

# The 2022 Transitional Constitution

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## Preamble

We the Sudanese people are sovereign over our destiny, land, and resources:

Believing in the glorious 2018 Revolution anchored upon its principles of freedom, peace, and justice;

Honouring our martyrs' blood and our injured and missing people's struggles as well as the struggles of their families;

Based on the 1956 foundational constitution of the Sudanese national state, the 1985 constitution effective prior to the 1989 military coup;

Learning from the lessons of the national movement as well as the struggles of our people manifested in the 1964 and 1985 revolutions;

Benefiting from the transitional period experiment following the fall of the 30<sup>th</sup> of June, 1989 regime up to its downfall on the 25<sup>th</sup> of October, 2021;

Insisting on bringing down the 25<sup>th</sup> of October, 2021 military coup and its following results, putting an end to military coups, state violence, tyranny, and autocracy which hindered the national project path of constructive and improved balanced development;

Inspired by the Sudanese resistance committees charters produced through extensive grassroots consultations and deliberations conducted across all of Sudan;

Building on all the initiatives presented by the different revolutionary forces;

Emphasising nationality as the basis for rights and obligations;

Acknowledging the sacred nature of human rights and basic rights of human dignity;

Strengthening the foundations of a democratic civilian rule that fosters a state of institutions and rule of law;

Believing in the roles of Sudanese and women and youth in achieving the Sudanese revolution through its various stages and in leading the advanced and developed revolutionary movement towards the path for change; their empowerment and participation in the best ways is thus integral;

Based on the fact that cultural, ethnic, racial, and religious diversity is a source of strength and inspiration for our people, all groups must be included and all forms of discrimination must be eliminated;

An unyielding determination to oppose all forms of discrimination, racism, regionalism, tribalism, hate speech, state violence, despotism, tyranny, in addition to religious, ethnic, and cultural superiority and individual rule;

Strengthening the pillars of social peace and deepening the values of tolerance and reconciliation among the components of our people, in addition to building trust among all the people of Sudan;

Consolidate the federal system of government and the right of the regions/states to manage their local affairs and allow for grassroots constructiveness;

Adherence to the disempowerment of the 30<sup>th</sup> of June, 1989 and the 25<sup>th</sup> of October 2021 regimes, in addition to the recovery of the Sudanese people looted funds and assets,

Emphasising the utmost urgency of civil service, justice, as well as security and military institutions reform; guaranteeing their national commitment, efficiency, modernisation, and improvement; disempowering [of former regime element within such institutions]; fostering and strengthening their roles in achieving the complete democratic transition;

Realising the necessity of devolution of non-combat investment and commercial state official security and military forces activities to the civilian government, including the auditing of all such activities under the authority of the Auditor General;

Striving to conduct a comprehensive and transparent dialogue for the constitution building, to be concluded by a constitutional conference that will discuss all constitutional affairs and issues with the aim of arriving at the most suitable formulae for Sudan;

Preparing to hold fair and free general elections by the end of the transitional period; necessary arrangement for such elections must be done appropriately as the basis of power transfer to the ones chosen by the people through their free will;

Acknowledging the struggles of the Sudanese people, particularly in conflict areas, thus emphasising the need to implement an urgent plan to deter the risks of total

economic collapse, achieve economic development, combat corruption, eliminate injustices, and ensure social justice;

Believing in the necessity of addressing and redeeming of past grievances and grave violations committed during the period from the 30<sup>th</sup> of June, 1989 to the present, a comprehensive transitional justice process that ensures accountability, serves justice, protects rights, repairs and provides means reparation for the damages, and puts an end to the culture of impunity must be implemented;

Fostering and strengthening the peace process in terms of peace building and implementation the Juba Peace Agreement provisions, in addition to reviewing said agreement to be amended through participation of the armed movements;

Acknowledging the urgent need to adopt a foreign policy away from proxies that commits to the national interest, mutual respect, international legitimacy, and the promotion of regional and international cooperation;

Affirming the right of all sectors and components of our peoples to enjoy all civil and political rights as well as economic, social, cultural, developmental, and environmental rights without discrimination of any kind; and

Emphasising civilian rule and the principle people power,

We are resolutely committed to abide to this Constitution during the transitional period, we shall submit to it and accept as the supreme authority for the conscience and voice of our people.

## First Chapter

### Introductory Provisions

#### Name of the Constitution and Effectiveness

- (1) This Constitution is named 'The 2022 Transitional Constitution'/'Transitional Constitution (2022),' and it shall be effective and enter into force upon the date of its signing.

## Cancellations and Exceptions

(2)

- (1) The 'Transitional Constitutional Document (2019) – (Amendment of 2020)' shall be repealed and deemed null and void, provided that all issued laws remain in force unless they are amended or repealed.
- (2) All decrees, measures, and decisions issued during or after 25<sup>th</sup> October, 2021 coup shall be repealed and deemed null and void, including all regional and international agreements and conventions made during the period after the coup up to the entering of this Constitution into effect.

## The Nature of the State

(3)

1. The Republic of Sudan is a democratic federal state with a diverse coexisting cultures, races, languages, creeds, and religions; its ruling system is the parliamentary system, in which rights and obligations are based on citizenship [nationality] without discrimination on the basis of ethnicity, religion, culture, colour, language, gender, social or economic status, disability, regional affiliation, or any other forms of discrimination.
2. The state is committed to respecting human dignity and diversity; and shall established and anchored upon justice, equality, and the guarantee of human rights fundamental [basic] freedoms; the state shall also abide to the principles of good governance including inclusivity [participation], accountability, transparency, and the rule of law.
3. The Sudanese state is a civilian state that does not discriminate against nor favour any of the religions and cherished beliefs.

## Supremacy of the Constitution

(4)

1. The Constitution is the supreme law of the state that reigns supreme over all regional and state Constitutions, which shall not be incompatible with it nor with any other law.



2. The Juba Peace Agreement is considered an insuperable part of this Constitution.

### Sovereignty

(5) Sovereignty is for the people and it is exercised by the state on behalf of the people according to the provisions of this Constitution and the international agreements and conventions ratified by the Sudan.

### Rule of Law

(6)

- (1) All persons, bodies [legal entities], institutions, and associations, whether official or unofficial, are subject to the rule of law.
- (2) The institutions of the transitional authority and state organs are obligated to enforce the rule of law and abide to the principle of accountability, restitution of grievances, and rights.
- (3) Notwithstanding any provisions of any law, war crimes, crimes against humanity, extrajudicial killings, violations of human rights and the International Humanitarian Law, the crime of undermining the constitutional order, and the crimes of corruption that were committed within the time period between the 30<sup>th</sup> of June, 1989 and the date of the signing of this Constitution shall all be considered imprescriptible.

