



**SUDAN PEOPLES' LIBERATION MOVEMENT
GENERAL HEADQUARTERS**



DRAFT

**AGREEMENT ON GOVERNANCE AND POWER
SHARING DURING THE TRANSITIONAL PERIOD**

BETWEEN

**THE SUDAN PEOPLE'S LIBERATION
MOVEMENT/SUDAN PEOPLE'S LIBERATION**

ARMY (SPLM/SPLA)

AND

**THE GOVERNMENT OF THE REPUBLIC OF SOUTH
SUDAN (GRSS)**

ADDIS ABABA-ETHIOPIA

AUGUST 19, 2014

CHAPTER I FEDERAL SYSTEM OF GOVERNANCE

PREAMBLE:

CONSCIOUS of the need for an expeditious termination of South Sudan's costly civil war;

MINDFUL AND AWARE of the yearning of all the South Sudanese for a quick, just and sustainable peace;

ENCOURAGED by the progress made thus far in our pursuit for realizing Peace Agreement in Federal Republic of South Sudan;

DETERMINED to crown the valuable achievement of this Peace Process by arriving at an equitable and fair formula for wealth and sharing power based on federal system of governance in the Federal Republic of South Sudan;

RESOLVED to usher in an era of responsible, just, transparent, people-led and integrity based good governance;

CONVINCED that federalism and empowerment of all levels of government are cardinal principles of effective and fair administration of the Federal Republic of South Sudan;

COGNIZANT of the fact that the smooth and successful implementation of this agreement shall, to a large measure, hinge on rallying the people of the South Sudan behind it; and

CONVINCED that the successful implementation of this agreement shall provide a model for good governance in South Sudan that shall help cement the unity of the country and consolidate peace in the Federal Republic of South Sudan.

NOW THEREFORE, the Sudan People's Liberation Movement/Army (SPLM/A) and the Government of the Republic of South Sudan (GRSS) hereby agree as follows:-

CHAPTER I

PRINCIPLES

GENERAL PRINCIPLES

1. In accordance with the May 9th Agreement, the structures of TFGONU shall be as follows during the Transitional Period shall be:-
 - (a) The Federal level of Government which shall exercise authority so as to protect and promote the National sovereignty of South Sudan and the welfare of its people;
 - (b) The states throughout South Sudan which shall exercise authority at the state level and render public services through the level of government close to the people; and
 - (c) The level of local government throughout the South Sudan as the agent of service delivery.
2. The Parties agree that the following principles shall guide the establishment of structures and distribution of power in South Sudan:
 - (a) Recognition of both the sovereignty of the Nation as vested in its people as well as the need for a need for a federal system of governance in South Sudan;
 - (b) Affirmation of the need for both a federal system as well as state government norms and standards so as to reflect the unity of the country and the diversity of the people of South Sudan;
 - (c) Acknowledgement of the need to promote the welfare of the people and protect their human rights and fundamental freedoms;
 - (d) Recognition of the need for the involvement and participation of the people of South Sudan at all levels of government and National institutions as an expression of the national unity of the country;
 - (e) Pursuit of good governance, accountability, transparency, democracy, and the rule of law at all levels of government to achieve lasting peace;
 - (f) Recognizing the need to legitimize the arrangements agreed to herein, fair electoral laws shall be adopted, including the free establishment of political parties. Elections at all levels of government shall be held by universal adult suffrage.

PRINCIPLES OF ADMINISTRATION AND INTER-GOVERNMENTAL LINKAGES:

1. In the administration of the TFGNOU, the following provisions shall be respected:-
 - (a) There shall be a federal system of governance with devolution of powers, having regard to the Federal, State, and Local levels of government;
 - (b) The Transitional National Constitution, being the legal and constitutional framework text shall be the Supreme Law of the land, state constitutions, and the laws of all levels of government must comply with it;
 - (c) The linkage between the Federal Government and the states shall be through and subject to paragraph 3.3 (iv) below, and as provided for in the Interim National Constitution;

2. In their relationships with each other or with other government organs, all levels of government and particularly Federal and state governments shall:
 - (a) Respect each other's' autonomy;
 - (b) Collaborate rather than compete, in the task of governing and assist each other in fulfilling each other's' constitutional obligations;
 - (c) Perform their functions and exercise their powers so as:
 - i. Not to encroach on another level's powers or functions;
 - ii. Not to assume another level's powers or functions conferred upon it by the Constitution;
 - iii. To promote co-operation between them;
 - iv. To promote open communication between government and levels of government;
 - v. To strive to render assistance and support to other levels of government;
 - vi. To advance the good co-ordination of governmental functions;
 - vii. To adhere to procedures of inter-governmental interaction as agreed upon;
 - viii. To promote amicable settlement of disputes before attempting litigation;
 - ix. To respect the status and institutions of other levels of government.

- (d) Allow the harmonious and collaborative interaction of the different levels of government within the context of national unity and for the achievement of a better quality of life for all.

INTRODUCTION

1. In order to stop the civil war, reconcile and reunite the people of the Republic of South Sudan a new political dispensation has become imperative encompassing a radical restructuring of the state. In response to the aspirations of the People of South Sudan and the general demand for a federal system of governance, the SPLM/SPLA advances the following position.

2. The Federal Republic of South Sudan. The Republic of South Sudan shall henceforth be known as “The Federal Republic of South Sudan” herein abbreviated as “FRSS”.

- (a) The Federal State shall be a multi-party democratic state consisting of twenty one (21) states (former districts) and federal territory;
- (b) The federal, state and local government levels are distinct and interdependent;
- (c) They conduct their mutual relations on the basis of consultation and cooperation;

3. Sovereignty of South Sudan

- (a) The political power in South Sudan is collectively vested in its citizens;
- (b) The people exercise this power either directly in referendum or through their democratically elected representatives;
- (c) People delegate their powers to State organs.

