are decided by a simple majority of the members present unless this Constitution otherwise specifies.
- (2) The Constitution is approved or amended by a vote of at least two-thirds of the members and the Regulations determine the procedures for debating and approving the Constitution.

### **Article 95: Validity of the Proceedings of Parliament**

No court or any other authority shall call into question the validity of any proceedings of Parliament or any of its two Houses on the basis of violation of its Conduct of Business Regulations. A certificate duly signed by the appropriate Speaker shall be deemed to be conclusive evidence of the validity of the said proceedings.

## **PART TWO**

### **THE NATIONAL ASSEMBLY**

#### **Article 96: Composition of the National Assembly**

- (1) The National Assembly consists of two hundred members to be elected as follows:
  - (a) One hundred and fifty members, each elected by registered voters of single member geographical constituencies;
  - (b) Fifty women members elected by registered voters of the states on the basis of proportional representation, each state constituting a single constituency.
- (2) The number of people constituting a single member constituency is the quotient of dividing the total population of the country by the figure referred to under sub-Article (1)(a).
- (3) The allocation of the fifty seats reserved for women to the states shall be in the proportion of the population of the state to the total population of the country.
- (4) The law shall specify the margin within which sub-sections (2) and (3) above may be applied, provided that constituencies do not cross state boundaries.

#### **Article 97: Functions of the National Assembly**

The National Assembly shall exercise the following functions:

- (a) enact legislation on all matters assigned to it by this Constitution;
- (b) elect in its first sitting the President of the Republic;
- (c) elect from amongst its members the Prime Minister;
- (d) oversee the performance of the National Government and its institutions, approve the national budgets, approve State policies and may cast a vote of no confidence against the Government or remove any minister from office;
- (f) ratify international treaties, conventions and agreements;
- (g) debate and adopt resolutions on matters of public concern and may form committees to investigate any matter brought to its attention;
- (h) approve appointments as required by this Constitution or the law;
- (i) enact legislation to regulate the conditions and terms of service of the Judiciary and its oversight mechanisms; and
- (j) perform any other function as determined by this Constitution or the law.

#### **Article 98: Leader of the Opposition**

- (1) The largest party in the National Assembly, not forming the government, shall elect from among its members the Leader of the Opposition.
- (2) In relation to the conduct of business of the National Assembly, the Leader of the Opposition shall have the right of first reply to any statement in the House by the Prime Minister.

- (3) The Conduct of Business Regulations of the National Assembly shall provide for the role, status and effective participation of the Leader of the Opposition in the House.

## **PART THREE**

### **THE SENATE**

#### **Article 99: Composition of the Senate**

- (1) The Senate shall consist of representatives of the states elected by the registered voters of the states, each state constituting a single constituency.  
(2) Each state shall be represented by two representatives in the Senate.

#### **Article 100: Competences of the Senate**

- (1) represents the states on the national level, and serves to protect the interests of the states and their governments.
- (2) participates in the law-making function of Parliament by considering, debating and approving bills concerning states, as provided in Articles 124 and 125.
- (3) determines the allocation of national revenue among states, as provided in Article 157, and exercises oversight over national revenue allocated to the state governments
- (4) requests statements from Governors and national Ministers concerned regarding effective implementation of the federal system and devolution of powers and any other issues related to the states;
- (5) legislates for the promotion of culture of peace, reconciliation and communal harmony among all the people of the states;
- (6) approves changes in state names, capital towns and boundaries;
- (7) approves the elevation of towns to cities or municipalities;
- (8) performs any other function as determined by this Constitution.

## **CHAPTER FIVE**

### **THE FEDERAL EXECUTIVE**

## **PART ONE**

### **Composition and Competences**

#### **Article 101: Composition of the Executive**

The Federal Executive shall consist of the President, Prime Minister, Ministers, and Assistant Ministers.

#### **Article 102: Powers and Competences of the Executive**

The Executive shall exercise the executive powers on all matters as set forth in Schedules (A) and (C) read together with Schedule (D) of this Constitution and any other competence conferred upon it by this Constitution and the law.

## **PART TWO**

### **THE PRESIDENT OF THE REPUBLIC**

#### **Article 103: The President**

The President of the Republic of South Sudan is the head of state, deals with sovereignty matters and is the supreme commander of the armed forces. He or she shall exercise the powers vested in the office of the President by this Constitution.

#### **Article 104: Eligibility for the Office of the President**

1- A candidate for the office of the President shall:

- (a) be a South Sudanese by birth;
- (b) be of sound mind;
- (c) be at least forty years of age;
- (d) be literate; and
- (e) not have been convicted of an offence involving honesty or moral turpitude.

2- As soon as a person is elected President, he/she shall resign from the membership of a political party if he/she were one.

#### **Article 105: 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; that I shall obey, preserve and defend the Constitution and abide by the law; and that I shall fully protect and promote the interests of the people; and preserve the independence of the country and its territorial integrity.”

#### **Article 106: Tenure of the Office of the President**

- (1) The term of the President of the Republic of South Sudan is four years.
- (2) Notwithstanding sub-Article 1, the President shall remain in office until the next National Assembly elects a replacement.

#### **Article 107: Vacancy of Office of the President**

- (1) The office of the President shall fall vacant in any of the following cases:
  - (a) expiration of the term of the National Assembly that elected him or her  
and the election of a replacement by the newly elected National Assembly;
  - (b) conviction on an offense involving honesty and moral turpitude;
  - (c) a written resignation to the National Assembly;
  - (d) a resolution by the National Assembly withdrawing its confidence from him or her;
  - (e) mental infirmity or physical incapacity based on an official medical report submitted by the Medical Commission to the Assembly for information;
  - (f) impeachment in accordance with Article 109; or
  - (f) death.
- (2) If the office of the President of the Republic falls vacant, the National Assembly shall elect a replacement within one month.

#### **Article 108: Functions of the President**

The President shall perform the following functions:

- (a) give assent to the bills passed by Parliament;
- (b) appoint the Prime Minister elected by the National Assembly;
- (c) appoint and dismiss federal judges, federal civil servants, and commissioned and noncommissioned officers of the Armed Forces, as provided by the law; declare and terminate a state of emergency in accordance with the provisions of this Constitution and the law;
- (e) convene, summon, adjourn or prorogue Parliament in accordance with this Constitution;
- (f) confirm death sentences, grant pardons, and remit convictions or penalties according to this Constitution and the law;
- (g) confer honours;
- (h) declare war in accordance with this Constitution and the law;
- (i) appoint ambassadors of the State and accept credentials of foreign ambassadors;
- (j) ratify treaties and international agreements with the approval of the National Assembly;
- (k) seek the opinion of the Constitutional Court on any matter in connection with this Constitution;
- (l) perform any other function as may be prescribed by law.

#### **Article 109: Immunity and Impeachment of the President**

- (1) The President 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 Constitutional Court upon a resolution passed by a two-thirds majority of all the members of the National Assembly.
- (3) The Constitutional Court shall evaluate the allegation in the notice and decide on the matter.
- (4) The President shall be entitled to appear at the proceedings of the Court and to be represented by a lawyer or any other person of his or her choice.
- (5) If the Constitutional Court convicts the President, it shall communicate its final verdict to the National Assembly, and he or she shall be deemed to have forfeited the office.

- (6) If the notice for the removal of the 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 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 National Assembly for information, and he or she shall be deemed to have forfeited the office.

### **Article 110: Contesting Acts of the President**

Notwithstanding Article 109(1), any person aggrieved by an act of the President may contest such act before the Constitutional Court, if the alleged act involves a violation of this Constitution, a state constitution, the Bill of Rights, or the federal system of government.

## **PART THREE**

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

#### **Article 111: The Prime Minister**

- (1) The President, after consultation with the leaders of the political parties represented in the National Assembly, shall nominate a member for the office of the Prime Minister. The nominee shall be elected by the National Assembly without debate..
- (2) The nominee is elected if he receives the votes of a majority of the members of the National Assembly, and shall be appointed by the President.
- (3) If the person proposed by the President is not elected, the National Assembly may elect a Prime Minister from amongst its members within fourteen days after the ballot by the votes of more than half of its members.
- (4) If no Prime Minister is elected within this period, the President shall dissolve the National Assembly and a new general election shall take place without delay.
- (5) The outgoing Prime Minister continues in office until his successor is appointed by the President.