## Second Chapter

### Basic Rights and Freedoms Document [Bill of Rights and Freedoms]

#### First Section

#### General Provisions

(7)

- (21)1 The Right and Freedoms Document shall be an agreement between all the peoples of Sudan, between them and their governments at all levels, a commitment from their side to protect and promote the human rights and basic freedoms included in the Document.
- (21)2 Human rights are inseparable from human dignity shared by all humans; the rights and freedoms included in this Document are an integral

part of this Constitution, a main and foundational pillar necessary to achieve social justice, equality, and democracy in Sudan.

- (21)3 All rights and freedoms included in regional international human rights instruments, agreements, and conventions ratified by the Republic of Sudan shall be an inseparable part of this document.
- (21)4 Legislation shall only organise, not confiscate nor limit, the rights and freedoms included as part of this Document.
- (21)5 The Rights and Freedoms Document is an inseparable part of the state's democracy; it is the framework of political, economic, cultural, and environmental policies framework.
- (21)6 The Rights and Freedoms Document applies to all laws; legislative, executive, and judiciary authorities, in addition to all state institutions and organs are all subjected and must abide to the Document.

## Second Section

### State Obligations

(8)

- (1) The state shall commit to protect and promote the rights included in this Document for everyone without discrimination on the basis of race, colour, gender, language, religion, political view, social status, or any other basis for discrimination.
- (2) The state shall enact and implement legislation to meet the necessary requirements with regard to commit to the rights included in the Rights and Freedoms Document included as part of this Constitution; in addition to its international obligations related human rights and basic freedoms.
- (3) The state shall, within the period of 6 months starting from the signing of this Constitution, conduct a review of all effective laws in for the purpose of repealing or amending everything that contradicts or violates the rights and freedoms included in the Document.

### Third Section

#### Basic Rights and Freedoms

##### The Right to Life and Human Dignity

(9) Every human shall have the inherit right to dignified life; the law protects such right and no human shall be denied this right arbitrarily.

##### The Right to Freedom

(10)

(1) Every person has the right to liberty, personal security, and physical and mental safety; no one may be subjected to arrest or imprisonment nor may their freedom be deprived or restricted except for reasons determined in accordance with procedures established by law in a democratic society

(2) Every person deprived of their liberty has the right to be treated with humanity and with respect for their dignity in accordance with procedures established by law in a democratic society.

##### The prohibition of Slavery and Forced Labour

(11)

(1) Slavery and human trafficking in all its forms shall be prohibited; no one shall be held in slavery or subjected to forced labour.

(2) No one may be compelled to perform a work except as a penalty resulting from conviction by a competent court.

##### Equality before the Law

(12)

(1) People are equal before the law and have the right to enjoy the protection of the law without discrimination against them on the basis of gender, colour, language, religious belief, political opinion, racial or ethnic origin, or any other reason.

(2) The state shall take legislative procedures as well as positive discrimination [favouritism] policies and programmes appropriate to resolve the damages endured by individuals and groups due to discrimination during the past as to ensure their participation, inclusion, and representation in governance and other aspects of life.

### Women rights

(13)

- (1) The state protects women rights as stipulated in international and regional covenants and agreements ratified by Sudan.
- (2) The state guarantees to men and women the equal right to enjoy all civil and political rights, including the rights training, career development, and all other professional rights such as equal opportunity within all state institutions; the state shall also guarantee equal rights for men and women to enjoy social, cultural, and economic rights, including the equal pay for equal work.
- (3) The state shall take positive discrimination procedures to strengthen women participation across all its institutions, within all sectors and settings, including the right to ownership of resources.
- (4) Repeal or amend all the laws and procedures that discriminate against women; in addition to working against traditions that degrade and deprive women of dignity.
- (5) The state shall take the necessary procedures to all eliminate all forms of violence against women.
- (6) The state is responsible for maternal health, including free health care for mothers.

### Child Rights

(14) The state protects and safeguards child rights as stated in the international and regional covenants and agreements ratified by Sudan, including the right to free basic level education and free primary health care.

### Prohibition of Torture

(15) No one shall be subjected to torture nor cruel, inhumane, degrading, or dignity depriving punishment and/or treatment for any reason.

### Fair Trial

(16)

- (1) The accused is innocent until proven guilty by a final court judgement before the naturally designated judge.
- (2) Any person shall be notified upon their arrest of the reasons for the arrest and he shall be notified without delay of the accusation against them.
- (3) Any person shall be presented to their naturally designated judge within 48 hours of their arrest; the competent court may oversee or

monitor any unlawful procedure or arrest conducted by any entity whatsoever.

- (4) Any person against whom civil or criminal measures are taken shall have the right to a fair and public hearing before a competent ordinary court in accordance with the procedures established by law within a democratic society.
- (5) No accusation may be brought against any person for an act or omission unless that act or omission constitutes a crime at the time of occurrence.
- (6) Every person shall have the right to be tried in their presence without undue delay nor any criminal charge; trial in absentia shall be regulated by law within a democratic society.
- (7) The accused shall have the right to defend themselves in person or through a lawyer of their choice; they shall also have the right to be provided by the state with legal aid when they are unable to defend themselves in the most serious crimes.
- (8) The State shall provide the necessary protection for witnesses

#### Right to Sue [Litigation]

(17) Everyone is guaranteed the right to sue and seek appropriate litigation; no one may be deprived of their right to seek justice.

#### Restriction of the Death Penalty

(18) The death penalty may only be inflicted as retribution [Islamic death penalty verdict called *Al-Qisas* or *Al-Had*, issued as a punishment for murder]; or as punishment for seriously dangerous crimes before the eyes of the law; the death penalty shall not be imposed against the following:

- (1) A person who did not reach 18 years old at the time the crime was committed.
- (2) A person who has reached the age of 70 years old except for retribution, murder, crimes against humanity, undermining the constitutional order, and war crimes.
- (3) Pregnant and breastfeeding women except after two years of breastfeeding.

### Right to Privacy

(19)

- (1) No person's privacy may be violated and no person's private or family life may be interfered within their home or their correspondence except if done in accordance with the law within a democratic society.
- (2) Postal, telegraphic, and electronic correspondence, in addition to telephone conversations, Internet based correspondence, and other means of communication may not be confiscated neither monitored nor viewed, except for a specified period according to appropriate legal procedures.

### Freedom of Belief and Worship

(20)

- (1) Everyone is entitled to freedom of belief and worship, therefore, everyone has the right to declare their religion or belief, including expression and practice of such religion or belief through worship, education, practice, or performance of rituals or ceremonies, in accordance with the law within a democratic.
- (2) No one shall be compelled to convert to a religion they do not believe in or to practice rituals they did not accept voluntarily.

### Freedom of Expression and Access to Information

(21)

- (1) Every citizen has the right to freedom of expression as well as access, receiving, and distribution of information and publications; in addition to all mass media and the Internet.
- (2) The state guarantees the freedom and independence of journalism, electronic media, print media, and all public and private media.
- (3) Rights and freedoms mentioned above in (1) and (2) above shall not be limited except for the purpose of guaranteeing others

rights and freedoms according to the law within a democratic society.