4. Form and structure of Government

- i. South Sudan shall be presidential system of government;
- ii. The Executive President assisted by a Vice President shall head the Federal Government;
- iii. The Federal Government shall exercise powers in the respect of the following:
 - a. Foreign policy, cooperation and international trade;
 - b. Army and National Security;
 - c. Customs, Excise and Tariffs;
 - d. Petroleum and mineral resources;
 - e. Value Added Taxes;
 - f. Monetary, Currencies and coinage;
 - g. Weight and Measures;
 - h. Federal transportation systems (Civil Aviation, Railways, Rail Roads, River Transport, Communication, Navigation, and Construction of highways and Bridges);
 - i. Public policies on health, education, agriculture, veterinary, tourism, energy and public investment;
 - j. Immigration and citizenship;
 - k. Relation between religion and federal state;
 - l. National languages (Working and lingua Franca);Federal Judiciary system;

- m. Federal economic policies;
- n. Federal election commission and demographics;
- o. Intellectual property rights;
- p. Labor policies;
- q. Federal public works;
- r. Federal Emergency Management Agency (FEMA).

CHAPTER II POWER SHARING RATIOS

The positions in the Federal Transitional Government of National Unity shall distribute as follows:

- | | |
|-----------------------|-----|
| a. SPLM/SPLA | 70% |
| b. GRSS | 20% |
| c. Other Stakeholders | 10% |

These ratios apply to the federal, state and local government levels. The positions are:

- a. Federal (Secretary, Ambassadorial, Under Secretary, legislature, and Independent Commissions/Institutions).
- b. State (Governor, Ministerial, Commissions/Institutions Heads, and Legislature).
- c. County (Commissioners and Councilors).

Official Language

English shall be the official language of communication, without prejudice to other existing languages in South Sudan.

CHAPTER III THE PRE- TRANSITIONAL PERIOD

THE PRE-TRANSITIONAL ARRANGEMENTS

- a. There shall be a Pre-Transitional Period to prepare the grounds to setup a Transitional Federal Government of National Unity (TFGONU) in the Federal Republic of South Sudan;
- b. The duration of the Pre-Transitional period shall be one (1) month from the date of signing of the Peace Agreement;
- c. The Pre-Transitional arrangement shall commence within 72 hours of signing the peace agreement.
- d. During the Pre-Transitional Period, the Parties shall undertake the following tasks:
 - i. Draft the Transitional Federal Constitution;
 - ii. Ratify the Peace Agreement [SPLM/SPLA National Leadership Council and National Legislature respectively]; and
 - iii. Implement Permanent Ceasefire.

CHAPTER IV
THE TRANSITIONAL FEDERAL GOVERNMENT OF NATIONAL UNITY
(TFGONU)

4.1 Establishment of TFGONU

- (a) There shall be established an all-inclusive **Transitional Federal Government of National Unity** (TFGONU) in the Republic of South Sudan to replace the present Government of the Republic of South Sudan (GRSS);
- (b) The TFGONU shall exercise all powers of a national government as stipulated in Chapter I section 3 (3) above;
- (c) Duration of the transitional period shall be two (2) years; and
- (d) The TFGONU shall hand over power to the elected government at the end of the Transitional Period; and
- (e) The Vision and Mission of TFGONU shall be:

Vision:

To reconstruct a united peaceful South Sudan based on the core values of justice, equality, freedom, rule of law and respect for human rights.

Mission:

To provide dynamic leadership to build peace, social healing and harmony; undertake critical reforms in the state institutions and governance systems to restore law and order throughout South Sudan; revitalize the economy and put South Sudan on a path of wealth creation and economic growth.

4.2 Structure of the TFGONU

- a. The TFGONU shall consist of three branches, namely;
 - The Legislature;
 - The Executive; and
 - The Judiciary;
- b. Members of the Transitional Federal Legislature (TFL) shall not serve in the Cabinet and vice-versa.

4.3 Mandate of TFGONU

- (a) To implement the peace agreement;
- (b) Oversee government functions during the Transitional Period;
- (c) Implement Critical reforms as negotiated in the peace agreement;
- (d) Conduct National Census and Elections;
- (e) Permanent Constitution Making Process;
- (f) National Reconciliation and Healing;
- (g) Repatriation, relief, resettlement, reintegration, reconstruction and rehabilitation of Internally Displaced Persons (IDPs) and Returnees;

4.4 The Powers and Functions of the TFGONU

- a. Protect and defend the Transitional Federal Constitution;
- b. Formulate the country's policies in respect to overall economic and social development;
- c. Draw up and implement plans and strategies of development;
- d. Establish national standards and basic criteria for the evaluation of policies in public health, education, science, technology, culture as well as for the protection and preservation of historical legends and sites;
- e. Formulate and execute the country's financial, monetary and foreign investment policies;
- f. Enact laws for the utilization and protection of land and other natural resources, historical sites and objects;
- g. Establish and administer national defense and public security forces as well as federal police, prisons, wildlife and civil defense forces;
- h. Administer the Federal Reserve Bank, print and borrow money, mint coins, regulate foreign exchange and money in circulation. Determine by law the conditions and terms under which states can borrow money from internal sources;
- i. Formulate and implement foreign policy.
- j. Negotiate and ratify international agreements;
- k. Be responsible for the development, administration and regulation of air, rail, river transport and major roads linking two or more states, as well as for postal and telecommunications;
- l. Levy taxes and collect duties on revenue sources granted to the Federal Government.
- m. Draw up, approve, and administer the Federal budget;
- n. Determine and administer the utilization of the water of lakes linking two or more states or of rivers crossing the boundaries of two or more states;
- o. Regulate inter-state and foreign trade;
- p. Deploy, at the request of state authorities, Federal forces to arrest a deteriorating security situation within that state when its authorities are unable to control it;
- q. Enact laws, in order to give practical effect to political rights provided for in the Transitional Federal Constitution, all necessary laws governing political parties and elections;
- r. Has the power to proclaim and to lift national states of emergency and states of emergencies limited to certain parts of the country;
- s. Determine and administer matters relating to nationality and citizenship;
- t. Determine and administer all matters relating to immigration, the granting of passports, entry into and exit from the country, refugees, and asylum seekers;
- u. Patent inventions and protect copyrights;
- v. Establish uniform standards of measurement, and calendar and;
- w. Enact laws regulating the possession and the bearing of firearms;