- (6) In the event that the Prime Minister resigns, the resignation must be submitted in writing to the President.

### **Article 112: The Ministers**

The President acting on the advice of the Prime Minister shall appoint a number of Ministers.

### **Article 113: Eligibility to the office of the Minister**

A candidate to the office of the Minister shall satisfy the conditions for eligibility of a member of Parliament.

### **Article 114: Oath of the Prime Minister and the Ministers**

Before assuming office, the Prime Minister and a national Minister shall, before the President, take the following oath:

“I....., do hereby swear by the Almighty God/solemnly affirm/, that as ....., I shall be faithful and bear true allegiance to the Republic of South Sudan; that I shall obey, preserve and defend the Constitution and abide by the law; and that I shall fully protect and promote the interests of the people; and preserve the independence of the country and its territorial integrity.”

### **Article 115: Competences of the Council of Ministers**

- (1) The Federal Council of Ministers shall be composed of the Prime Minister and the Ministers
- (2) The Federal Council of Ministers shall be the highest executive authority in the Republic.
- (3) Without prejudice to the powers conferred upon the President 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) The Council of Ministers is collectively answerable to Parliament on the executive and administrative functions of the Government
- (5) Every minister is individually answerable to the Prime Minister for the performance of his or her ministry.
- (6) Membership of the Federal Council of Ministers shall not be combined with membership of a state Executive or Legislature.
- (7) The Prime Minister presides over the meetings of the Council of Ministers. In his absence, he or she shall designate a member of the Council to act in his or her place.
- (8) the quorum of the Council of Ministers is half of its members and its resolutions are passed by a simple majority of those present.

### **Article 116: Conduct of members of the Council of Ministers**

- (1) Procedures, deliberations and resolutions of the Federal Council of Ministers shall be confidential; no Minister shall disclose, communicate or reveal such deliberations save by express permission of the Council of Ministers.
- (2) The Prime Minister and the Ministers shall conduct themselves in such a manner so that there is no conflict between their official duties and self interest. In particular they should not use their official positions for their benefit or the benefit of those related to them.
- (3) If the Prime Minister or any Minister violates these obligations, he or she shall be subject to removal from office and any other legal measures.

### **Article 117: Responsibility of the Prime Minister to inform the President**

The Prime Minister shall inform the President about all the resolutions of the Council of Ministers.

### **Article 118: Functions of the Council of Ministers**

The Federal Council of Ministers shall have the following functions:

- (a) general planning and administration of South Sudan;
- (b) formulation and approval of the general policies of the Government taking into account recommendations made by the respective ministries;
- (c) overseeing, receiving and discussing reports about the executive and administrative performance of ministries;
- (d) initiating, negotiating and concluding international, regional, bilateral, and multilateral agreements;
- (e) receiving reports from Governors about executive performance of states for information and coordination in respect to the concurrent powers;
- (f) acting as a link between the Federal Government and the states;
- (g) providing reports upon the request of the National Assembly;
- (h) formulating internal rules, procedures and regulations for the conduct of its business;
- (i) mobilizing the public to achieve the objectives of government policy and promote public life;
- (j) implementing legislation and resolutions of Parliament;
- (k) formulating and implementing government policies;
- (l) coordinating the functions and reviewing the performance of the ministries, departments and administrations of the Federal Government;
- (m) initiating national legislative bills and national budgets; and
- (n) performing any other executive function provided for in this Constitution or the law.

### **Article 119: Functions of a Minister**

- (1) A Minister in the Federal Government is in charge of formulating the general policy in his ministry, follow up its implementation, direct and supervise the work therein, within the general State general policy; and his or her decisions shall prevail in the ministry. However, the Federal Council of Ministers may review, amend or cancel such decisions; the Prime Minister may suspend the decision of a Minister pending such review or cancellation.
- (2) Federal Ministers shall:
  - (a) collaborate and establish good working relations with corresponding Ministers at state level in fulfillment of their respective constitutional obligations;
  - (b) perform any public or political role and provide leadership in public affairs to achieve the policy objectives of the National Government; and
  - (c) perform or exercise any other function or powers assigned by law or delegation.

### **Article 120: Contesting Ministerial Acts**

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

- (a) the Constitutional Court, if the alleged act involves a violation of this Constitution; or
- (b) any other court of law or competent authority if the allegation is based on other legal grounds.

### **Article 121: Vote of No Confidence Against a Minister**

- (1) The National Assembly may, by a resolution supported by a two-thirds majority of all its members, pass a vote of no confidence against a Minister.
- (2) Upon a vote of no confidence being passed against a Minister, he or she shall resign or be removed from office by the Prime Minister.

- (3) Proceedings for a vote of no confidence against a Minister shall be regulated by the Conduct of Business Regulations of the Assembly.

#### **Article 122: Assistant Ministers**

- (1) The Prime Minister may appoint a number of Assistant Ministers to assist the respective Ministers in the performance of their duties and functions.
- (2) The conditions of eligibility of an Assistant Minister are the same as for the Minister.
- (3) To assume office an Assistant Minister shall, before the President, take the oath of office prescribed in Article 114 of this Constitution.
- (4) The Minister concerned shall specify in writing the responsibilities he or she is delegating to the Assistant Minister.
- (5) The Assistant Minister shall act in the absence of the Minister.

#### **Article 123: Vacancy of the Office of a Minister or Assistant Minister**

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

- (a) submission of a written resignation to the Prime Minister and acceptance of the same by the President;
- (b) removal from office by the President on advice of the Prime Minister;
- (c) removal from office by the President on the ground of mental infirmity or physical incapacity based on an official Medical Commission report;
- (d) in case of a Minister, resolution of the National Assembly, as set forth in Article 121 of this Constitution; or
- (e) death.

## **CHAPTER SIX**

### **FEDERAL LEGISLATION**

#### **Article 124: Procedure for Enacting Legislation**

- (1) Parliament exercises its legislative power through bills passed by Parliament and assented to by the President.
- (2) If one House passes an ordinary bill concerning the states, and the second House
  - (a) rejects the bill, it is referred to a mediation committee appointed under Article 125; or
  - (b) passes the bill in an amended form, it is referred back to the originating House for reconsideration.
- (3) If, after the originating House has reconsidered a bill referred back to it under clause (2) (b), that House
  - (a) passes the Bill as amended, the Speaker of that House refers the bill to the President within seven days for assent; or
  - (b) rejects the bill as amended, the bill is referred to a mediation committee under Article 125.

#### **Article 125: Mediation committees**

- (1) If a bill is referred to a mediation committee under Article 124, the Speakers of both Houses appoint a mediation committee consisting of equal numbers of members of each House to attempt to develop a version of the bill that both Houses will pass.
- (2) If the mediation committee agrees on a version of the bill, each House votes to approve or reject that version of the bill.
- (3) If both Houses approve the version of the bill proposed by the mediation committee, the Speaker of the National Assembly refers the bill to the President within seven days for assent.
- (4) If the mediation committee fails to agree on a version of the bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.

#### **Article 126: Address by the Prime Minister and Statements by Federal Ministers and Governors**

- (1) The Prime Minister may request to address Parliament or either of its two Houses. Parliament or either of its two Houses shall accord priority to such request over any other business.
- (2) A Federal Minister may request to deliver a statement before any of the two Houses of parliament, and a Governor may request to deliver a statement to the Senate.

### **Article 127: Questions by Members**

Members of the National Assembly or the Senate may, in either House, within the competences of the concerned House and subject to its regulations, address questions to a Minister of the Federal Government on any subject relating to his or her duties; the said Minister shall provide the appropriate House with a prompt reply.

### **Article 128: Request of Statements**

The National Assembly or the Senate may request a Minister of the Federal Government to deliver before it a statement on any matter of public concern.

### **Article 129: General Summons**

- (1) The National Assembly or any of its committees may summon any public official or any person within South Sudan, other than the President to testify or give opinion before it.
- (2) Inquiry on any matter that falls within the direct responsibility of the Federal Government may only be made after notifying the Prime Minister.
- (3) Any person who refuses to appear before the National 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.