- (4) All mass media outlets shall abide to the principles and ethics of the profession, in addition to committing to non-involvement in the promotion of hate, discrimination, contempt on the basis of gender, religion, ethnicity, sector, and culture; such media outlets shall not call nor incite any violence, terrorist activities, or any other activities in violation of the basic rights and freedoms included within this Constitution.
- (5) The state shall guarantee for every citizen or entity access to information available with its public institutions, organs, and departments; such right to access information shall not be limited unless in the cases of protection of public interest [public good] or individual freedoms, according to a law that regulates the limitations affecting the lives of citizens.
- (6) The state must publish and distribute important information with an effect on the lives of citizens.

#### Freedom of Assembly and Association

(22)

- (1) The right to peaceful assembly and the right to demonstrate peacefully shall be guaranteed; every individual shall have the right to freedom of association with others, including the right to establish and join political parties, associations, organisations, trade unions, and professional federations to protect their interests.
- (2) The law shall regulate the formation and registration of associations, organisations, trade unions, and professional unions in accordance with the requirements of a democratic society.
- (3) The state shall guarantee for individuals and groups the right to form political parties, and shall also ensure the freedom to practice party politics works according to the law within a democratic society.

### The Right to Political Participation

(23)

- (1) Every citizen has the right to politician participation and the right to manage public affairs according to the law within a democratic society.
- (2) Despite the provision mentioned in (22) (3) above, the leadership and members of the dissolved National Congress Party shall be forbidden to practice political activities during the transitional period; furthermore, the registration or reregistration of the said political party's associations, organisation, and fronts shall be prohibited.

### Freedom of Movement and Residence

(24)

- (1) Every citizen legally residing within the country has the right to freedom of movement and freedom to choose their place of residence, such right shall not be limited except for reasons required for the protection of public order, public safety, and the rights and freedoms of others according to the law within a democratic society.
- (2) Every citizen has the right to leave or return to the country according to regulations enforced by the law within a democratic society.

### Right to Ownership

(25)

- (1) Every citizen has the right to possess or own property according to the law.
- (2) Private property may not be expropriated unless the law specifies otherwise or if the expropriation is for the public interest and in return for fair and immediate compensation; additionally, personally owned private funds shall not be confiscated without a judiciary court order.
- (3) Looted funds shall be recovered according to the law.



### Right to Education

(26)

- (1) Every citizen is entitled to the right to education and the state must guarantee access to education without discrimination on the basis of religion, ethnicity, race, gender, disability, or any other basis.
- (2) Education at the public level is compulsory and the state must provide it free of charge.

### Right to Environmental Safety

(27)

- (1) Every person and community are entitled to the right of environmental safety, in addition to living in healthy and clean environment; such right shall include the right to protect the environment for the current and future generations.
- (2) The state shall take the legislative procedures and any other necessary procedures to face the problems of desertification, environmental pollution, and other problems facing the environment in Sudan.

### Independence of Universities and Higher Institutes and Freedom of Thought and Scientific Research

- (28) The state guarantees the independence of universities and freedom of researches and think-tanks.

### Rights of People with Disabilities and the Elderly

(29)

- (1) The state guarantees to persons with disabilities all the rights and freedoms stipulated within this Constitutions; it shall also respect their human dignity by providing them with appropriate education and work, in addition taking the necessary procedures and reasonable measures to ensure their full participation in society.

- (2) The state guarantees to the elderly the right to respect their dignity and provides them with the necessary medical care and services.

#### Right to Health

(30) The state undertakes to provide primary health care, maternal health care, and emergency services free of charge to all citizens; in addition to improving public health as well as establishing, developing, and rehabilitating basic medical and diagnostic institutions.

#### Ethnic and Cultural Groups Rights

(31) All ethnic and cultural groups are entitled to the right to freely enjoy and develop their own cultures; furthermore, members of such groups are entitled to practice their beliefs, use their languages, practice their religions and customs, and raise their children within the settings of their cultures.

#### The Right to Citizenship [Nationality]

(32)

- (1) Every child born to a Sudanese mother or father is entitled to an unlimited right to the Sudanese citizenship [nationality].
- (2) Every Sudanese person is entitled to earn the citizenship [nationality] of another country according to the law
- (3) The state shall review the naturalisation [passing of citizenship [nationality]] from the 30<sup>th</sup> of June, 1989 up the date of this Constitution.

#### Inviolability of Rights and Freedoms

(33) The rights and freedoms stipulated within this Constitution and international agreements ratified by Sudan may not be infringed nor limited; the Constitutional Court and other competent courts of law shall safeguard and protect such rights and freedoms.

## Third Chapter

### Mandates of the Transitional Period

(34) The transitional institutions shall abide to the following mandates:

- (1) Fostering and strengthening the democratic transition and establishing the transitional period institutions by taking the following procedures:
  - (a.) The dismantling and structural dissolving of the 30<sup>th</sup> of June, 1989, in addition to the disempowerment of the regime, repealing of its law, and recovering assets, financial resources, and funds inside and outside Sudan according to the law.
  - (b.) The Constitution Commission shall supervise a dialogue through a comprehensive, transparent, and inclusive constitution building process, with all due consideration for provisions in (23) (2); such activities shall be concluded by a national constitutional conference to discuss affairs of ruling and governance as to produce a constitution a result of consensus and democratic accreditation; such conference shall be held within the period of 6 months before the end of the transitional period.
  - (c.) The state shall commit to hold general elections that should be free, fair, and subject to international observation by the end of the transitional period; such elections must be preceded by the following arrangements:
    1. Conducting the population census
    2. Issue and enact the elections' law and the political parties' law.

3. Take the necessary procedures to finalise the refugees and displaced persons' volunteer return to their native homes; in addition to preparing for the elections within such persons' places of residence for those not willing to return.
  - (d.) Reform of governance institutions and the civil services, in addition to the disempowerment of former regime elements, affirming its national nature and fair opportunities without prejudice to the requirements of qualification and efficiency.
  - (e.) Legal and justice reform, including repeal or amendment freedom limiting laws; rebuilding and improving the rights, justice, and judiciary system; and ensure the independence of the judiciary, public prosecution, the profession of the law, and the rule of law.
- (2) Reform of Military and Security Institutions
- (a.) Reform of the Armed Forces, the Police, and the General Intelligence Services to ensure disempowerment of the former regime elements, guarantee its national nature, and submission of such institutions to the civilian authority.
  - (b.) Complete the security arrangements including integration and demobilisation in order to arrive at a unified national army.
  - (c.) Review the legislations of military institutions to ensure confirmation with the democratic improvement in Sudan.
- (3) Economic Development:
- (a.) Prepare and implement a national strategy and effective programmes for economic development, combating corruption, strengthening accountability, transparency, and focusing on supporting production and balanced economic growth with consideration for positive discrimination for areas with less growth and areas affected by war.