CHAPTER V
THE TRANSITIONAL FEDERAL LEGISLATURE

5.1 The Transitional Federal Legislature (TFL)

- a. There shall be established a Transitional Federal Legislature which reflects a broad spectrum of South Sudanese society as per the agreed power sharing ratios;
- b. The Transitional Federal Legislature shall be **Bicameral** in nature and shall replace the current National Legislature during the transitional period;
- c. Members of the Transitional Federal Legislature shall reflect the diversity of the people of South Sudan;
- d. Selection and appointment of members of the Transitional Federal Legislature shall be subject to internal consultations among the parties to the Peace Agreement as per the agreed power sharing ratios; and
- e. The size of the Transitional Federal Legislative Assembly shall be 250 members and the size of the Senate shall be 42 members;

5.2 Functions of the Senate (Upper House)

- a. The Senate shall elect a Speaker and Deputy Speaker;
- b. Vet and confirm Presidential nominees for constitutional and other executive positions;
- c. Ratify treaties;
- d. Conduct a ‘vote of no confidence’ against any executive officer including the President of the Republic and Vice President;
- e. Oversee national reconstruction, development and equitable service delivery in the states;
- f. Monitor the repatriation, relief, resettlement, rehabilitation, reintegration of returnees and internally displaced persons, and reconstruction of disaster and conflict affected areas;
- g. Legislate for the promotion of culture of peace, reconciliation and communal harmony among all the people of the states;
- h. Perform any other function as determined by the Transitional Federal Constitution or the law.

5.3 Functions of the Transitional Federal Legislative Assembly (Lower House)

- a. Shall elect Speaker and Deputy Speaker;
- b. Shall assume responsibility for all Federal legislative functions;
- c. Shall exercise oversight of Federal Organs including the office of the President and Vice President;
- d. Shall scrutinize, amend, and approve the policies and programs of the TFGONU; and
- e. Shall encourage and support the emergence of a new democratic political culture particularly in the areas of freedoms, civil liberties, human rights and the rule of law.

CHAPTER VI THE EXECUTIVE

6.1 The Executive

- a. The President shall head the Executive assisted by a Vice President; and
- b. The President shall be nominated by the aggrieved Party (SPLM/SPLA).

6.2 The Cabinet

- a. The cabinet shall comprise of at most twenty two (22) Federal Departments headed by Secretaries;
- b. There shall be five (5) deputy Secretaries where appropriate;
- c. There shall be established Independent Commissions and Institutions;
- d. The government may establish new Commissions as needs may arise;
- e. The Secretaries, heads of Independent Commissions, Public Corporations and state-owned enterprises, shall reflect the diversity and national character of South Sudan; and
- f. Allocation of Departmental positions, heads of Independent Commissions, Public Corporations and state-owned enterprises shall be as per the agreed power sharing ratios.
- g. There shall be established the Office of Federal Litigations (Civil and Criminal) independent of the Department of Justice.

6.3 Mandate of the Cabinet

- a. Implement the Peace Agreement;
- b. Develop policies and programs of the TFGONU; and
- c. Conduct usual activities of Government.

CHAPTER VI THE JUDICIARY

The Judicial authority is vested in the courts. They are independent subject to the law and the Transitional Federal Constitution.

6.1 There shall be the following courts:

- a. The Supreme Court;
- b. The Federal Court of Appeal;
- c. Trial Courts;

6.2 The Supreme Court

- a. The Supreme Court is the highest court in the land. It shall be located in the federal capital and consist of a maximum of nine (9) Justices headed by Chief Justice;
- b. The Court guarantees the basic rights and freedoms of all persons. Its judgment is binding on all organs of government, including President and Parliament;
- c. Shall decide upon disputes between organs of state in the Federal and state spheres. The disputes may concern:
 - i. The constitutional status, power or functions of any of those organs of state;
 - ii. The constitutionality of any national or state Act;
 - iii. The constitutionality of any amendment to the Constitution;
 - iv. The possible failure of the legislature or the President to fulfill a constitutional obligation; or certifying a state constitution.
- d. Hears appeals from lower courts.
- e. Other matters that may be referred to it in circumstances defined by an Act of Parliament;

6.3 The Federal Courts of Appeal

- a. The Federal Court of Appeal may hear appeals from lower courts;
- b. The Federal Court of Appeal shall be located in a state capital.
- c. Each court shall be composed of seven (7) judges.

6.4 Trial Courts

These are courts of first instance on federal matters.

CHAPTER VII STATE TRANSITIONAL GOVERNMENT

7.1 Establishment of State Transitional Government

- a. There shall be established an all-inclusive Transitional State Governments to replace the present state governments of the Republic of South Sudan;
- b. The State Government shall be inaugurated and commence operation at the end of the Pre-Transitional period;
- c. The mandate of the state government shall expire at end of the transitional period once the elected state governor is inaugurated;
- d. Members of the State Transitional Legislative Assembly (STLA) shall not serve in the cabinet and vice-versa.

7.2 Mandate of the State Transitional Government

- a. Implement the provisions the of Peace Agreement related to the state,
- b. Normal state functions.

7.3 Structure of the State Transitional Government

The State Government shall consist of three branches, namely;

- a. The Legislative Assembly;
- b. The Executive; and
- c. The Judiciary;

7.4 Powers and Functions of the State

A State shall have the following powers:

- a. Establish a State administration that best advances self-rule, a democratic order on the supremacy of the law, and the protection and the defense of the State Constitution;
- b. Enact and execute state constitution and other laws;
- c. Formulate and execute policies, strategies and plans for State social and economic development;
- d. Administer land and the use of other natural resource in accordance with State laws;
- e. Levy and collect taxes and duties on revenue sources allocated to the State and to draw up and administer State budget;
- f. Enact laws on administrative matters and on conditions of services of state employees. In the implementation of this responsibility it shall ensure that educational qualification and experience are requirements for any administrative position; and
- g. Establish and administer state police, wildlife, prison and civil defense within the State.

CHAPTER VIII
THE STATE TRANSITIONAL LEGISLATIVE ASSEMBLY

8.1 The State Transitional Legislative Assembly

- a. There shall be established state transitional legislative assemblies in the twenty one (21) states of South Sudan;
- b. State Transitional Legislative Assembly shall be constituted as per the agreed power sharing ratios and shall reflect the diversity of the State;
- c. Selection and appointment of members of state transitional legislative assembly shall be on the basis of consultation among the parties to the agreement; and
- d. The size of the state assembly shall be forty eight (48) members.

