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Draft Constitutional Charter for the 2019 Transitional Period

Table of Contents<sup>1</sup>

Chapter 1: General provisions ..... 3

Chapter 2: Transitional Period ..... 3

Chapter 3: Transitional period bodies ..... 5

Chapter 4: Sovereignty Council ..... 5

Chapter 5: Transitional Cabinet ..... 7

Chapter 6: Common provisions for constitutional positions ..... 9

Chapter 7: Transitional Legislative Council ..... 10

Chapter 8: National Judiciary Bodies ..... 11

Chapter 9: Public Prosecution ..... 12

Chapter 10: Auditor-General ..... 12

Chapter 11: Uniformed Agencies ..... 12

Chapter 12: Independent Commissions ..... 13

Chapter 13: State of Emergency ..... 14

Chapter 14: Rights and Freedoms Charter ..... 14

Chapter 15: Comprehensive Peace Issues ..... 18

Chapter 16: Miscellaneous provisions ..... 19

Matrix of Implementation of Measures of the Agreement between the Transitional Military Council  
and the Forces of Freedom and Change ..... 21

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<sup>1</sup> The Arabic original does not include a table of contents. It is included here for ease of reference only.

**In the Name of God, the Merciful, the Compassionate**  
**Draft Constitutional Charter for the 2019 Transitional Period**  
**Preamble**

Drawing inspiration from the Sudanese people's struggles over the course of history and the years of the former dictatorial regime from the time that it undermined the constitutional regime on 30 June 1989;

Believing in the principles of the glorious September 2018 Revolution;

In fulfillment of the lives of the martyrs and affirming the rights of the victims of the policies of the former regime;

Affirming the role of women and their active participation in carrying out the revolution;

Recognizing the role of young people in leading the revolutionary movement;

Responding to the aspirations of the Sudanese people to build a modern, democratic nation-state in accordance with an integrated reform project;

Enshrining the principle of political pluralism and the establishment of a state of law that recognizes diversity, takes citizenship as a basis for rights and duties, and that elevates the values of justice, equality and human rights;

Believing in the unity of Sudanese territory and national sovereignty;

Committed to the goals of the Declaration of Freedom and Change agreed upon between the Military Council and the Forces of Freedom and Change;

Striving to implement measures to achieve transitional justice, fight corruption, recover stolen funds, reform the national economy, achieve a state of prosperity, welfare and social justice, reform institutions of the state and public service, strengthen the pillars of social peace, deepen the values of tolerance and reconciliation between the components of the Sudanese people and rebuild trust between all the people of Sudan;

Confirming our determination to lay the foundations for a healthy civil regime to govern Sudan in the future;

And based on the legitimacy of the revolution;

We, the Transitional Military Council and the Forces of Freedom and Change, have agreed to issue the following Constitutional Charter:

## **Chapter 1: General provisions**

### **Name and Entry into Force**

1. This document is called the Constitutional Charter for the 2019 Transitional Period, and it shall enter into force from its date of signature.

### **Repeal and Exemption**

2. a. The Transitional Constitution of Sudan of 2005 and the constitutions of provinces is repealed, while the laws issued thereunder remain in force, unless they are repealed or amended.  
b. The decrees issued from 11 April 2019 until the date of signature of this Constitutional Charter remain in force, unless they are repealed or amended by the Transitional Military Council. If they contradict any provisions of this Constitutional Charter, the provisions of the present Declaration prevail.

### **Nature of the State**

3. (1) The Republic of Sudan is an independent, sovereign, democratic, parliamentary, pluralist, decentralized state, where rights and duties are based on citizenship without discrimination due to race, religion, culture, sex, color, gender, social or economic status, political opinion, disability, regional affiliation or any other cause.  
(2) The state respects human dignity. It is founded on justice, equality and diversity and guarantees human rights and fundamental freedoms.

### **Sovereignty**

4. Sovereignty belongs to the people and is exercised by the state in accordance with the provisions of the Constitutional Charter, which is the supreme law of the country and its provisions prevail over other laws. The provisions of laws that contradict the provisions of this Constitutional Charter shall be repealed or amended to the extent necessary to remove the contradiction.

### **Rule of Law**

5. (1) All people, bodies and associations, whether official or unofficial, are subject to the rule of law.  
(2) The transitional authority upholds the rule of law and apply the principle of accountability and restitution of grievances and rights that have been denied.  
(3) Notwithstanding any other text in any other law, war crimes, crimes against humanity, crimes of extra-judicial killing, violations of human rights and international and humanitarian law, crimes of financial corruption, and all crimes that involve abuse of authority committed since 30 June 1989 shall not be extinguished by prescription.

## **Chapter 2: Transitional period**

### **Duration of Transitional Period**

6. (1) The duration of the transitional period shall be 39 Gregorian months, starting from the signing of this Constitutional Charter.  
(2) During the first six months of the transitional period, the priority is to work seriously to establish peace in accordance with the content of the Transitional Period Program in this regard.