- (b.) Prepare and implement a national strategy to organise national resources use and allocation, in addition to employing such resources within an emergency plan for economic growth, combating poverty, and support for economic stability in Sudan.
  - (c.) Prepare and implement plans and establish national mechanisms to ensure the guarantee of social justice.
- (4) Transitional Justice: a transitional justice commission must be established immediately; a transitional justice law must be issued and enacted to address the following requirements:
- (a.) A national plan to achieve justice with regard to all the crimes committed during the armed conflicts in Darfur, South of Kordufan and South of the Blue Nile.
  - (b.) By a decree from the Prime Minister, the decision to form the national committee for the investigation into the violations and crimes committed against human rights and the international humanitarian law in the 3<sup>rd</sup> of June, 2019 within the capital [Khartoum] and the other Sudanese States, must be supported, reinstated, or amended within a period of one month after their appointment [as Prime Minister]; furthermore, the committee shall be entitled to seek international technical and financial support.
  - (c.) The formation of a national committee to investigate the murder crimes and violations committed after the 25<sup>th</sup> of October, 2021.
  - (d.) The decree for the formation of the two committees stated in (b.) and (c.) must ensure their independence and must also allow them to exercise the authorities of the Attorney General with regard to conducting investigations [interrogations], pressing criminal charges, transfer to court, and representation of the prosecution side, either by any of the two committees or through whoever they delegate to act on their behalf; in addition

to ensuring that any person required for investigation or indictment by any of the two committees shall lose any legal immunity stated in any law, decree, or document.

- (e.) Review of legislations and laws that enforce legal immunity from criminal accountability and support impunity.
- (f.) The law shall stipulate the forms and levels of transitional justice including special courts, customary justice, and other means of achieving transitional justice including transfer to the International Criminal Court.
- (g.) Legal immunity shall not be deemed valid with regard to all the violations and crimes committed since the 30<sup>th</sup> of June 1989; an investigative committee must be established and formed by an order or decree to be issued either by the Prime Minister or the Attorney General.
- (h.) Complete the implementation of the decision that was made to reinstate those expelled arbitrarily from the public services from the 30<sup>th</sup> of June, 1989 to the 11<sup>th</sup> of April, 2019; such arbitrarily expelled civil, justice, or military servants must be returned and integrated back to their positions along with fair and just reparation for damages.
- (i.) The state abides to sponsor and support the families of the glorious December revolution martyrs and all martyrs of conflicts and civil wars across Sudan; to provide medical care for the injured inside and outside Sudan; and reparation for the damages for victims of crimes against humanity.

(5) Fostering peace-building as follows:

- (a.) Abiding to the implementation of the Juba Peace Agreement for the Sudan
- (b.) Establishing an independent commission for peace to achieve sustainable fair peace by making agreements with armed movements that did not sign the Juba Peace Agreement for the Sudan.
- (c.) Establish a national committee including the transitional government and the armed conflicts that signed the Juba Peace Agreement for the Sudan, with the help of the international and regional mediators to assess and improve the peace agreement and timetable [timeline/timeframe] approved; such actions should also include mechanisms and plans to ensure efficient implementation.
- (d.) Call for the international community to contribute to establish a peace fund to support the implementation of the obligations resulting from the peace agreement.

(6) Foreign Relations: to adopt a balanced foreign policy that achieves the highest state national interests and improve Sudan foreign relations to be built upon independence and mutual benefits within the limits of preserving the sovereignty, territorial integrity, and security of the country.

## Fourth Chapter

### The Federal System

#### First Section

##### Levels of Governance

(35)

(1) The Republic of Sudan is a federal state composed of states/regions; the law stipulates the number of such states/regions, their capital cities, public institutions structure, authorities, and resources; the level of governance are as follows:

(a.) The federal level, which exercises its authorities on the federal level to preserve and safeguard the sovereignty, territorial integrity, and peoples' welfare of the Sudan.

(b.) The state/regional level, which exercises its authorities on the level of states and regions according to the law.

(c.) The local level governance is an original governance level with its authorities, resources, and organisation of relations stipulated by the law.

(2) Different governance levels shall have exclusive and shared authorities, in addition to resources for each level of governance to be determined by the law; the law shall also be responsible for determining and specifying the institutional structures and borders.

(3) Until geographical borders as well as authorities and specialities are distributed among the different levels of governance, the current system shall be effective; executive governments must be established at states/regions according to the guidelines stipulated within this transitional constitution and the detailed arrangements of the law.

## Second Section States/Regions Constitutions

(36)

(1) Each state/region shall have a constitution that fall in alignment with this transitional constitution; such constitutions are to be built by a widely representative committee from the state/region and must determine the structure of authority within the state/regional level.

(2) A legislative entity must be established within each state/region with due consideration diversity of representation; the signatory parties to the political declaration within the state/region shall supervise the formation of such legislative entities.

## Third Section Local Governance

(37)



(1) Local governance support wide popular participation and expresses the basic needs of the citizens.

(2) A law for the formation of local councils must be enacted; such local councils must be representative on the grassroots level and its formation must be supervised by the signatory parties to the political declaration within the subject locality.

(3) Local governance level shall be entitled to organise all local affairs within the limits stipulated by the law.

(4) Localities shall enjoy administrative and financial independence; the law should assign reasonable financial resources that allow local authorities to provide services and local development.

#### Fourth Section

##### Delegation of Authorities

(38) The following shall be the guiding principles for authority delegation and distribution between all levels of governance

(1) Emphasise the need for standards of governance and administration on the federal and state/regional levels in a way that reflects the unity of the country and diversity of the people.

(2) Acknowledge the role of public authority with regard to all levels of governance in supporting the welfare of the people and the protection of human rights and basic freedoms.

(3) Acknowledge the need for citizens to be involved within governance levels, as a way of expressing the national unity of the country.

(4) Achieve good governance through democracy, transparency, accountability, and the supremacy of the rule of law across all levels of governance.

(5) The effective implementation of the solidarity principle through seeking to achieve economic balance across all Sudan lands; along with the attention towards development in the countryside and areas with less growth for the purpose of achieving justice and strengthening the pillars of peace.

(6) The regions' right to participate and hold discussions with regard to national projects licensing.

(7) Local communities' right to be consulted with regard to the projects implemented within their lands.

(8) Preserve the historical rights of local communities to land and resources.

## Fifth Chapter

### Transitional Authority Structures

#### First Section

#### The Transitional Legislative Council

#### The Formation of the Transitional Legislative Council

(39)

(1) The Transitional Legislative Council is an independent legislative authority that cannot be dissolved. It consists of (300) members, taking into account the representation of all sectors of the Sudanese people, including political, civil, professional forces; resistance committees; Sufi groups; civil administrations [traditional tribal leadership]; and the parties to the peace process which also signed the political declaration. Members of the dissolved National Congress Party are excluded in all their forms and names.

(2) Women participation percentage shall not be less than 40% of the Legislative Council membership.

(3) The Transitional Legislative Council shall be formed according to the representation agreed upon by the signatory forces to the political declaration; in addition to setting transparent procedures for appointment taking into consideration age, sector, area, disability, and religious minorities representation.