8.2 Functions and Powers of the State Transitional Legislative Assembly

- a. The state transitional legislative assembly shall elect Speaker and Deputy Speaker;
- b. Exercise oversight function on the State government organs including the offices of the Governor and Deputy Governor;
- c. Scrutinize, amend, and approve the policies and programs of the State Government;
- d. Encourage and support the emergence of democratic political culture, particularly in the areas of human rights and freedom of expression;
- e. State Transitional Legislative Assembly shall promulgate the State Transitional Constitution in conformity with the Transitional Federal Constitution;
- f. State Transitional Legislative Assembly shall have law-making competences as are conferred upon the state by the Transitional Federal Constitution, the State Transitional Constitution and the law;
- g. Vet and provide advice on gubernatorial nominees;
- h. State Transitional Legislative Assembly may in accordance with the state constitution, pass a vote of no confidence in the Governor and deputy Governor by three quarters majority of all its members;
- i. If the State Transitional Legislative Assembly passes a vote of no confidence as stated in paragraph (h) above, the governor or deputy governor shall resign immediately and another governor shall be selected as per agreed power sharing ratios within two weeks;
- j. Perform any other functions as determined by the state transitional constitution or the law.

CHAPTER IX THE STATE EXECUTIVE

9.1 Structure

- a. The State Executive shall comprise the Governor assisted by a Deputy Governor, and a Cabinet;
- b. The Selection of the State Governor and Deputy Governor shall be by consensus and consultation by the parties to the agreement as per power sharing ratios;
- c. The state ministers, heads of independent commissions, public corporations and state-owned enterprises, shall reflect the diversity of the state without prejudice to the criteria merit; and
- d. Allocation of ministerial positions, heads of autonomous agencies, Commissions, public corporations and state-owned enterprises shall be per the agreed power sharing ratios.

9.2 Mandate of the State Cabinet

- a. Implement the provisions of the Peace Agreement;
- b. Conduct usual activities of State Government;
- c. Initiate policies, programs and recommendations for approval by the state transitional legislative assembly; and
- d. Implement state reform programs.

CHAPTER X THE STATE JUDICIARY

The State Judiciary shall comprise

10.1 The High Court

- a. The High Court is the highest court in a state;
- b. It is the highest appellate court of the state;
- c. Shall hear state constitutional matters; and
- d. Shall be located at the state capital.

10.2 County Courts

The county courts are courts of first instance on state matters.

CHAPTER XI LOCAL GOVERNMENT

THE GUIDING PRINCIPLES

Nature and Establishment of Local Government and Local Government Councils

- a. Local Government is the third level of government in Federal Republic of South Sudan which consists of a number of autonomous local government organs;
- b. The establishment of the Local Government organs shall be based on the principles of devolution of authority and power to the lowest level of government closest to the people;
- c. The Local Government Councils are the legislative organ at the levels of Government closer to the people in the States;
- d. The Community Governments (Native Administration) are the local authorities which pre-dated colonial occupation in the homeland of the people, founded on customs and traditions where customs are the source of legislation and cultures are the basis of strength, harmony and inspiration, to which Local Government institutions shall be committed, respected and promoted;
- e. In accordance with the Power Sharing Ratios agreed to at Addis Ababa, the SPLM/SPLA seventy percent (70%), GRSS twenty percent (20%) and other Stakeholders ten percent (10%); and
- f. The power sharing ratios shall apply for the local legislative councils and Commissioners;

Territory of the Local Government

- a. Each State in Federal Republic of South Sudan shall be divided into a number of Local Governments in accordance with the provisions of the State Transitional Constitution;
- b. The territory of the Local Government shall comprise of all lands and areas that constitute Payams and Bomas of a Rural Council and quarters and Block Councils of the Urban Council;
- c. The land which constitutes the territorial area of every Local Government shall be made up of private, community and public lands;
- d. The rights in public land owned by the Local Government shall be exercised through the appropriate or designated level of Government in the Federal Republic of South Sudan;
- e. The territory of each Local Government shall be all the homelands for its residents within the respective community area which constitutes the given local council; and
- f. The boundary of each Local Government Council shall be demarcated in accordance with the law and boundaries of the chiefdoms as it existed in 1956;

Local Government Authority

- a. The Local Government Authority shall be derived from the people and shall be exercised in accordance with the people's will as prescribed in the Transitional Federal Constitution, State Transitional Constitution and any other applicable law;

- b. The Local Government Authority shall be vested in each Local Government Council, executive and customary courts which shall be a legal entity with the right to sue and be sued in their own name; and
- c. The authority of each Local Government shall be exercised through its democratic and representative institutions of government established in accordance with the Transitional Federal Constitution, State Transitional Constitution, and any other law;

Sources of Local Government Legislation

- a. The sources of legislation in the Local Government shall be:
 - i. The State Transitional Constitution;
 - ii. The Local Government Act;
 - iii. Customs and Traditions of the people of the respective Local Government territory within the State; and
 - iv. Any other sources.
- b. Religion and religious beliefs shall not be used as a source of legislation in the local government;

Language

- a. Without prejudice of other languages for communication in the offices of local government, the official language of the Republic South Sudan shall be the language of documentation and official communication in all Local government offices;
- b. Each Local Government shall respect, develop and promote all the national languages spoken in its territory; and
- c. The use of developed sign language shall be encouraged by the Local Governments for the benefit of people with special needs;

Rights and Citizenship

- a. The rights and freedoms of individuals and groups within every local government territory shall be upheld, protected, respected and promoted by all organs, agencies and persons of the Local Government Authority concerned; and
- b. Every ethnic and cultural community within a local government territory shall have the right to freely enjoy and develop its cultures and practice its own customs and traditions while recognizing the authority of the Local Government of the place and respect the rights of others.

Objectives of the Local Government

The objectives of the Local Government shall be to: –

- a. promote self-governance and enhance the participation of people and communities in maintaining law and order and promoting democratic, transparent and accountable local government;
- b. establish the local government institutions as close as possible to the people;
- c. encourage the involvement of communities and community based organizations in local governance and promote dialogue among them on matters of local interest;
- d. promote and facilitate civic education;
- e. promote social and economic development;
- f. promote self-reliance amongst the people through mobilization of local resources to ensure the provision of services to communities in a sustainable manner;
- g. promote peace, reconciliation and peaceful co-existence among various communities;
- h. ensure gender mainstreaming in local government;
- i. acknowledge and incorporate the role of traditional authorities and customary law in the local government system;
- j. consult and involve communities in decision making relating to the exploitation of natural resources in their areas;
- k. create and promote safe and healthy environment; and
- l. Encourage and support women and youth activities and the training of local cadres.