### **Article 130: Tabling of Bills**

- (1) The Prime Minister or the Council of Ministers may cause a bill to be presented by a Minister before the National Assembly or the Senate subject to their respective competences.
- (2) A member of Parliament may table a private member bill before the House to which he or she belongs on a matter that falls within the competence of that House, provided that such is not a financial bill.
- (3) A private member bill shall not be tabled before the appropriate House save after having been referred to the appropriate committee to determine whether it involves an important issue of public interest.

### **Article 131: Procedures for Presentation and Consideration of Bills**

- (1) Bills presented to either House of Parliament 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) After the first reading, the Speaker of the House concerned shall refer the bill to the appropriate committee, which shall make a general evaluation report for the purpose of the second reading. If the bill is approved in principle in the second reading, the committee shall study the bill in detail including a report on the amendments that the committee might or might not have endorsed in the second reading for the decision in the third reading. The Speaker of the concerned House may also refer the bill once again to the appropriate committee to prepare a report in a final draft in preparation for the final reading.
- (3) The Speaker of the concerned House or the appropriate committee may seek expert opinion on the viability and rationale of the bill; an interested body may also be invited to present views on the impact and propriety of the bill.
- (4) The House concerned may, by a special resolution, decide on any bill as a general committee or by summary proceedings.

### **Article 132: Assent of the President**

- (1) Any bill approved by Parliament shall not become a law unless the President assents to it and signs it into law. If the President withholds assent for thirty days without giving reasons, the bill shall be deemed to have been so signed.
- (2) If the President withholds assent to the bill and gives reasons within the aforementioned thirty days, the bill shall be re-introduced to Parliament to consider the observations of the President.
- (3) The bill shall become law if Parliament again passes it by a two-thirds majority of all members and representatives of the two Houses, and the assent of the President shall not be required for that bill to come into force.

### **Article 133: Provisional Orders**

- (1) In case Parliament is not in session, the President may, on an urgent matter and on the advice of the Prime Minister, issue a provisional order having the force of law.
- (2) The provisional order shall be submitted to the appropriate House of Parliament as soon as it is convened.
- (3) Where Parliament 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 Parliament and be considered under the normal procedure for consideration of bills.
- (5) Notwithstanding sub-Article (1) above, the President shall not make any provisional order on matters affecting the Bill of Rights, the federal 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 Assembly may delegate to the President the power to approve bilateral international and regional agreements while the National Assembly is not in session; however, such agreements shall be subject to subsequent approval by the National Assembly and shall be deposited before it as soon as it is convened.

### **Article 134: Bills Pertaining to Allocation of Resources and Revenues**

- (1) The Prime Minister shall cause to be presented to the National Assembly, not later than three months before the beginning of the financial year, a bill for the allocation of resources and revenue in accordance with the provisions of this Constitution. The National Assembly shall convene to approve, modify or reject that bill.
- (2) The financial year shall be the twelve months ending on June 30 of every calendar year.

### **Article 135: General Budget Proposal, Estimates and Related Bills**

- (1) The bill on the general budget referred to in Article 134 (1) shall include:
  - (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 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) The Prime Minister shall cause to be submitted to the National Assembly proposals of total expenditure entered into the budget as an appropriation bill and proposals for taxes, fees and other levies as well as borrowing, investment or saving bonds as financial bills.
- (3) The National 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) After the passing of the budget, no funds shall be transferred from one chapter to another, nor shall any money be spent on an item that is not provided for in the budget without the approval of the National Assembly.

### **Article 136: Provisional and Supplementary Financial Measures**

- (1) Where the procedure of adopting the general budget and the appropriation bill is delayed beyond the beginning of the financial year, expenditure shall continue, pending adoption of the general budget, in accordance with the estimates approved for the previous year, as if the same has been appropriated by law for the new year.
- (2) Whenever new circumstances occur or a matter of public concern proves not to have been satisfactorily addressed by the general budget, the Prime Minister may during the financial year cause to be submitted to the National Assembly, a financial bill, a supplementary appropriation or an

allocation from the reserve funds, to which the same provisions set out in respect of the general budget bill shall apply.

- (3) Without prejudice to the provisions of Article 98 (5) herein, the following expenditures shall be paid out of the consolidated reserve funds:
- (a) emoluments of the President;
  - (b) expenses of the State House;
  - (c) budget of the Judiciary;
  - (d) Federal Government contractual financial obligations;
  - (e) repayment of Federal Government external debts under any loan agreement;
  - (f) payment of any money the Federal Government is required to pay under a court order arising out of any litigation or as a result of an arbitration award or any other settlement having similar legal effect; and
  - (g) any other expenses as shall be regulated by law.

#### **Article 137: Final Accounts**

The Prime Minister shall cause to be presented to the National 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 shall in accordance with Article 161 (5) herein present his or her report on such accounts to the National Assembly.

#### **Article 138: Delegation of Powers of Subsidiary Legislation**

Parliament or either of its two Houses may, by law, delegate to the Prime Minister, the Council of Ministers or any public body, the power to make any subsidiary regulations, rules, orders or any other subsidiary instrument having the force of law, provided that such subsidiary legislation shall be tabled before the concerned House and be subject to adoption or amendment by a resolution of that House in accordance with the provisions of its regulations.

# **CHAPTER SEVEN**

## **THE JUDICIARY**

### **PART ONE**

#### **The Judicial Power**

##### **Article 139: The independence of the Judiciary**

- (1) The judicial power is an independent authority and shall be vested in the judges; it shall be exercised by the Constitutional Court, by the federal courts provided for in this Constitution, and by the courts of the states.
- (2) The judiciary shall be subject to this Constitution and the law which the judges shall apply impartially without fear or favour. Any interference in judicial matters or legal cases is a punishable crime.
- (3) The Judiciary shall have an independent budget that shall be charged on the consolidated fund, and the Judiciary shall have the financial independence in the management of its affairs.

##### **Article 140: Opinion of the Judicial Authority on Bills**

Any Bill on the affairs of the Judiciary or affecting its work shall be presented to the Judiciary for comment. If it objects to the Bill or any of its provisions, the Bill shall not be adopted except by a vote of two of members of the National Assembly.

##### **Article 141: Immunity of judges**

- (1) Justices and Judges are independent, not subject to removal, and no authority is above them in their judicial work except the law, and they are equal in rights and duties.
- (2) The law shall specify the conditions and procedures of their appointment, secondment or retirement; and regulate their discipline; all this in a manner that will preserve the independence of the Judiciary.

##### **Article 142: Publicity of Court Hearings**

Court hearings shall be public, except when considerations of public order or morality make the court to decide that a hearing be conducted in camera. In all cases, the verdict of the court shall be pronounced in a public hearing.

## **PART TWO**

### **The Judiciary and Public Prosecutions**

#### **Article 143: Competence of the Judiciary**

The Judiciary has jurisdiction to adjudicate in all disputes and offences except those that fall under other judicial authorities. It alone has the power to settle disputes related to the affairs of its members.

#### **Article 144: Public Prosecutions**

Public Prosecutions are an integral part of the judiciary, with the responsibility to investigate, raise and direct criminal proceedings except as specifically exempted by law. Other functions of Public Prosecutions shall be determined by law.

#### **Article 145: Appointment of the Attorney General**

Public Prosecutions shall be under the responsibility of an Attorney General appointed by the President of the Republic from amongst the deputies of the Chief Justice, Vice-Presidents of the Courts of Appeal or Assistants of the Attorney General on the nomination of the High Judicial Council, for a period of four years or the remainder for his retirement age, whichever is the earlier, and only once during his service.