(4) The Legislative Council must be established and formed to commence its duties immediately upon naming the members within the period of one month from the signing of this Constitution.

**The Transitional Legislative Council Functions, Authorise, and Term**  
(40)

(1) The Transitional Legislative Council shall have the following functions and authorities:

- (a.) Enact legislations and laws.
- (b.) Monitor the performance of the Council of Ministers, hold it accountable, and withdraw confidence from the Prime Minister or other Ministers,
- (c.) Approve the state general budget.
- (d.) Ratify the regional and international agreements and bilateral conventions as well as loans.
- (e.) Set the regulations that regulate its works, the appointment of its speaker [chair], their deputies, and specialised committees.

(2) In the case of withdraw of trust from the Prime Minister, the Transitional Legislative council shall appoint the replacement Prime Minister; the Sovereignty Council shall approve the replacement appointment within a week after issuing the replacement appointment decision.

(3) Except for what is exclusively mentioned within this Constitution, the decrees of the Legislative Council are issued through basic majority.

(4) All the public Transitional Legislative Council sessions are to be open to the public, unless there are strong reasons related to the state security and privacy.

(5) The term of the Transitional Legislative Council by holding the first session of the elected Council.

**Requirements for the Transitional Legislative Council Membership**  
(41) The member of the Council shall:

- (1.) Sudanese.
- (2.) Not less than 21 years old.

(3) Not convicted by a final judgment from a competent court for a crime related to honour or integrity.

(4) Literate; able to read and write.

(5) Abide to the political declaration.

#### Loss of Transitional Legislative Council Membership

(42)

(1) A member of the Transitional Legislative Council shall lose their membership through a decree from the Council due to any of the following reasons:

(a.) Submission and approval of resignation by the Council.

(b.) Conviction by a final judgment from a competent court for a crime related to honour or integrity.

(c.) Illness rendering the member unable to discharge their duties based on a medical report from a legally competent entity.

(d.) Death.

(e.) Loss of any the membership requirements stated within this Constitution.

(2) Whenever a seat at the Council is empty, the signatory parties to the political declaration shall pick a replacement to be approved by the Council.

#### Oath for the Chairpersons and Members of the Transitional Legislative Council

(43) The Speaker [Chairperson] and the members of the Legislative Council shall take the following oath:

“I am ....., I swear by Almighty God in my capacity as Chairperson/Member of the Transitional Legislative Council to be sincere in my loyalty to the Republic of Sudan and to perform my duties and responsibilities diligently, honestly, and transparently for the advancement, welfare, and progress of the Sudanese people; I shall also abide and commit to protecting, safeguarding, and preserving the Transitional Constitution, in addition to taking into consideration the laws of the Republic of Sudan; defending the sovereignty of the country; working for its unity; consolidating the foundations of the democratic system of governance; and preserving the dignity and pride of the Sudanese people and – God shall be the witness to my oath.”

## Second Section

### The Transitional Sovereignty Council

(44)

- (1) The Sovereignty Council is the head of the state, the symbol of its sovereignty and unity, and it is the supreme commander of the armed forces; the council should take into account regional representation.
- (2) The Sovereignty Council shall consist of (...) civilian members with equal number of the two genders chosen and appointed by the signatory powers to the political declaration which is the basis for this Constitution.
- (3) The presidency of the Council shall rotate among the members of the Council.

### Functions of the Sovereignty Council

(45) The Sovereignty Council shall have the following authorities and functions:

- (1) Approve the appointment of the Prime Minister after being selected from among the signatory parties to the political declaration under which this Transitional Constitution is issued.
- (2) Approve the appointment of the Chief Justice and their deputies after the selection is done by the signatory parties to the political declaration.
- (3) Approve the appointment of the president and members of the Constitutional Court as well as the Attorney General and his assistants by the signatory powers to the political declaration.
- (4) Approve the appointment of the Auditor General during the transitional period after appointment by the Legislative Council.
- (5) Accreditation of Sudanese ambassadors abroad and foreign ambassadors in Sudan.
- (6) Declaration of state of emergency at the request of the Prime Minister.

(7) Declaration of war based on the recommendation of the Council of Ministers after the approval of the Legislative Council.

(8) Signing the laws approved by the Legislative Council.

(9) Ratification of death sentences issued by the judicial authority in accordance with the law.

(10) Adoption of international and regional agreements after ratification by the Transitional Legislative Council.

(11) The power of a comprehensive or conditional pardon and the cancellation of conviction or punishment in accordance with the law.

(12) Decisions are issued unanimously or through ordinary basic majority.

(13) For the purpose of this article, 'approval' used above is interpreted as the necessary procedural [technical/ceremonial] signature for making decisions effective; decisions are deemed officially effective after 15 days after the day of its deposition.

#### Sovereignty Council Membership Requirements

(46) Chairperson and members of the Sovereignty Council are required to:

(1) Be of Sudanese nationality by birth without being a holder of another country nationality.

(2) They shall not be less than 35 years of age.

(3) To be qualified and competent.

(4) They must not have a record of conviction based on a final judgment issued by a competent court for a crime related to honour or honesty.

(5) Abide to the political declaration.

#### Loss of Sovereignty Council Membership

(47)

(1) Sovereignty Council Chairperson or Member may lose their membership due to any of the following reasons:

(a.) Death.

- (b.) Resignation.
- (c.) Illness that renders the member incapable of conducting their duties based on a medical report issued from a competent medical entity.
- (d.) Final criminal conviction from a competent court for a crime related to honour and honesty.
- (e.) The loss of one of the membership requirements.

(2) Whenever a seat at the Council is empty, the signatory parties to the political declaration shall pick a replacement within a period of time not more than 2 months after the seat is emptied; such replacement must be approved by the Council.

### Third Section

#### Transitional Council of Ministers [Cabinet]

#### Formation of the Transitional Council of Ministers

(48)

(1) The Council of Ministers shall consist of a Prime Minister and a number of Ministers not exceeding twenty-five; such persons must all be national experts chosen by the signatory forces to the political declaration with due consideration to equal numbers of males and females as well as age and sector/area diversity without prejudice to efficiency.

(2) The responsibility of the Prime Minister and members of the Council of Ministers shall be both joint and individual before the Legislative Council with regard to the performance of the Prime Minister, the Ministers, and Ministries.

#### Functions and Authorities of the Prime Minister

(49) The Prime Minister shall have the following functions and authorities:

(1) Appoint the ministers chosen by the signatory forces to the political declaration by abiding to the standards of efficiency, independence, integrity, and appropriate experience.

(2) Appoint and relief chosen governors of states/regions, or withdraw of trust from them from the signatory forces to the political declaration within their

states/regions; with all due consideration to diversity and strengthening women participation.

(3) Appoint and relief leaders of the civil services, the police, and the intelligence services.

(4) Supervise the ministers' performance and hold them accountable.