Principles of Local Governance

The following principles of local governance shall be the basis for federalism and democratization of the Local Government Authority system in South Sudan: -

- a. Principle of subsidiarity, where decisions and functions shall be delegated to the lowest competent level of Government;
- b. Self-governance and democracy;
- c. Participation of all citizens in the exercise of their rights to express their opinions in the process of decision making in public affairs;
- d. Rule of law, maintain law and order and law enforcement in a fair and impartial manner while respecting and honoring the norms, virtues and values of the society;
- e. Transparency, to build mutual trust between government and citizens through the provision of information and guaranteed access to information;
- f. Equity, to provide an equitable distribution of resources throughout the Local Government organs;
- g. Equality, to provide equal services and opportunities for all members of the local community with the aim of improving their welfare;

- h. Responsiveness, to increase the sensitivity of the employees of government and non-governmental organizations to the aspirations of the people in service delivery and meeting public demands;
- i. Accountability, to ensure accountability of decision-makers to the people in all matters of public interest; and
- j. Efficiency and effectiveness, to ensure good public service delivery through optimum and responsible use of resources.

CHAPTER XI TRANSITIONAL LOCAL GOVERNMENT

11.1 Local Government Establishment

- a. There shall be established an all-inclusive Transitional Local Governments to replace the present local governments of the Federal Republic of South Sudan;
- b. The local government shall be inaugurated and commence operation at the end of the pre-transitional period.
- c. The mandate of the transitional local government shall expire when the next elected county Commissioner is inaugurated; and
- d. Members of the Local Government Council (LGC) shall not serve in the Local Government Executive and vice-versa.

11.2 Mandate of the Local Government

- a. Implementation of the Peace Agreement provisions related to the local government; and
- b. Local Government functions.

11.3 Structure of the Local Government

The Local Government shall consist of three branches, namely;

- a. The Legislative Council;
- b. The Executive and;
- c. The Customary Courts;

11.4 Powers and Competences of the Local Government

- a. All powers not given separately to the Federal and State Governments, or powers not given expressly and concurrently to the States and the Federal government are reserved to the local government;
- b. Local government shall have the following powers:

Subject to the provisions of the Transitional Federal Constitution and State Transitional Constitution, the Local Government shall exercise legislative, executive and judicial authority on matters and functional areas as specified in Appendix II of the local government Act, 2009.

Responsibilities of the Local Governments

The responsibilities of the Local Governments shall be, but not limited to:–

- a. regulation and maintenance of law and public order;
- b. regulation, provision and maintenance of services to the people;
- c. land administration and environmental management;
- d. encouragement and promotion of local development and provision of access and opportunities for the people to engage in the development of their communities;
- e. Protection of the rights of the people and their interests;
- f. Health Services;
- g. Basic and Secondary Education;
- h. Establish a local government administration that best advances self-rule, democratic order, the supremacy of the law, and the protection and the defense of the Transitional Federal Constitution;
- i. Formulate and execute policies, strategies and plans for their economic and social development;
- j. Administer land and the use of other natural resources in accordance with state and Federal laws;
- k. Levy and collect taxes and duties on revenue sources allocated to the counties and to draw up and administer county budget;
- l. Enact bylaws on administrative matters and on conditions of services of local government employees. In the implementation of this responsibility it shall ensure that educational qualification and experience are requirements for any administrative position; and
- m. Establish and administer a local government police, wildlife, prisons and civil defense within the local government territory.

**APPENDIX I:
THE FEDERAL DEPARTMENTS**

1. Department of Defense
2. Department of Justice
3. Department of Foreign Affairs
4. Department of Interior
5. Department of Finance and Economic Development
6. Department of Labor and Public Service
7. Department of Health
8. Department of Information, Communication and Technology
9. Department of Agriculture
10. Department of Education
11. Department of Energy, Irrigation, and Water Resources
12. Department of Transport
13. Department of Petroleum and Gas
14. Department of Commerce, Mining, and Industry
15. Department of Culture and Tourism
16. Department of Social Welfare
17. Department of Environment
18. Department of Physical Infrastructure and Planning

**APPENDIX II:
FEDERAL INDEPENDENT COMMISSIONS/INSTITUTIONS**

1. Anti-Corruption Commission
2. Audit Chamber
3. Relief and Rehabilitation Commission
4. Disarmament, Demobilization and Reintegration
5. National Bureau of Statistics
6. Human Rights Commission
7. Land Commission
8. National Elections Commission
9. Local Government Board
10. Peace and Reconciliation Commission
11. National Constitutional Commission
12. Security Sector Reform Commission
13. Civil Services Reform Commission

14. Judicial Sector Reform Commission
15. Economy and Development Commission
16. Salaries and Remuneration Commission
17. Governance Commission
18. National Revenue Authority
19. Public Grievances Chamber
20. Fiscal, Financial Allocation and Monitoring Commission
21. HIV/AIDS Commission
22. National Public Service Recruitment Board

APPENDIX III:

THE STATES OF THE FEDERAL REPUBLIC OF SOUTH SUDAN

1. Northern Upper Nile State, Capital in Paloch
2. Fashoda State, Capital in Malakal
3. Latjor (Sobat) State, Capital in Nasir
4. Pow (Fangak) State, Capital in Fangak
5. Bieh (Akobo) State, Capital in Waat
6. Pibor State, Capital in Pibor
7. Jonglei (Bor) State, Capital in Bor
8. Unity State, Capital in Bentiu
9. Gagrial State, Capital in Gagrial
10. Tonj State, Capital in Tonj
11. Aweil State, Capital in Aweil
12. Raga State, Capital in Raga
13. Wau (Jur River) State, Capital in Wau
14. Rumbek State, Capital in Rumbek
15. Yirol State, Capital in Yirol
16. Yambio State, Capital in Yambio
17. Amadi (Maridi) State, Capital in Maridi
18. Juba State, Capital in Juba
19. Yei River State, Capital in Yei
20. Kapoeta State, Capital in Kapoeta
21. Torit State, Capital in Torit

APPENDIX IV
CONSTITUTING THE TRANSITIONAL FEDERAL LEGISLATURE (TFL)

1.1 Selection of Members

- a. The members of the Transitional Federal Legislature shall be constituted as per the agreed power sharing ratios;
- b. The Parties shall consult among themselves to select members of the Transitional Federal Legislature; and
- c. The parties shall ensure that members of the Transitional Federal Legislature meet the eligibility criteria prescribed in appendix III.