## **PART THREE**

### **The Constitutional Court**

#### **Article 146: Jurisdiction of the Constitutional Court**

- (1) The Constitutional Court is an independent judicial organ on its own. It is the custodian of this Constitution and the constitutions of the states, and has the authority to look into the following matters and issue decisions and sentences thereon and follow up their implementation in accordance with this Constitution and the law:
  - (a) the interpretation of this Constitution and legal provisions;
  - (b) have original jurisdiction to decide on disputes that arise under this Constitution and the constitutions of states at the instance of individuals, juridical entities or governments;
  - (c) have original and final jurisdiction to resolve disputes between the states and between the Federal Government and a state in respect of areas of exclusive and concurrent competences;

- (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;
  - (e) protection of rights and fundamental freedoms guaranteed by this Constitution;
  - (f) have criminal jurisdiction over the President in accordance with Article 109 (2) herein;
  - (g) any other matters as shall be assigned to it by law.
- (2) The decisions of the Supreme Court shall be final and binding.

#### **Article 147: Composition of the Constitutional Court**

- (1) The Constitutional Court shall be composed of a President, three Vice Presidents, five senior Judges according to judicial seniority and two Advocates of at least twenty years' standing.
- (2) The President of the Constitutional Court shall be appointed by the President from among the three Vice Presidents of the Court; and the Vice President of the Court shall be appointed by the President on the recommendation of the general assembly of the Court.
- (3) The Constitutional Court shall be assisted by a general assembly, the composition and functions of which shall be prescribed by law.
- (4) Organisation and procedure of the Constitutional Court as well as the terms and conditions of service of its members and employees shall be regulated by law.

#### **Article 148: Publication of decisions of the Constitutional Court**

Decisions of the Constitutional Court shall be published in the official Gazette. The law shall regulate the consequences of a court's ruling that a legal provision is unconstitutional.

### **PART FOUR**

#### **Article 149: Structure of the Judiciary**

- (1) The Judicial power shall comprise the Supreme Court, Courts of Appeal and lower courts, and any judicial institutions formed by the High Judicial Council. The Chief Justice is the head of the Judiciary and the Chairman of the High Judicial Council.
- (2) The judicial power shall be under the administration of the High Judicial Council.

- (3) The law shall regulate the composition of each court, competences and the procedures to followed before it.

### **Article 150: The High Judicial Council**

The High Judicial Council is an independent council responsible for the administrative affairs of the Judicial power, including public prosecutions. The law shall regulate the composition and functions of the council; and the conditions of service of its members and employees.

## **PART FIVE**

### **Article 151: Advocacy**

Advocacy is an independent private legal profession and one of the pillars of justice. The law shall regulate the profession including the safeguards required to create a conducive environment for the advocates to perform their work freely.

## **PART SIX**

### **Article 152: The Federal Minister of Justice**

- (1) The Federal Minister of Justice shall be the chief legal adviser to the Federal Government and shall perform such other functions of legal nature as may be prescribed by law.
- (2) Without prejudice to the generality of clause (1), the Minister shall 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 party or in respect of which the Government has an interest;
  - (b) representing the Government in court or any other legal proceedings to which any level of government is a party;
  - (c) drafting legislation, including subsidiary legislation, for the government and
  - (d) performing such other functions as may be assigned to him or her by law.
- (3) All executive institutions and organs of government at all levels shall comply with the legal advice duly given by the Minister of Justice.

# **CHAPTER EIGHT**

## **FINANCIAL AND ECONOMIC MATTERS**

### **PART ONE**

#### **Article 153: Guiding Principles For Equitable Sharing of National Wealth**

- (1) National wealth and other resources shall be allocated in a manner that will enable each level of government discharge its legal and constitutional responsibilities and duties and ensure that the quality of life and dignity of all the people are promoted without discrimination on grounds of gender, religion, political affiliation, ethnicity, language or locality.
- (2) The sharing and allocation of resources and national wealth shall be based on the premise that all states, localities and communities are entitled to equitable development without discrimination.
- (3) The Federal 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.
- (4) Revenue sharing shall reflect a commitment to devolution of powers and decentralisation of decision-making in regard to development, service delivery and good governance.
- (5) Infrastructure, human resources, sustained economic development and ability to fulfil human needs shall be promoted in the framework of a government subject to accountability and transparency
- (6) The State shall adopt the best known practices in sustained exploitation, administration and control of natural resources.
- (7) This constitution shall specify all types of income, resources, taxes and other sources of wealth that is the right of each level of government.
- (8) All taxes and duties set out in this Constitution shall be regulated by law to ensure coordination, fairness, equity, transparency and to avoid an excessive tax burden on the citizens, private sector and investors.
- (9) No level of government shall unduly withhold any allocation or financial transfer due to another level of government. In case of dispute, any level of government, after attempting amicable solution, may initiate proceedings before the Constitutional Court.

## **PART TWO**

### **SOURCES OF REVENUE**

#### **Article 154: Sources of Revenue for the National Government**

- (1) The Federal Government shall legislate for raising revenue or collecting taxes from the sources that fall within its competence in Schedules (A) and (C) read together with Schedule (D).
- (2) The law shall specify the basic principles on raising public revenue and procedures for expenditure.
- (3) The executive authority shall not borrow or secure finance or commit itself to a project that will result in future expenditure of money from the State treasury , except after the approval of the National Assembly.

#### **Article 155: Sources of Revenue of the States**

The states shall legislate for raising revenue or collecting taxes from the sources that fall within their competences in Schedules (B) and (C) read together with Schedule (D).

## **PART THREE**

### **FISCAL AND FINANCIAL INSTITUTIONS**

#### **Article 156: Federal Revenue Fund**

- (1) All revenue collected for or by the federal Government shall be pooled in a Federal Revenue Fund administered by the Treasury. Such Fund shall embrace all accounts and sub-funds into which monies due to the Federal Government are collected, deposited and reported.
- (2) All the revenue and expenditure of each level of government shall be on-budget operations and made public.
- (3) Any withdrawals from the Federal Revenue Fund shall not be made except in accordance with the law.
- (4) The criteria and conditions for allocation of revenue to the states shall be determined by law.

## **Article 157: Fiscal and Financial Allocation and Monitoring Commission**

- (1) The Fiscal and Financial Allocation and Monitoring Commission is an independent institution tasked to ensure transparency and fairness in regard to the allocation of funds collected at the level of the Federal Government to the states.
- (2) The Commission shall undertake the following duties and responsibilities:
  - (a) ensure and monitor that grants from the National Revenue Fund are promptly transferred to the respective levels of government;
  - (b) recommend criteria for allocation of national revenue to the intended levels of government;
  - (c) guarantee appropriate sharing and utilization of financial resources;
  - (d) safeguard transparency and fairness in the allocation of funds to the states in accordance with the rates and percentages agreed upon in the commission;
  - (e) perform any other functions as may be prescribed by law.
- (3) The Commission shall be composed of representatives of the federal and states' governments.
- (4) The Chairman of the Commission shall be appointed by the President on the recommendation of the Prime Minister.
- (5) The Commission shall set its rules of procedure subject to approval by the Council of Ministers.
- (6) The Commission shall submit a quarterly report to the Prime Minister and the Senate about its performance, and the Prime Minister shall take appropriate remedial action to resolve any problems affecting the work of the Commission.
- (7) The functions, powers and composition of the Commission, and terms and conditions of service of its members and employees shall be regulated by law.

## **PART FOUR**

### **BANKING**

#### **Article 158: Bank of South Sudan**

- (1) The Bank of South Sudan is the central bank and shall be responsible for the formulation, conduct and implementation of monetary policy, and all financial institutions shall be subject to the rules and regulations set by the Bank of South Sudan.

- (2) The main responsibility of the central bank shall be to ensure price stability, maintain a stable exchange rate, efficiency of the banking system and issuing currency.
- (3) The Bank of South Sudan shall be fully independent in its implementation of the fiscal policy.
- (4) The Board of Directors for the Bank of South Sudan shall be appointed by the President on the recommendation of the Prime Minister. It shall consist of nine non-executive, highly qualified, competent and experienced South Sudanese who are not employees of the Bank. The Board of Directors shall formulate the policies, programmes and plans for the realization of the bank's objectives as in (2) above.
- (5) The President shall, on the recommendation of the Prime Minister, appoint the Governor of the central bank and his two deputies. The Board of Directors on the recommendation of the Governor shall appoint the senior officials of the bank.
- (6) The bank of South Sudan shall be responsible for granting permits to all banking institutions in the country and oversee their operations.