(5) Supervise security and defence affairs.

(6) Chair the security and defence council.

(7) Supervise the General Intelligence Services and the Police Forces.

(8) Supervise the Central Bank of Sudan.

#### Functions and Authorities of the Council of Ministers

(50) The Council of Ministers shall have the following functions and authorities:

(1) Executing the tasks of the transitional period stipulated in this transitional constitution.

(2) Working to stop wars, resolve conflicts, and complete peace building efforts.

(3) Initiating draft laws as well as the state's general budget draft, bilateral and international treaties and agreements, and loans.

(4) Supervise and guide the workings of government institutions including ministries, public institutions, organs, public entities and companies owned or related to such institutions.

(5) Laying down and implementing the policies, plans, and programs of the public civil service that manages the state apparatus.

(6) Form independent national commissions in accordance with the provisions of this transitional constitution.

(7) Enforcement of the laws in accordance with the various functions and responsibilities, in addition to taking all necessary measures and procedures to ensure the implementation of the transitional tasks.

(8) Management of Foreign Affairs and Diplomacy.

(9) Recommendation to declare a state of war.



(10) In the absence of the Legislative Council, the Council of Ministers shall have the right to issue time-bound [periodical] decrees, to be presented to the legislative council once held.

(11) Issuance of regulation to regulate its works.

#### Council of Ministers Membership Requirement

(51) The Prime Minister and the members of the Council of Ministers [The Ministers] shall meet the following requirements:

- (1) Sudanese by birth.
- (2) Not to be younger than twenty-five years of age.
- (3) They should be known by their integrity, competency, qualification, practical experience, and capabilities appropriate to the position.
- (4) They should not be convicted by a final judgment from a competent court for a crime related to honour or honesty.
- (5) Abide to the political declaration.

#### Loss of Council of Ministers Membership

(52) The Prime Minister or the Minister may lose their membership due to any of the following reasons:

- (1) The resignation of the Prime Minister and the acceptance of the resignation by the Sovereignty Council, in which case the government is considered dissolved and all members accordingly lose their membership in the Council of Ministers.
- (2) The acceptance of a Minister's resignation shall be practiced by the Prime Minister.
- (3) The Prime Minister has the power to relieve members of the Council [Ministers].
- (4) Withdrawal of confidence from the Prime Minister as well as the other members of the Council [Ministers] is done through the Transitional Legislative Council based on a two-thirds majority vote; thus, in the case of withdrawal of confidence from the Prime Minister, the government is considered dissolved and all members accordingly lose their membership in the Council.

- (5) Conviction by a court ruling from a competent court for a crime related to honour or honesty.
- (6) An illness that renders the member incapable of conducting their duties based on a medical report issued from a legally competent medical authority.
- (7) Death.
- (8) Loss of any of the membership requirements.

#### Fourth Section

##### Common Provisions for Holders of Constitutional Positions

##### Acknowledgment of Financial disclosure and Prohibition of Commercial Business

(53)

(1) The chairpersons and members of the Sovereignty Council as well as the Prime Minister and members of the Ministers Councils, regional/state Governors and Ministers, members of the Transitional Legislative Council, and heads of commissions shall, upon assuming their positions, submit a financial disclosure statement that includes an account of their property and obligations; such financial disclosure should be inclusive with respect to their spouses and children in accordance with the law.

(2) The chairpersons and members of the Sovereignty Council as well as the Prime Minister and members of the Ministers Councils, regional/state Governors and Ministers, members of the Transitional Legislative Council, and heads of commissions should not engage in any private profession nor any commercial or financial business during their tenure of office; they also may not receive any financial compensation, gifts, or service of any kind from any entity.

##### Appeals for the Work of the Sovereignty Council and the Council of Ministers

(54)

(1) Any person aggrieved by the actions of the Sovereignty Council or the Council of Ministers may appeal against it before the following:

(a.) The Constitutional Court if the appeal is related to any violation of the constitutional order, freedoms, or constitutional rights.

(b.) The competent court if the appeal is related to any violation of the law.

### Procedural Immunity

(55)

- (1) Unless caught red-handed, no criminal action may be taken against any member of the Sovereignty Council, the Council of Ministers, the Legislative Council, region/state governors and ministers, nor any member of the constitutional institutions established under this Constitution without taking the necessary permission from the Legislative Council.
- (2) The decision to lift this procedural immunity shall be passed by a simple majority of the members of the Legislative Council.
- (3) Until the formation of the Transitional Legislative Council, the lifting of immunity shall be within the jurisdiction of the Constitutional Court.

### Oath for the Chairpersons and Members of the Sovereignty Council and the Prime Minister and Members Council of Ministers

(56) The Chairpersons and members of the Sovereignty Council and the Prime Minister and members Council of Ministers shall take the following oath before the Chief Justice:

“I am ....., I swear by Almighty God in my capacity as Chairperson/Member of the Transitional Sovereignty Council/Transitional Council of Ministers to be sincere in my loyalty to the Republic of Sudan and to perform my duties and responsibilities diligently, honestly, and transparently for the advancement, welfare, and progress of the Sudanese people; I shall also abide and commit to protecting, safeguarding, and preserving the Transitional Constitution, in addition to taking into consideration the laws of the Republic of Sudan; defending the sovereignty of the country; working for its unity; consolidating the foundations of the democratic system of governance; and preserving the dignity and pride of the Sudanese people and – God shall be the witness to my oath.”

## Sixth Chapter

### Justice Institution

#### First Section

#### Judiciary Authority

#### The Higher Judicial Council

(57)

- (1) A High Judicial Council shall be established and the law shall determine its formation and functions.
- (2) The Chief Justice shall preside over the Higher Judicial Council.

#### Judicial Authority

(58)

- (1) Judicial jurisdiction in the Republic of the Sudan shall be assigned to the judicial authority.
- (2) The judicial authority is independent of the national legislature and the executive branch of government; it also enjoys financial and administrative independence.
- (3) The judicial authority shall have the jurisdiction to settle disputes and issue judgments in accordance with the law.
- (4) The Chief Justice shall be the head of the judicial authority as well as the head of the National Supreme Court.
- (5) The Sovereignty Council approves the appointment of the Chief Justice and their deputies after they are selected by the signatory forces to the political declaration.
- (6) All state organs and institutions shall implement the orders of the courts.
- (7) The judicial authority is subject to institutional reform in accordance with the law of the Justice and Judicial Reform Commission.

#### Independence of Judges

(59)

- (1) Judges shall enjoy complete independence with regard to the performance of their duties; additionally, the appointment of judges shall not be subject to partisan, ideological, or political quotas.

- (2) The Sovereignty Council approves the appointments of judges done by the Higher Judiciary Council.
- (3) Judges are bound by this Constitution, the rule of law, and the professional administration [discharge] of justice.
- (4) The law shall stipulate the requirements for judges' services, judges accountability, and legal immunity.