1.2 Election of Speaker and Deputy Speaker of the Senate

- a. There shall be Speaker and Deputy Speaker elected by the members of the Senate as per power sharing ratios;
- b. Election to the position of Speaker and Deputy Speaker shall be by simple majority (50%+1); and
- c. The parties shall ensure that members of the Senate meet the eligibility criteria prescribed in appendix IV.

1.3 Election of Speaker and Deputy Speaker of the Transitional Federal Legislative Assembly

- a. There shall be Speaker and Deputy Speaker elected by the members of the TFLA as per power sharing ratios;
- b. Election to the position of Speaker and Deputy Speaker shall be by simple majority (50%+1); and
- c. The parties shall ensure that members of the Transitional Federal Assembly meet the eligibility criteria prescribed in appendix IV.

APPENDIX V
ELIGIBILITY CRITERIA FOR PRESIDENT AND VICE PRESIDENT

- a. A South Sudanese citizen;
- b. Literate to at least to matriculation level;
- c. Forty (40) years of age and above but not more than seventy (70) years;
- d. Person of integrity with no record of conviction for a criminal offense;
- e. Person with proven leadership skills/capabilities and record of achievement in the private or public sector;
- f. Be of sound mind and;
- g. Person with minimum educational qualification of a University Degree.

APPENDIX VI

ELIGIBILITY CRITERIA FOR THE TRANSITIONAL FEDERAL LEGISLATURE

- a. A South Sudanese citizen;
- b. Twenty (21) years of age and above;
- c. Literate to at least matriculation level
- d. Person of integrity with no record of conviction for a criminal offense;
- e. Be of sound mind and;
- f. Person with minimum educational qualification of a High School or its equivalent;

APPENDIX VII

ELIGIBILITY CRITERIA FOR THE SPEAKER AND DEPUTY SPEAKER OF THE FEDERAL LEGISLATIVE ASSEMBLY AND SENATE

- a. A South Sudanese citizen;
- b. Forty(40) years of age and above;
- c. Person of integrity with no record of conviction for a criminal offense;
- d. Person with proven leadership skills and record of achievement in the private or public sector;
- e. Be of sound mind; and
- f. Person with minimum educational qualification of a University Degree.

APPENDIX VIII

ELIGIBILITY CRITERIA FOR CABINET SECRETARIES AND HEADS OF INDEPENDENT COMMISSIONS/INSTITUTIONS

- a. A South Sudanese Citizen;
- b. Thirty (30) years of age and above;
- c. Person of integrity with no record of conviction for a criminal offense;
- d. Person with proven leadership skills/capabilities and record of achievement in the private or public sector and;
- e. Be of sound mind and;
- f. Person with minimum educational qualification of a University Degree.

APPENDIX X

QUALIFICATION AND APPOINTMENT OF DIRECTOR OF FEDERAL LITIGATION

1. The Director of Federal Litigation shall be nominated and, with the approval of the Senate, appointed by the President.
2. The qualifications for appointment as Director of Federal Litigation are the same as for

the appointment as a judge of the High Court.

3. The Director of Federal Litigation shall have power to direct the Inspector-General of the Federal Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction.
4. The Director of Federal Litigation shall hold office for a term of eight years and shall not be eligible for re-appointment.
5. The Director of Federal Litigation shall exercise Federal powers of prosecution and may—
 - (a) institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed;
 - (b) take over and continue any criminal proceedings commenced in any court (other than a court martial) that have been instituted or undertaken by another person or authority, with the permission of the person or authority; and
 - (c) discontinue at any stage before judgment is delivered any criminal proceedings instituted by the Director of Federal Litigation or taken over by the Director of Federal Litigation.
 - (d) If the discontinuance of any proceedings takes place after the close of the prosecution's case, the defendant shall be acquitted.
6. The Director of Federal Litigation may not discontinue a prosecution without the permission of the court.
7. The powers of the Director of Federal Litigation may be exercised in person or by subordinate officers acting in accordance with general or special instructions.
8. The Director of Public Prosecutions shall not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority.
9. In exercising the powers conferred the Federal Transitional Constitution, the Director of Federal Litigation shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.
10. Transitional Federal Assembly may enact legislation conferring powers of prosecution on authorities other than the Director of Federal Litigation.

REMOVAL AND RESIGNATION OF DIRECTOR OF FEDERAL LITIGATION

11. The Director of Federal Litigation may be removed from office only on the grounds of—
 - (a) inability to perform the functions of office arising from mental or physical incapacity;
 - (b) non-compliance with Leadership and integrity;
 - (c) bankruptcy;
 - (d) incompetence; or
 - (e) gross misconduct or misbehavior.
12. A person desiring the removal of the Director of Federal Litigation may present a petition to the Public Service Commission which, shall be in writing, setting out the alleged facts constituting the grounds for the removal of the Director.
13. The Public Service Commission shall consider the petition and, if it is satisfied that it discloses the existence of a ground, it shall send the petition to the President.
14. On receipt and examination of the petition, the President shall, within fourteen days, suspend the Director of Federal Litigation from office pending action by the President in accordance with tribunal appointed and shall, acting in accordance with the advice of the Public Service Commission, appoint a tribunal consisting of—
 - (a) four members from among persons who hold or have held office as a judge of a superior court, or who are qualified to be appointed as such;
 - (b) one advocate of at least fifteen years' standing nominated by the statutory body responsible for the professional regulation of advocates; and
 - (c) two other persons with experience in public affairs.
15. The tribunal shall inquire into the matter expeditiously and report on the facts and make recommendations to the President, who shall act in accordance with the recommendations of the tribunal.
16. A Director of Federal Litigation who is suspended from office shall be entitled to half of their remuneration until removed from, or reinstated in, office.
17. A tribunal appointed shall elect a chairperson from among its members.
18. A tribunal appointed shall be responsible for the regulation of its proceedings.
19. The Director of Federal Litigation may resign from office by giving notice, in writing, to the President.