#### **Article 159: Borrowing**

- (1) The states' governments may borrow money and neither the Federal Government nor the central bank shall guarantee borrowing by any state government without prior approval. (2) The federal and states' governments may borrow money from foreign sources depending on their respective credit worthiness.
- (2) 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 federal and state governments shall conform to the specifications of the Bank of South Sudan.
- (3) The National and state governments shall report financial and fiscal data relating to such transactions to the Bank of South Sudan for statistical purposes.

### **PART FIVE**

#### **ACCOUNTING STANDARDS**

#### **Article 160: Accounting Procedures, Standards and Fiscal Accountability**

- (1) All levels of government shall comply with the established and generally accepted accounting procedures, standards and fiscal accountability to ensure that public funds are allocated and expended according to the budget of the respective level of government.
- (2) All levels of government shall hold all income and revenue received in public accounts and subject to public scrutiny and accountability.
- (3) The accounting procedures, standards and fiscal accountability shall be regulated by law.

#### **Article 161: The National Audit Chamber**

- (1) The National Audit Chamber is an independent organ that sets auditing standards for the whole country, supervises the financial performance of all levels of government, including revenue collection and expenditure, in accordance with the budgets approved by their respective legislatures.
- (2) The President, with the approval of a two-thirds majority of all members of the National Assembly, shall appoint from qualified professionals the Auditor General who shall be the head of the National Audit Chamber. The nomination to the National Assembly shall be made by the Prime Minister.
- (3) Before assuming office, the National Auditor General shall, before the President, take the oath prescribed in Article 114 of this Constitution.
- (4) The National Audit Chamber shall assume auditing of the accounts of the federal, state and local government levels, independent commissions, public institutions and corporations and any other institutions as may be determined by law.
- (5) The National Auditor General shall present an annual report to the President, the Prime Minister and Parliament.
- (6) 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 71 of this Constitution.
- (7) 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.

## **PART SIX**

### **Article 162: Interstate Trade and Commerce**

- (1) Free interstate trade and commerce are guaranteed by this Constitution. No legislation or level of government shall impede interstate commerce, the flow of goods and services, capital or labour between the states.
- (2) There shall be no levies, taxes, or fees or any other charges on interstate trade and commerce.

## **PART SEVEN**

### **Article 163: Government Liabilities and Assets**

- (1) Any debt or liability incurred by any level of government shall be the responsibility of that level of government.
- (2) There shall be a fair and equitable division of government assets. An asset shall in the first instance be allocated to the level of government responsible for the function in respect of which the asset is related. In the event of a dispute, such dispute shall be referred to a committee consisting of a representative of each of the parties involved in the dispute and a mutually agreed expert. The decision of the committee shall be final and binding.

# **CHAPTER NINE**

## **LAND AND THE ENVIRONMENT**

### **PART ONE**

#### **Land**

##### **Article 164: Principles of land policy**

- (1) All land in South Sudan is held, used and managed in a manner that is equitable, efficient, productive and sustainable, and in accordance with the following principles:
- (a) equitable access to land;
  - (b) security of land rights;
  - (c) sustainable and productive management of land resources;
  - (d) transparent and cost effective administration of land;
  - (e) sound conservation and protection of ecologically sensitive areas;
  - (f) elimination of gender discrimination in law, customs and practices related to land and property in land; and
  - (g) encouragement of communities to settle land disputes through recognised local community initiatives consistent with this Constitution.
- (2) These principles are implemented through a national land policy developed and reviewed regularly by the national government and through legislation.

##### **Article 165: Classification of land**

- (1) All land in South Sudan belongs to the people of South Sudan collectively as a nation, as communities and as individuals.
- (2) Land is classified as public, community or private.

##### **Article 166: Public land**

- (1) Public land is
- (a) land which at independence date was unalienated government land as defined by an Act of Parliament in force at that date;
  - (b) land lawfully held, used or occupied by any State organ, except any such land that is occupied by the State organ as lessee under a private lease;

- (c) land transferred to the State by way of sale, reversion or surrender;
  - (d) land in respect of which no individual or community ownership can be established by any legal process;
  - (e) land in respect of which no heir can be identified by any legal process;
  - (f) all minerals and mineral oils and gas as defined by law;
  - (g) government forests other than forests to which Article 167 (2) (d) (i) applies, government game reserves, water catchment areas, national parks, government animal sanctuaries, and specially protected areas;
  - (h) all roads and thoroughfares provided for by an Act of Parliament;
  - (i) all rivers, lakes and other water bodies as defined by an Act of Parliament;
  - (j) any land not classified as private or community land under this Constitution; and
  - (k) any other land declared to be public land by an Act of Parliament
- (i) in force at independence date; or
- (ii) enacted after independence date.
- (2) Public land must vest in and be held by a state government in trust for the people resident in the state, and must be administered on their behalf by the National Land Commission, if it is classified under:
- (a) sub-Article (1) (a), (c), (d) or (e); and
  - (b) sub-Article (1) (b), other than land held, used or occupied by a national State organ.
- (3) Public land classified under sub-Article (1) (f) to (k) must vest in and be held by the national government in trust for the people of South Sudan and must be administered on their behalf by the National Land Commission.
- (4) Public land may not be disposed of or otherwise used except in terms of an Act of Parliament specifying the nature and terms of that disposal or use.

### **Article 167: Community land**

- (1) Community land must vest in and be held by communities identified on the basis of ethnicity, culture or similar community of interest.
- (2) Community land consists of
- (a) land lawfully registered in the name of group representatives under the provisions of any law;
  - (b) land lawfully transferred to a specific community by any process of law;
  - (c) any other land declared to be community land by an Act of Parliament; and
  - (d) land that is
    - (i) lawfully held, managed or used by specific communities as community forests, grazing areas or shrines;
    - (ii) ancestral lands and lands traditionally occupied by hunter-gatherer communities; or
    - (iii) lawfully held as trust land by the state governments, but not including any public

land held in trust by the state government under Article 166 (2).

(3) Any unregistered community land must be held in trust by state governments on behalf of the communities for which it is held.

(4) Community land may not be disposed of or otherwise used except in terms of legislation specifying the nature and extent of the rights of members of each community individually and collectively.

(5) Parliament enacts legislation to give effect to this Article.

### **Article 168: Private land**

Private land consists of:

(a) registered land held by any person under any freehold tenure;

(b) land held by any person under leasehold tenure; and

(c) any other land declared private land under an Act of Parliament.

### **Article 169: Landholding by non-citizens**

(1) A person who is not a citizen may hold land on the basis of leasehold tenure only, and any such lease, however granted, may not exceed ninety-nine years.

(2) If a provision of any agreement, deed, conveyance or document of whatever nature purports to confer on a person who is not a citizen an interest in land greater than a ninety-nine year lease, the provision is regarded as conferring on the person a ninety-nine year leasehold interest, and no more.

(3) For purposes of this Article

(a) a body corporate is regarded as a citizen only if the body corporate is wholly owned by one or more citizens; and

(b) property held in trust is regarded as being held by a citizen only if all of the beneficial interest of the trust is held by persons who are citizens.

(4) Parliament may enact legislation to make further provision for the operation of this Article.

### **Article 170: Regulation of land use and property**

(1) The State may regulate the use of any land, or any interest in or right over any land, in the interest of defence, public safety, public order, public morality, public health, or land use planning.

(2) Parliament enacts legislation ensuring that investments in property benefit local communities and their economies.

### **Article 171: National Land Commission**

- (1) There shall be established an independent commission to be known as the National 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 on the recommendation of the Prime Minister.
- (3) The functions of the National Land Commission are:
- (a) to manage public land on behalf of the national and state governments;
  - (b) to recommend a national land policy to the national government;
  - (c) to advise the national government on a comprehensive programme for the registration of title in land throughout South Sudan;
  - (d) to conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities;
  - (e) to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress;
  - (f) to encourage the application of traditional dispute resolution mechanisms in land conflicts;
  - (g) to assess tax on land and premiums on immovable property in any area designated by law; and
  - (h) to monitor and have oversight responsibilities over land use planning throughout the country.
- (4) The National Land Commission may perform any other functions prescribed by national legislation.
- (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.