## Second Section The Constitutional Court

(60)

- (1) The Constitutional Court is an independent court separate from the judiciary, specialised in constitutional supervision over laws and procedures, in addition to their interpretation, as well as the protection of basic rights and freedoms, and the adjudication of constitutional disputes.
- (2) The Sovereignty Council approves the appointment of the president and members of the Constitutional Court after their selection by the forces that have signed the political declaration, with the conditions of selecting equal number of males and females and considering diversity.
- (3) Its functions and authorities shall be determined in accordance with the law.

## Third Section The Public Prosecution

(61)

(1) The Public Prosecution is one of the organs [institutions] of justice and it operates according to its regulating laws.

(2) Members of the Public Prosecution exercise their authorities according to the guiding principles for the work of members of the Public Prosecution issued from the General Assembly of the United Nations, particularly with regard to crimes that affect society.

(3) The members of the Public Prosecution are entitled to everything that allows them perform and discharge their professional duties according to such guiding principles.

(4) The Sovereignty Council approves the Public Prosecutor and their assistants after their selection by the signatory forces to the political declaration.

(5) The Public Prosecution shall be subjected to institutional reform according to the Rights and Justice System Reform law.

(6) To ensure justice is served and the Public Prosecution conducts its duties successfully, the disempowerment of the former regime elements must be done according to the law.

#### Fourth Chapter Legal Advocacy

(62)

(1) Legal advocacy is an independent profession governed by a law that regulated its duties and management.

(2) Legal advocates [lawyers] are to discharge the following duties:

(a.) Strengthen, protect, and improve citizens' basic rights, in addition to deterring any violations, infringing, or limiting of any of such basic rights.

(b.) Defend the rights and interests of their clients, in addition to providing the required legal services for those in need among the citizens according to the law.

(c.) Provide legal consultancy in cases [affairs] of conscious, opinion, national affairs, and public affairs within their social responsibility.

#### Seventh Chapter

##### Disempowerment and Recovery of Looted Funds

(63)

(1) The 30<sup>th</sup> of June, 1989 regime is to be disempowered, including all the empowerment done before and after the 25<sup>th</sup> of October, 2021 military coup.

(2) The law shall regulate the disempowerment processes through an efficient specialised entity with integrity and complete independence from any influencers; necessary training must be provided as well as logistical support and any other work requirements.

(3) The law shall determine and include a mechanism to appeal the decisions and provisions of the entity mentioned in (2) above; such appeal mechanism shall be established in parallel with the establishment of said entity.

(4) The law shall determine procedures to dismantle [disempower] any one that hinders the democratic transition, or incompetent persons appointed in posts due to their loyalty for the 30<sup>th</sup> of June, 1989 regime or the 25<sup>th</sup> of October, 2021 regime; such procedures are to be done within the following settings [organs and institutions]:

(a.) Official state forces mentioned in the Tenth Chapter of this Constitution.

(b.) The justice organs and institutions mentioned in the Sixth Chapter of this Constitution.

(c.) The civil service mentioned in the Eighth Chapter of this Constitution>

(d.) the Central Bank of Sudan mentioned in the Article (65) of this Constitution, in addition to all banks and institutions with stocks owned by the government.

(e.) Public auditing office mentioned in Article (66) of this Constitution.

(5) The law shall regulate the recovery of looted fund and assets through the empowerment of the former regime; this includes all the companies, partnerships, businesses, fronts, and other funds looted and located outside.

(6) The Chief of Justice forms a department to examine all the judgements and decisions taking by the justice department in order to review the decision issued by the Disempowerment of the 30<sup>th</sup> of June, 1989 Regime Committee before the enactment of this Constitution.

## Eighth Chapter

### The Civil Service

(64)

(1) The civil service consists of all state employees at all levels and they perform the tasks assigned to them impartially by law.

(2) Civil service laws and regulations shall specify the terms and conditions of service as well as the duties and rights of its employees.

(3) The civil service in Sudan, especially at the higher and intermediate levels, shall be representative of the people of Sudan. To ensure this, the following principles and guidelines must be recognised and observed:

- (a.) The necessity of merit, competence, and continuous training.
- (b.) No level of government shall discriminate against any qualified citizen on the basis of gender or religion, ethnic origin, region, or political affiliation.
- (c.) Fair competition for jobs and training opportunities.
- (d.) Implementation of positive discrimination principles to achieve fair representation for women, youth, people from marginalised areas, and people with disabilities.

## Ninth Chapter

### Independent Entities

#### First Section

#### Central Bank of Sudan

(65)

following: (1) The main objectives of the Central Bank of Sudan shall be the

(a.) Achieve and sustain the general stability of prices.  
(b.) Contribute to achieving and sustaining the financial sector stability.

(2) The Central Bank of Sudan is responsible for the following:  
(a.) Plan and implement the monetary policy.  
(b.) Specify the currency exchange rates through consultation with the government, and implement such rates.

- (c.) Issue, regulate, and monitor the national currency.
- (d.) Regulate, monitor, develop, and improve banking.

(3) The Central Bank of Sudan shall be independent with regard to its policy implementation tools and exercise its authorities without intervention from any entity.

(4) The Bank must be independent financially, administratively, and technically with regard to the discharge of its duties according to its issued regulations.



(5) The Council of Ministers appoint the Governor of the Central Bank of Sudan and their deputies as well as the Bank's Board of Directors with due consideration to picking equal numbers of males and females, abiding to the standards of professional efficiency, and diversity; such persons appointed shall be responsible to the Prime Minister with regard to the discharge of their duties.

## Second Section Public Auditing Office

(66)

(1) The National Public Auditing Office is an independent organ for the auditing of accounts of all the state institutions, organs, companies, and banks with government stocks [shares] without exceptions, in addition to entities that receive financial support from the government; its operations and works are conducted according to the regulating laws within a democratic society.

(2) The Public Auditor [Auditor General] is the head of the Public Auditing Office and shall abide to the international standards to ensure transparency and combating money laundering.

(3) The Public Auditor is to be appointed by the signatory forces to the political declaration; to be approved by the Sovereignty Council.

## Third Section The Commissions

(67)

(1) Independent commissions shall be established and formed of equal number of male and female experts; such commission members must be known for efficiency, integrity, and chosen by the signatory forces to the political declaration; their appointment is done by the Prime Minister.

(2) The Commissions are to be formed and their functions are to be determined according to their foundational laws

(3) A candidate for Commissions' membership must:

(a.) Have scientific qualification and practical experience in the relevant field.

(b.) Impartiality, integrity, competency, and professional independence.

(c.) Abide to the political declaration.

(4) The Prime Minister appoints the chairperson and members of the following commissions:

1. The Peace Commission.
2. The Women and Gender Equality Commission.

3. The Constitution-making and the Constitutional Conference Commission.
4. The Electoral Commission
5. The Legal and Justice Reform Commission
6. The Commission for Combating Corruption and Supporting Transparency.
7. The Human Rights Commission.
8. The Civil Service Reform Commission
9. The Lands Commission.
10. The Borders Commission.
11. The Refugees and Displaced Persons Voluntary Return Commission.
12. The Integration and Demobilisation Commission.
13. The Transitional Justice Commission.
14. The National Revenue Allocation, Distribution, and Monitor Commission
15. Any other commissions that the Council of Ministers deems necessary to establish.