APPENDIX IX
CONSTITUTING THE STATE TRANSITIONAL LEGISLATIVE ASSEMBLY

1 Selection of Members

- a. The members of the State Transitional Legislative Assembly shall be constituted as per the agreed power sharing ratios; and
- b. Transparent consultations for the selection of the members must be carried out by the nominating institutions.

2 Election of Speaker and Deputy Speaker of the State Legislative Assembly (SLA)

- a. There shall be a Speaker and Deputy Speaker elected by the members of the SLA in its first sitting;
- b. Election to the position of Speaker and Deputy Speaker shall be by simple majority (50%+1);
- c. The Parties shall ensure that members of the State Legislative Assemblies meet the criteria prescribed in appendix XIII attached.

APPENDIX XI
ELIGIBILITY CRITERIA FOR GOVERNOR AND DEPUTY GOVERNOR

- a. A South Sudanese citizen;
- b. Thirty five (35) years of age and above;
- c. Persons of integrity with no record of conviction for a criminal offence;
- d. Be of sound mind;
- e. Person with proven leadership skills/capabilities and record of achievement in the private or public sector; and
- f. Person with minimum educational qualification of a University Degree.

APPENDIX XII
ELIGIBILITY CRITERIA FOR THE SPEAKER AND DEPUTY SPEAKER

- a. A South Sudanese citizen;
- b. Thirty five (35) years of age and above;
- c. Persons of integrity with no record of conviction for a criminal offence;
- d. Be of sound mind;
- e. Person with proven leadership skills/capabilities and record of achievement in the private or public sector; and
- f. Person with minimum educational qualification of a University Degree.

APPENDIX XIII
ELIGIBILITY CRITERIA FOR THE TRANSITIONAL LEGISLATIVE ASSEMBLY

- a. A South Sudanese citizen;
- b. Twenty one (21) years of age and above;
- c. Persons of integrity with no record of conviction for a criminal offence;
- d. Be of sound mind; and
- e. Person with minimum educational qualification of a High School.

APPENDIX IVX
ELIGIBILITY CRITERIA FOR EXECUTIVE OFFICERS (STATE CABINET MINISTERS)

- a. A South Sudanese;
- b. Thirty (30) years of age and above;
- c. Persons of integrity with no record of conviction for a criminal offence;
- d. Be of sound mind;
- e. Person with proven leadership skills/capabilities and record of achievement in the private or public sector; and
- f. Person with minimum educational qualification of a University Degree.

APPENDIX VX
STATE MINISTRIES

- (1) Ministry of Finance and Economic Development;
- (2) Ministry of Agriculture, Forestry, and Cooperatives;
- (3) Ministry of Education, Science, and Technology;
- (4) Ministry of Labor and Public Service;
- (5) Ministry of Local Government and Law Enforcement;
- (6) Ministry of Information and Communication;
- (7) Ministry of Gender, Child, and Social Welfare;
- (8) Ministry of Parliamentary Affairs;
- (9) Ministry of Animal Resources and Fisheries;
- (10) Ministry of Culture, Youth and Sports;
- (11) Ministry of Physical Infrastructure and Public Utilities;
- (12) Ministry of Health; and
- (13) Ministry of Natural Resource and Environment.

SCHEDULE A: THE FEDERAL POWERS

Exclusive competencies (Legislative and Executive Powers) of the Federal Government:-

1. National Defense and National Security and Protection of the National Borders;
2. Foreign Affairs and International Representation;
3. Nationality and Naturalization;
4. Passports and Visas;
5. Immigration and Aliens;
6. Currency, Coinage and Exchange Control;
7. Constitutional Court and such National Courts responsible for enforcing or applying National laws;
8. Federal Police (including Criminal Investigation Department – CID}, Coordination of International, Regional and bilateral Criminal Matters, and Standards and Regulations including the standards for training the police in the Federal Capital);
9. The fixing of and providing for salaries and allowances of civil and other officers of the National Government;
10. Postal Services;
11. Civil Aviation;
12. Maritime shipment;
13. Beacons;
14. Navigation and Shipment;
15. National Lands and National natural resources;
16. Central Bank, the Incorporation of National banks and issuing of paper money;
17. Bills of Exchange and Promissory Notes;
18. Weights, Measures and Standards, Dates and Standards of Time;
19. Meteorology;
20. Establishment and Maintenance of National Prisons;
21. National Institutions as envisaged under the Peace Agreement or as set forth in the Transitional Charter;
22. Customs, Excise and Export Duties;
23. Intellectual Property Rights, including Patents and Copyright;
24. National Flag, National Emblem and National Anthem;
25. Signing of International Treaties on behalf of the Republic of Sudan;
26. National Debt and borrowing on public credit;
27. National Census, National Surveys and National Statistics;
28. National States of Emergency;
29. International and Inter-State Transport, including roads, airports, waterways, harbors and railways;
30. National Public Utilities;
31. National Museums and National Heritage Sites;
32. National Economic Policy and Planning;
33. Nile Water Commission, the management of the Nile Waters, trans-boundary waters and disputes arising from the management of interstate waters;

34. National information, publications, telecommunications regulations;
35. National Taxation and National Revenue Raising;
36. National Budget;
37. Laws providing for National elections and their supervision by the Electoral Commission;
38. Issuance of National ID Card.