### **Article 172: Legislation on land**

Parliament

- (a) revises, consolidates and rationalises existing land laws;
- (b) revises sectoral land use laws in accordance with the principles set out in Article 164 (1); and
- (c) enacts legislation
  - (i) to prescribe minimum and maximum land holding acreages in respect of private land;
  - (ii) to regulate the manner in which any land may be converted from one category to

- another;
- (iii) to protect, conserve and provide access to all public land;
  - (iv) to enable the review of all grants or dispositions of public land to establish their propriety or legality;
  - (v) to protect the dependants of deceased persons holding interests in any land, including the interests of spouses in actual occupation of land; and
  - (vi) to provide for any other matter necessary to give effect to the provisions of this Chapter.

## **PART TWO**

### **Environment and Natural Resources**

#### **Article 173: Obligations in respect of the environment**

- (1) The State
  - (a) ensures sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensures the equitable sharing of the accruing benefits;
  - (b) works to achieve and maintain a tree cover of at least ten per cent of the land area of South Sudan;
  - (c) protects and enhances intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;
  - (d) encourages public participation in the management, protection and conservation of the environment;
  - (e) protects genetic resources and biological diversity;
  - (f) establishes systems of environmental impact assessment, environmental audit and monitoring of the environment;
  - (g) eliminates processes and activities that are likely to endanger the environment; and
  - (h) utilises the environment and natural resources for the benefit of the people of South Sudan.
- (2) Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

#### **Article 174: Enforcement of environmental rights**

- (1) If a person alleges that a right to a clean and healthy environment recognised and

protected under Article 31 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.

(2) On application under clause (1), the court may make any order, or give any directions, it considers appropriate

(a) to prevent, stop or discontinue any act or omission that is harmful to the environment;

(b) to compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or

(c) to provide compensation for any victim of a violation of the right to a clean and healthy environment.

(3) For the purposes of this Article, an applicant does not have to demonstrate that any person has incurred loss or suffered injury.

### **Article 175: Agreements relating to natural resources**

(1) A transaction is subject to ratification by Parliament if it

(a) involves the grant of a right or concession by or on behalf of any person, including the national government, to another person for the exploitation of any natural resource of South Sudan; and

(b) is entered into on or after independence date.

(2) Parliament enacts legislation providing for the classes of transactions subject to ratification under sub-Article (1).

### **Article 176: Legislation relating to the environment**

Parliament enacts legislation to give full effect to the provisions of this Part.

## **CHAPTER TEN**

### **THE CIVIL SERVICE, INDEPENDENT INSTITUTIONS AND COMMISSIONS**

#### **PART ONE**

#### **THE CIVIL SERVICE**

#### **Article 177: Civil Service**

- (1) The Federal Government shall have a Civil Service consisting of all its employees who shall impartially carry out the functions assigned to them according to the law.
- (2) The law shall determine terms and conditions of service, duties and rights of employees of the Civil Service.
- (3) 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.

#### **Article 178: The Civil Service Commission**

- (1) There shall be established a Civil Service Commission 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 on the recommendation of the Prime Minister.
- (3) The Civil Service Commission shall advise the National Government on the formulation and execution of policies related to public service, employment and employees.
- (4) The Commission shall be independent and impartial, and shall exercise its powers and perform its functions without fear, favour or prejudice in the interest of the maintenance of an effective and efficient Civil Service and a high standard of professional ethics therein.
- (5) The functions, powers, and composition of the Commission, and terms and conditions of service of its members shall be regulated by law.

#### **Article 179: Employees Justice Chamber**

- (1) The National Employees Justice Chamber shall be composed of a chairperson, deputy chairperson, and members of proven competence, experience, integrity and impartiality; appointed by the President on the recommendation of the Prime Minister.
- (2) The Chamber shall, without prejudice to the right of resorting to courts or exhausting the proceedings of the Civil Service Commission, be competent to consider and determine grievances from Civil Service employees.

- (3) The Chamber shall present to the President any recommendations or proposed remedies it deems appropriate to ensure justice.
- (4) The functions, powers, and composition of the Chamber, and terms and conditions of service of its members shall be regulated by law.

## **PART TWO**

### **INDEPENDENT INSTITUTIONS AND COMMISSIONS**

#### **Article 180: Human Rights Commission**

- (1) The Human Rights Commission is an independent commission responsible for ensuring the respect of human rights and fundamental freedoms.
- (2) 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 on approval of two-thirds majority of the members of Parliament.
- (3) The Commission shall have power to issue summons or other orders requiring representatives of relevant institutions and other bodies at all levels of government or persons or organizations to appear before it or produce any document or record relevant to any investigation by the Commission.
- (4) The Commission may request a government representative or any person or organization to take part in its deliberations if and when necessary.

#### **Article 181: Functions of the Commission**

- (1) The functions of the Commission shall be:
  - (a) to promote respect for human rights and develop a culture of human rights in the country;
  - (b) to promote gender equality and equity generally and to coordinate and facilitate gender mainstreaming in national development;
  - (c) to promote the protection, and observance of human rights in public and private institutions;
  - (d) to monitor, investigate and report on the observance of human rights in all

spheres of life in the country, including observance by the national security organs;

(e) to receive and investigate complaints about alleged abuses of human rights and take steps to secure appropriate redress where human rights have been violated;

(f) on its own initiative or on the basis of complaints, to investigate or research a matter in respect of human rights, and make recommendations to improve the functioning of State organs;

(g) to act as the principal organ of the State in ensuring compliance with obligations under treaties and conventions relating to human rights;

(h) to investigate any conduct in state affairs, or any act or omission in public administration in any sphere of government, that is alleged or suspected to be prejudicial or improper or to result in any impropriety or prejudice;

(i) to investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct;

(j) to report on complaints investigated under paragraphs (h) and (i) and take remedial action; and

(k) to perform any other functions prescribed by legislation.

(2) Every person has the right to complain to the Commission, alleging that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.

(3) The Commission shall render periodic reports at least once a year.

(4) Parliament shall enact legislation to give full effect to the functions, powers, composition and terms and conditions of service of its members.

### **Article 182: The National Bureau of Statistics**

(1) The National Bureau of Statistics is an independent statistics bureau.

(2) The National Bureau of Statistics shall be an independent statistics bureau authorized, *inter alia*, to:

(a) collect, compile, analyze and publish all official statistical information on economic, social, demographic, environmental and general activities and conditions of the people of South Sudan;

(b) conduct all censuses and surveys that are carried out throughout South Sudan;

(c) monitor and evaluate social impacts of public policies, projects and programmes; and

(d) monitor the progress of poverty alleviation and the attainment of the principles of the Millennium Development Goals.

- (3) The President shall on the recommendation of the Prime Minister appoint a Board of Directors and the Director-General of the Bureau. The Board shall be the highest policy-making body of the National Bureau of Statistics; it shall formulate policies and set its internal regulations, priorities, standards and criteria for all the censuses and surveys to be carried out in South Sudan.
- (4) The organization, structure and powers of the Bureau, and terms and conditions of service of its personnel shall be regulated by law.

#### **Article 183 : The National Elections Commission**

- (1) The National Elections Commission is an independent body in charge of conducting elections and referenda throughout the country.
- (2) 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 on approval of two-thirds majority of the members of Parliament. The nomination shall be made by the Prime Minister.
- (3) The Commission shall perform the following functions:
  - (a) prepare the general electoral roll and pursue its annual revision;
  - (b) organize and conduct general elections, by-elections, and local elections in accordance with this Constitution and the law;
  - (c) organize and conduct any referendum in accordance with this Constitution and the law;
  - (d) perform any other relevant function as may be prescribed by law.
- (4) The structure, composition, powers and terms and conditions of service of the Commission shall be regulated by law.