## Tenth Chapter

### Official Security Apparatuses

(68) The regular official security apparatuses of the Republic of Sudan are:

- (1) The Armed Forces.
- (2) The police.
- (3) The General Intelligence Service.

#### First Section

#### The Armed Forces

(69)

- (1) The Armed Forces is a non-partisan, national, professional, and official institution; it is formed and organised structurally according to the law; it is also responsible for the duties of the protection of the nation, its unity, and the safeguarding nations' security, safety and territorial integrity.

- (2) The Armed Forces shall have a military doctrine that abides to the constitutional system and the law, acknowledges the democratic civilian system for governance, and shall be under the authority of the Supreme Commander of the Armed Forces.
- (3) The state has a monopoly on the establishment of armed forces.
- (4) The law shall specify the conditions under which the Council of Ministers may seek to involve the Armed Forces in duties non-military nature.
- (5) The Armed Forces shall consist of the various sectors of the Sudanese people, taking into account their nationalist nature, balance, and diversity without discrimination nor exclusion; it shall be subordinate to leadership of the civilian authority; it also shall not be used against the Sudanese people or its revolution nor shall it interfere in political affairs.
- (6) The formation of military or paramilitary militias is prohibited.
- (7) The mission of the armed forces during the transitional period shall be:
  - (a.) Abide to the constitutional order, respect the rule of law, democratic civil government, human rights, and the sovereignty of the country including the protection of its borders against any foreign hostility.
  - (b.) Respect for the will of the Sudanese people to have a civilian, pluralistic, democratic government; in addition to operating under its authority.
  - (c.) Implementation the policies related to security and military reform in accordance with the plan of the civilian transitional government, leading the way towards a national professional unified army; this should include integrate the Rapid Support Forces and the Armed Movements forces into the Armed Forces according to the dictations of the Integration and Demobilisation Commission.

- (d.) Implementation of the security arrangements stipulated in the Juba Agreement for the Peace of Sudan and the following agreements.
- (e.) Review the admission requirements for the Military College and review the military curricula, to confirm to the requirements of justice, equal citizenship, and the democratic military doctrine according to the law within a democratic society.
- (f.) Contribute through its representatives in the Security and Defence Council headed by the Prime Minister.

## Second Section The Police Forces

(70)

- (1) The Police Forces are official, civilian, professional, national, and federal law enforcement forces; it is concerned with protecting the citizens and their freedoms, serving them, and maintaining the security and safety of society; it is also subject to the policies and decisions of the Council of Ministers in accordance with the law within a democratic society.
- (2) The Internal Security Service shall be established to be subordinate to the Ministry of Interior, technically and administratively, in accordance with the appropriate legal procedures,
- (3) It is prohibited to form private police forces or to establish units that limit public liberties and human rights.
- (4) Reform and disempowerment of the old regime loyalists present within the Police Forces, in addition to its modernisation to achieve its efficiency and national orientation.
- (5) It is prohibited for the Police to engage in any investment or commercial business.

### Third Section

#### General Intelligence Service

(71)

- (1) The General Intelligence Service is a national, official, and civilian agency specialised in national security; its duties are limited to collecting, analysing, and submitting information to the competent authorities; it shall not have any authority for arrest nor detention and shall also not have any facilities for this purpose.
- (2) It is prohibited for the General Intelligence Service to engage in any investment or commercial business, unless within its discharge of its duties.
- (3) The General Intelligence Service shall be subordinate to the Prime Minister; the law must stipulate its duties and budget according to the requirements within the democratic system.
- (4) The Prime Minister shall appoint the General Manager of the General Intelligence Service and their deputies.
- (5) The Transitional Government shall take necessary procedures and measures to reform and modernise the General Intelligence Service, as to disempower former regime elements within it; it shall also be formed based on the doctrine of protecting the security of the nation and the people.

### Fourth Section

#### Official Security Apparatuses Courts

(72)

- (1) Notwithstanding the general jurisdiction of the judiciary, military courts shall be established for the armed forces, police forces, and the General Intelligence Service to conduct litigation and prosecution against their employees in relation to their violations of military laws with the exception of crimes against civilians or related to the rights of civilians according to the law.
- (2) The military courts shall not have the functions [jurisdiction] to prosecute grave violations to human rights such as extrajudicial killings, forced disappearance, and torture.

## Fifth Section

### Security and Defence Council

(73) The Security and Defence Council shall be established at the federal level under the chairmanship of the Prime Minister; the law shall determine its formation, mandates, and functions.

## Eleventh Chapter

### State of Emergency and the Declaration of War

#### First Section

##### Declaration of State of Emergency

(74)

- (1) In the event of any emergency, natural disaster, epidemic, or aggression that threatens the unity of the country or any part of it, or the integrity of its territory or economy, the Sovereignty Council shall, upon the recommendation of the Council of Ministers, declare a state of emergency within the country or a part of it in accordance with this Constitution.
- (2) The declaration of a state of emergency shall be submitted to the Transitional Legislative Council for approval within 15 days from the date of its issuance; if the Transitional Legislative Council is not in session, an emergency session must be held.
- (3) When the Transitional Legislative Council approves the declaration of a state of emergency, all laws, exceptional orders, and measures issued pursuant thereto shall remain in force, unless repealed by two thirds of the Legislative Council.
- (4) The declaration of a state of emergency as well as all measures taken based on it shall be considered null and void if it is not approved by the Transitional Legislative Council.
- (5) Despite the declaration of the state of emergency, the Council of Ministers and the Legislative Council shall continue discharging their constitutional duties without infringement.
- (6) When state of emergency is declared, necessary procedures according to the international law must be taken into consideration.

(7) Authorities of the Council of Ministers during the state of emergency: during the period of state of emergency, the Prime Minister may take any procedures and measures that limit or partially cancel or limit the effects of this Constitution; in extreme unprecedented situations that threatens the safety of the citizens, the Council may consult with the Sovereignty Council on suspending a part of the Bill of Rights and Freedoms included as part of this Constitution; nevertheless, no infringes may be made against the right to life, the prohibition of slavery and torture, freedom of belief and religion; no discrimination on the bases of ethnicity, gender, religious belief, disability, and the right to fair trial.

## Second Section

### Declaration of War

(75) The Sovereignty Council declares war based on the recommendation of the Council of Ministers whenever it decides that the country is under an eternal hostility; the declaration shall be legally effective after the approval of the Legislative Council through its two thirds majority.

## The Twelfth Chapter

### Amendment of the Constitution

(76)

(1) It is prohibited to amend the Constitution without a two thirds majority from the Legislative Council.

(2) Basic rights and freedoms are not amended nor touched.