**SCHEDULE B
POWERS OF STATES**

Exclusive executive and legislative competencies of the individual States of Sudan shall be as set out hereunder:-

1. The Constitution of the State, subject to compliance with the Transitional Charter;
2. State Police, prisons;
3. Local Government;
4. State information, state publications and state media;
5. Social Welfare including State pensions;
6. The Civil Service at the State level;
7. The State Judiciary and administration of justice at State level including maintenance and organization of State Courts, and subject to national norms and standards, civil and criminal procedure;
8. State Land and State Natural Resources;
9. Cultural matters within the State;
10. Regulation of religious matters subject to the National Constitution and the Peace Agreement;
11. Internal and external borrowing of money on the sole credit of the State within the National macro-economic framework;
12. The establishment, tenure, appointment, and payment of State officers;
13. The management, lease and utilization of lands belonging to the State;
14. The establishment, maintenance and management of reformatory institutions;
15. The establishment, regulation, and provision of health care, including hospitals and other health institutions;
16. Regulation of businesses, trade licenses, working conditions, hours, and holidays within the State;
17. Local works and undertakings;
18. Registration of marriage, divorce, inheritance, births, deaths, adoption and affiliations;
19. Enforcement of State laws;
20. Statutes enacted under the Penal Law power, save for the penalization for the breach of National laws relating to the national competencies;
21. The development, conservation and management of State natural resources and State forestry resources;
22. Primary and secondary, Post Secondary Education schools and education administration in regard thereto; (Move Basic and Secondary Education to County)
23. Laws in relation to Agriculture within the State;

24. Airstrips other than international and national airports within civil aviation regulations;
25. Intrastate public transport and roads;
26. Population policy and family planning;
27. Pollution control;
28. State statistics, and State surveys;
29. State referenda;
30. Charities and endowment;
31. Quarrying regulations, (subject to the Agreement on Wealth Sharing);
32. Town and rural planning;
33. State cultural and heritage sites, State libraries, State museums, and other historical sites;
34. Traditional and customary law;
35. State finances;
36. State irrigation and embankments;
37. State Budget;
38. State archives, antiquities, and monuments;
39. Direct and indirect taxation within the State in order to raise revenue for the State;
40. State public utilities;
41. Vehicle licensing;
42. Firefighting and ambulance services;
43. Recreation and sport within the State;
44. Firearms Licenses;
45. Flag and emblem.

SCHEDULE C
POWERS LOCAL GOVERNMENT

1. The upholding, protection and enforcement of the provisions of the peace agreement in conformity with the Transitional Charter and the State Constitution;
2. Provision of basic services;
3. Regulation of Local Government, information, publications and media;
4. The regulation of social welfare including Council pensions;
5. The management of Civil Service at the Local Government level;
6. The coordination of Customary Courts and administration of justice at the Local Government level;
7. Regulation, administration and protection of Local Government Council Land and Natural Resources;
8. Acquisition of land from the relevant authority for use for service provision and development;
9. Observing, harmonizing and promoting cultural activities within the Local Government Council;
10. Internal borrowing on the sole credit worthiness of the Local Government Council within the National Government macro-economic framework;

11. The establishment tenure, appointment, and payment of Local Government employees, and the supervision of Local Government officers and seconded staff;
12. The management, leasing and utilization of lands belonging to the Local Government Council;
13. The establishment, maintenance and management of community juvenile delinquency centres and institutions;
14. The establishment, regulation, and provision of primary health care;
15. Regulation of businesses trade licenses, working conditions, hours, and local holidays within the Local Government Council;
16. Local works and undertakings;
17. Registration of marriages, divorces, inheritance, births, deaths, adoption and affiliation.
18. Enforcement of national and State laws;
19. Enforcement of By-Laws enacted under the customary law;
20. The development, conservation and management of the Local Government Council natural and forestry resources;
21. The establishment and management of Basic and Secondary education institutions;
22. Support in maintenance of Airfields other than international airports within Civil Aviation Regulations;
23. Inter Council public transport and roads;
24. The management of the Local Government Council statistics and survey works;
25. The regulation of charities and endowments;
26. Quarrying regulations;
27. Town and rural planning;
28. The regulation and management of cultural and heritage sites, libraries, museums, and other historical sites;
29. The management of the Local Government Council finances;
30. The regulation and management of irrigation and embankments;
31. The management of archives antiquities, and monuments;
32. Direct and indirect taxation within the Local Government Council Area in order to raise revenue for the Local Government Council;
33. The management of the Local Government Council's public utilities;
34. The management of fire fighting and ambulance services;
35. The management of recreation and sport facilities within the Council; and
36. The protection of Governments flags and emblems.

SCHEDULE D CONCURRENT POWERS

The National Government and State Governments, shall have legislative and executive competencies on any of the matters listed below during the Interim Period:-

1. Economic and Social Development in South Sudan;
2. Legal and other professions and their associations;
3. Tertiary education, education policy and scientific research;
4. Health policy;
5. Urban development, planning and housing;
6. Trade, commerce, Industry and industrial development;
7. Delivery of public services;
8. Banking and insurance;
9. Bankruptcy and insolvency;
10. Manufacturing licenses;
11. Airports only with respect to the states in accordance with Civil Aviation standards and regulations;
12. River transport;
13. Disaster preparedness, management and relief and epidemics control;
14. Traffic regulations;
15. Electricity generation and water and waste management;
16. Information, Publications, Media, Broadcasting and Telecommunications;
17. Environmental management, conservation and protection;
18. Relief, Repatriation, Resettlement, Rehabilitation and Reconstruction;
19. Without prejudice to the 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;
20. Financial and economic policies and planning;
21. Women's empowerment;
22. Gender policy;
23. Animal and livestock control, animal diseases, pastures and veterinary services;
24. Consumer safety and protection;
25. Residual powers, subject to schedule D;
26. Mother, Child protection and care;
27. Water Resources other than interstate waters;
28. Notwithstanding Schedules A and B such matters relating to taxation, royalties and economic planning as specified in the Agreement on Wealth Sharing;
29. State Courts responsible for enforcing or applying National laws;
30. Such matters relating to taxation, royalties and economic planning as is specified in the Agreement on Wealth Sharing as a matter or matters in regard to which the state governments is accorded concurrent authority;
31. Human and animal drug quality control.

**SCHEDULE E:
RESIDUAL POWERS**

The residual powers shall be dealt with according to its nature (e.g., if the power pertains to a national matter, requires a national standard, or is a matter which cannot be regulated by a single state, it shall be exercised by the Federal Government. If the power pertains to a matter that is usually exercised by the state or local government, it shall be exercised by the state).

**SCHEDULE F:
RESOLUTION OF CONFLICTS IN RESPECT OF CONCURRENT POWERS**

If there is a contradiction between the provisions of State law and/or a Federal law, on the matters referred 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 National or state norms and standards;
3. The principle of subsidiarity;
4. The need to promote the welfare of the people and to protect each person's human rights and fundamental freedoms.