#### **Article 184: The National Petroleum Commission**

- (1) The National Petroleum Commission is the policy making body with respect to petroleum resources, and reports to the Council of Ministers.
- (2) The Ministry in charge of Petroleum is the executive arm of the government, and the minister in charge is the Rapporteur of the commission.
- (3) The National Petroleum Commission shall consist of relevant national Ministers, representatives of oil-producing states and institutions as shall be regulated by law.
- (4) The National Petroleum Commission shall have the following functions:

- (a) formulation of policies and guidelines in relation to the development and management of the petroleum sector;
- (b) monitoring and assessing the implementation of the policies mentioned in (a) above by the relevant implementing institutions to ensure that they work in the best interest of the people of South Sudan and to determine their impact on the communities in the areas of petroleum development;
- (c) approval of strategies and programmes for the petroleum sector;
- (d) approval of all oil contracts for the exploration and development of oil and ensure that they are consistent with its principles, policies and guidelines;
- (e) review of environmental and social impact of existing and future oil developments;
- (f) developing its internal regulations and procedures; and
- (g) perform any other function or duty as may be prescribed by law.

#### **Article 185: Other independent institutions and commissions**

- (1) The Federal Government may establish other independent institutions or commissions compatible with its powers as it deems necessary to promote the welfare of its people, good governance and justice.
- (2) The functions, powers, and composition of any institution or commission, and terms and conditions of service of its members shall be regulated by law.
- (3) The Federal Government shall ensure that at least twenty-five percent of the membership of each of these institutions and commissions shall be women.

## **CHAPTER ELEVEN**

### **ARMED FORCES, LAW ENFORCEMENT AGENCIES AND SECURITY**

#### **PART ONE**

#### **ARMED FORCES**

#### **Article 186: Composition, Status, Mission and Duties**

- (1) South Sudan Armed Forces 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 under 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) The national armed forces shall not have any internal law and order mandate except as may be requested by the civilian authority when necessity so requires.
- (8) Military service, Military Courts and military legal services shall be regulated by law.

#### **Article 187: Code of Conduct for the Armed Forces**

The code of conduct for the national armed forces shall:

- (a) be informed by their military doctrine;
- (b) make clear that the soldiers shall not be identified with or support any political party;
- (c) underline the principle that the national armed forces shall not be used as an instrument of physical intimidation of the civilian population;

- (d) make a clear distinction between military and the policing mandate; and
- (e) make clear that all members of armed forces shall not be involved in illicit activities that may affect the environment and natural resources.

### **Article 188: Command and Control**

- (1) The President of the Republic of South Sudan shall be the Supreme Commander of the national armed forces.
- (2) The Supreme Commander shall commission, promote, retire or dismiss officers of the national armed forces according to the law.
- (3) The structure, command, control and terms and conditions of service of the national armed forces shall be prescribed by law.

## **PART TWO**

### **THE LAW ENFORCEMENT AGENCIES AND SECURITY SERVICE**

#### **Article 189: The Police Service**

- (1) The Police Service shall be a professional service tasked with the maintenance of law and order in the service of the people, and its mission shall:
  - (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.
- (2) The Police Service shall be organized at the federal and state levels in accordance with the competences of each level as prescribed by this constitution. Its organization, structure, functions, powers, terms and conditions of service shall be regulated by law.
- (3) The federal Police Service shall be headed by an Inspector-General of Police appointed by the President after approval of the Council of Ministers upon the recommendation of the Minister in charge.

- (4) The federal Police Service shall be responsible for the national duties of the police, maintenance of professional standards, the recruitment and training of police officers throughout South Sudan.
- (5) The deployment and transfer of officers shall be carried out jointly with all the states
- (6) The Police of South Sudan shall be governed by this Constitution, states' constitutions 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) The Police at the federal level and their counterparts at the state level shall coordinate, cooperate and assist each other in the discharge of their functions and duties, and to that end, shall recommend, through their respective authorities to the Prime Minister of South Sudan the establishment of such necessary mechanisms.

#### **Article 190: The Prisons Service**

- (1) The prisons service is a professional service tasked with reform, correction and rehabilitation of convicts, and its mission shall be the management, operation and maintenance of the prisons of South Sudan, and administration of internment and care for the health and general welfare of prisoners and inmates.
- (2) The Prisons Service shall be organized at the federal and the state levels in accordance with the competences of each level as prescribed by this constitution. Its organization, structure, functions, powers, terms and conditions of service shall be regulated by law.
- (3) 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.
- (4) The Federal Prisons Service shall be responsible for the maintenance of professional standards, the recruitment and training of prison officers throughout South Sudan.
- (5) The deployment and transfer of officers shall be carried out jointly with all the states.
- (6) Prisons authorities shall treat prisoners humanely. Any treatment that is cruel, inhuman, degrading of the dignity of prisoners or that may expose their health to danger is prohibited and punishable by law.
- (7) The Prisons authorities at the federal level and their counterparts at the state level shall coordinate, cooperate and assist each other in the discharge of

their functions and duties, and to that end, shall recommend, through their respective authorities to the Prime Minister of South Sudan the establishment of such necessary mechanisms.

#### **Article 191: The Wildlife Service**

- (1) The Wildlife Service is a professional institution responsible for to protection of the wildlife and to preserve and conserve the natural habitat of flora and fauna of South Sudan.
- (2) The Wildlife Service shall be organized at the federal and the state levels in accordance with the competences of each level as prescribed by this constitution. ts organization, structure, functions, powers, terms and conditions of service shall be regulated by law.
- (3) The Wildlife Service shall be headed by a Director-General of Wildlife appointed by the President after approval of the Council of Ministers upon the recommendation of the Minister in charge.
- (4) The Federal Wildlife Service shall be responsible for the maintenance of professional standards, the recruitment and training throughout South Sudan.
- (5) The deployment and transfer of officers shall be carried out jointly with all the states.
- (6) The Wildlife Service shall coordinate and cooperate with the local communities on the protection and management of wildlife within their areas.
- (7) 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.
- (8) The Wildlife authorities at the federal level and their counterparts at the state level shall coordinate, cooperate and assist each other in the discharge of their functions and duties, and to that end, shall recommend, through their respective authorities to the Prime Minister of South Sudan the establishment of such necessary mechanisms.

#### **Article 192: The Civil Defence Service**

(1) The civil defence service is tasked to protect the people of South Sudan and their property from fire and disasters.

(2) The civil defence shall be organized at the federal and the state levels in accordance with the competences of each level as prescribed by this constitution. Its organization, structure, functions, powers, terms and conditions of service shall be regulated by law

(3) The Civil Defence Service shall be headed by a Director General of Civil Defence appointed by the President after approval of the Council of Ministers upon the recommendation of the Minister in charge.

(4) The federal Civil Defence service shall be responsible for the maintenance of professional standards, the recruitment and training of civil defence officers throughout South Sudan.

(5) The deployment and transfer of officers shall be carried out jointly with all the states.

### **Article 193: National Security Service**

(1) The National Security Service is a professional organ charged with gathering and analysis of security-related information and advising the relevant authorities with the product.

(2) The National Security Service shall respect the will of the people, the rule of law, civilian authority, democracy, human rights and fundamental freedoms.

(3) The National Security Service shall be charged with the internal and external security of the country and its people, and headed by a Director General who falls under the direct supervision of the Prime Minister.

(4) In its composition, the National Security Service shall reflect the diversity of the people of South Sudan.

(5) The structures, mission, mandate, functions of the National Security Service, and the terms and conditions of service of its personnel shall be prescribed by law.

### **Article 194: National Security Council and Committees**

(1) The National Security Council is responsible for formulating a national security strategy on the basis of the analysis of the current and potential threats to the security of South Sudan, and overseeing its implementation.

(2) The National Security Council shall be chaired by the President, deputized by the Prime Minister and membership of the ministers of Foreign Affairs,

Defence, Interior, Finance, Justice, and other persons by virtue of their offices as shall be prescribed by law.

- (3) There shall be established at the State and lower levels security committees; their composition and functions shall be prescribed by law.

## **CHAPTER TWELVE**

### **STATE OF EMERGENCY AND DECLARATION OF WAR**

#### **Article 195: 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 Parliament within fifteen days of the issuance of the declaration. When the Parliament is not in session, an emergency session shall be convened within the same period.
- (3) When Parliament 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. In the event that Parliament rejects the declaration, all these laws or measures lapse without retrospective effect.

#### **Article 196: Powers of the President in a State of Emergency**

- (1) 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 and the right to habeas corpus;
  - (b) to dissolve or suspend any state Executive and decides on how the affairs of the state shall be run in this respect; and
  - (c) to take any such measures as deemed necessary to the state of emergency, which shall have the force of law.

- (2) Measures taken by the President under sub-Article (1)(c) shall be subject to approval by Parliament.

### **Article 197: 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 Parliament does not approve by a resolution the extension of its duration;
- (b) lapse of the duration approved by Parliament; or
- (c) issuance of a declaration by the President lifting the state of emergency.

### **Article 198: 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 Parliament by two-thirds of all the members.
- (2) The declaration of war shall be submitted to Parliament within seventy-two hours of the issuance of the declaration if Parliament is in session.
- (3) If Parliament is not in session, an emergency session shall be convened and the declaration shall be submitted within fourteen days of its issuance.

### **Article 199: Expiry of electoral terms**

- (1) Any electoral terms of the two Houses of Parliament or states' legislative assemblies due to expire during a state of emergency or war shall end six months after the termination of the emergency or war.
- (2) Parliament shall not be dissolved while a state of emergency or war exists.

## **CHAPTER THIRTEEN**

### **MISCELLANEOUS AND TRANSITIONAL PROVISIONS**

#### **Article 200: Coming into Force of this Constitution**

This Constitution shall come into force upon approval by two-thirds majority of all members of the current National Legislative Assembly and the Council of States, and approval by the people in a referendum as prescribed under Article 70.

#### **Article 201: Repeal**

The Transitional Constitution of the Republic of South Sudan 2011 is repealed.

#### **Article 202: Amendment of this Constitution**

- (1) This Constitution shall not be amended unless the proposed amendment is approved by two-thirds of all members of each House of Parliament sitting separately and approval by the people in a referendum as prescribed under Article 70.
- (2) The motion for amendment of this Constitution shall be introduced in Parliament at least one month prior to the deliberations.

#### **Article 203: Continuity of Laws and Institutions**

All current Laws of South Sudan shall remain in force and all current institutions, constitutional office holders and employees shall continue to perform their functions and duties, unless new actions are taken in accordance with the provisions of this Constitution.

#### **Article 204: The general elections**

The elections for Parliament and state Legislative Assemblies as stipulated in this Constitution shall take place and concluded not later than on 30 June 2015.

# **SCHEDULES**

## **Schedule (A)**

### **National Powers**

The exclusive legislative and executive powers of the National level of government shall be as follows:

1. Participation in the adoption or amendment of the National Constitution;
2. National defence, national security and protection of the national borders;
3. Foreign affairs and international representation;
4. Nationality and naturalization;
5. Passports and visas;
6. Immigration and aliens;
7. Currency, coinage and exchange control;
8. Constitutional Court and other national Courts;
9. National Police (including Criminal Investigation Department – CID, coordination of international, regional and bilateral criminal matters, and standards and regulations);
10. Establishment and maintenance of national prisons, wildlife and civil defence;
11. The fixing of and providing for salaries and allowances of civil and other officers of the National Government;
12. Postal Services;
13. Civil Aviation;
14. Beacons;
15. Navigation and shipment;
16. National lands and national natural resources;
17. Central Bank, the incorporation of national banks and issuing of paper money;
18. Bills of exchange and promissory notes;
19. Weights, Measures and Standards, Dates and Standards of Time;
20. Meteorology;
21. National institutions as set forth in this Constitution;

22. Customs, excise and export duties;
23. Intellectual property rights, including patents and copyrights;
24. International treaties and conventions;
25. International and Inter-State Transport, including roads, airports, waterways and railways;
26. The management of the Nile Waters, trans-boundary waters, national rivers and lakes;
27. National taxation and national revenue;
28. National economic policy and planning;
29. National budgets;
30. National debt and borrowing on public credit;
31. National census, surveys and statistics;
32. National states of emergency;
33. National public utilities;
34. National flag, emblem, anthem, coat of arms and medals;
35. National museums and national heritage sites;
36. Telecommunications regulations;
37. Rehabilitation of and benefits to disabled war veterans, orphans, widows and care for the dependents of deceased war fallen heroes and heroines;
38. National identity card any other appropriate documentation;
39. Regulation of national civil service
40. Elections and referenda at all levels of government;
41. Regulation of political parties;
42. Regulation of professional associations and trade unions;
43. Non-governmental, civil society, and faith based organizations;
44. Incorporation of companies and registration of business names;
45. National public holidays;
46. Names of states, state capital towns and state boundaries;

## **Schedule (B)**

### **Powers of States**

The exclusive executive and legislative powers of a state of the South Sudan shall be as follows :

- 1 . Adoption or amendment of the state constitution, subject to conformity with the National Constitution;
2. State Police, prisons, wildlife and civil defence services;
3. Local Government;
4. State information, publications and mass media;
5. Social welfare including state pensions;
6. The state civil service;
7. State land and state natural resources;
8. Cultural matters within the state;
9. Regulation of religious matters;
- 10 . Internal and external borrowing of money on the sole credit of the state within the national macro-economic framework;
11. The establishment, tenure, appointment, and payment of state officers;
12. The management, lease and utilization of lands belonging to the state;
13. The establishment, maintenance and management of reformatory institutions;
14. The establishment, regulation, and provision of health care, including hospitals and other health institutions;
15. Regulation of businesses, trade licenses, working conditions, hours, and holidays within the state;
- 16 . Local works and undertakings;
- 17 . Registration of marriage, divorce, inheritance, births, deaths, adoption and affiliations;
18. Enforcement of state laws;
19. Statutes enacted under the penal law power, save for the penalization for the breach of federal laws relating to the national competencies;

20. The development, conservation and management of state natural resources and state forestry resources;
21. Pre-school, primary and secondary education;
- 22 . Agriculture within the state;
23. Airstrips other than international and national airports within civil aviation regulations;
24. Intrastate public transport and roads;
25. Population policy and family planning;
26. Pollution control;
27. State statistics, and state surveys;
28. State referenda;
29. Charities and endowment;
30. Quarrying;
31. Town and rural planning;
32. State cultural and heritage sites, libraries, museums, and other historical sites;
33. Traditional authority and customary law;
34. State finances;
35. State irrigation and embankments;
36. State budget;
37. State taxation;
38. State archives, antiquities, and monuments;
39. State public utilities;
40. Vehicle licensing;
41. Issuance of driving licenses and number plates;
42. Fire fighting and ambulance services;
43. Recreation and sport within the state;
44. Firearms Licenses; and
45. Flag and emblem of the state.

## **Schedule (C)**

### **Concurrent Powers**

The Federal Government and state governments shall have legislative and executive competencies on any of the matters listed below :

1. Economic and social development;
2. Tertiary education and scientific research;
3. Health policy;
4. Urban development, planning and housing;
5. Trade, commerce, Industry and industrial development;
6. Delivery of public services;
7. Banking and insurance;
8. Bankruptcy and insolvency;
9. Manufacturing licenses;
10. River transport;
11. Disaster preparedness, management and relief and epidemics control;
12. Traffic regulations;
13. Electricity generation and water and waste management;
14. Information, publications, media and broadcasting;
15. Environmental management, conservation and protection;
16. Relief, Repatriation, Resettlement, Rehabilitation and Reconstruction;
17. Without prejudice to national regulation, 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;
18. Financial and economic policies and planning;
19. Empowerment of women;
20. Gender policy;

21. Pastures, veterinary services, and animal and livestock diseases control;
22. Consumer safety and protection;
23. Mother, Child care and protection;
24. Water Resources other than interstate waters;
25. Subject to Schedules A, and B, such matters relating to taxation, royalties and economic planning;
26. Natural resources and forestry;
27. Human and animal drug quality control;
28. Regulation of land tenure, usage and exercise of rights in land; and
29. Any other power not specifically mentioned under federal or state powers.

### **Schedule (D)**

#### **Resolution of Conflicts in Respect of Concurrent Powers**

If there is a contradiction between the provisions of the federal law and/or a state law, on the matters referred to in Schedule C, 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 the states;
2. Whether there is a need for federal or state 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.