### Mandate of the Transitional Period

7. During the transitional period, state agencies performs the following duties:
- (1) Work on achieving a just and comprehensive peace, ending the war by addressing the roots of the Sudanese problem, treating its effects, taking into account the provisional preferential measures for war-affected regions, underdeveloped regions and the most affected groups.
  - (2) Repeal laws and provisions that restrict freedoms or that discriminate between citizens on the basis of gender.
  - (3) Hold accountable members of the former regime by law for all crimes committed against the Sudanese people since 30 June 1989.
  - (4) Resolve the economic crisis by stopping economic deterioration and work on laying the foundations for sustainable development by implementing an urgent economic, social, financial, and humanitarian program to face the current challenges.
  - (5) Carry out legal reform, rebuild and develop the human rights and justice system, and ensure the independence of the judiciary and the rule of law.
  - (6) Work on settling the statuses of those who were arbitrarily dismissed from civil and military service, and strive to remedy the harm they suffered in accordance with the law.
  - (7) Guarantee and promote women's rights in Sudan in all social, political, and economic fields, and combat all forms of discrimination against women, taking into account provisional preferential measures in both war and peace.
  - (8) Strengthen the role of young people of both sexes and expand their opportunities in all social, political and economic fields.
  - (9) Establish mechanisms to prepare to draft a permanent constitution for the Republic of Sudan.
  - (10) Hold a national, constitutional conference before the end of the transitional period.
  - (11) Enact legislation related to the tasks of the transitional period.
  - (12) Implement programs to reform state agencies during the transitional period in a manner that reflects their independence, patriotism, and the fair distribution of opportunities therein, without altering conditions of aptitude and competence. The task of reforming military bodies is entrusted to military institutions in accordance with the law.
  - (13) Draft a balanced foreign policy to achieve the supreme national interests of the state and work on improving and building Sudan's foreign relations on bases of independence and shared interests in a manner that preserves the sovereignty, security and borders of the country.
  - (14) Perform an active role in social welfare and achieve social development by striving to provide healthcare, education, housing and social security, and work on maintaining a clean natural environment and biodiversity in the country and protecting and developing it in a manner that guarantees the future of generations.
  - (15) Dismantle the June 1989 regime's structure for consolidation of power (*tamkeen*), and build a state of laws and institutions.
  - (16) Form a national, independent investigation committee, with African support if necessary as assessed by the national committee, to conduct a transparent, meticulous investigation of violations committed on 3 June 2019, and events and incidents where violations of the rights and dignity of civilian and military citizens were committed. The committee shall be formed within one month from the date the appointment of the Prime Minister is approved, and that the order forming the committee contains guarantees that it will be independent and possess full powers to investigate and determine the timeframe for its activities.

### **Chapter 3: Transitional period bodies**

#### Levels of government

8. (1) The Republic of Sudan is a decentralized state, whose levels of government is as follows:
  - (a) The federal level, which exercises its powers to protect the sovereignty of Sudan and the integrity of its territory, and promote the welfare of its people by exercising powers on the national level;
  - (b) The regional or provincial level, which exercises its powers on the level of regions or provinces as prescribed by subsequent measures;
  - (c) The local level, which promotes broad popular participation and express the basic needs of citizens, and the law determines its structures and powers.
- (2) The different levels of governance have both exclusive and shared competencies and powers, and they have resources, as determined by the law.
- (3) Until the geographical demarcation and distribution of powers and competencies between the levels of government is re-examined, the existing system shall remain in effect and executive governments shall be formed in the provinces, as determined by subsequent measures.

#### Transitional Government Bodies

9. The bodies of the transitional government consist of the following:
  - (1) The Sovereignty Council, which is the head of state and symbol of its sovereignty and unity;
  - (2) The Cabinet, which is the supreme, executive authority of the state;
  - (3) The Legislative Council, which is the authority responsible for legislation and oversight over the executive's performance.

### **Chapter 4: Sovereignty Council**

#### Composition of the Sovereignty Council

10. (1) The Sovereignty Council is the head of state, the symbol of its sovereignty and unity, and the Supreme Commander of the armed forces, Rapid Support Forces, and other uniformed forces. It is formed by agreement between the Transitional Military Council and the Forces of Freedom and Change.
- (2) The Sovereignty Council consists of 11 members, of whom five are civilians selected by the Forces of Freedom and Change, and five are selected by the Transitional Military Council. The eleventh member is a civilian, selected by agreement between the Transitional Military Council and the Forces of Freedom and Change.
- (3) Over the first 21 months of the transitional period, the Sovereignty Council is chaired by someone selected by the military members, and in the remaining 18 months of the transitional period, starting from ..... 2021, it is chaired by a civilian member selected by the five civilian members who were selected by the Forces of Freedom and Change.

#### Competencies and Powers of the Sovereignty Council

11. (1) The Sovereignty Council exercises the following competencies and powers:
  - (a) Appoint the Prime Minister selected by the forces of Freedom and Change;

- (b) Confirm the Cabinet members appointed by the Prime Minister, from a list of candidates provided by the Forces of Freedom and Change;
  - (c) Confirm the heads of regions or governors of provinces, according to the case, after they are appointed by the Prime Minister;
  - (d) Confirm the appointment of members of the Transitional Legislative Council after they are selected in accordance with the provisions of Article 23 (3) of this Charter;
  - (e) Confirm the formation of the Supreme Judicial Council after it is formed in accordance with the law;
  - (f) Confirm the appointment of the Judiciary President, judges of the Supreme Court, and the president and members of the constitutional court, after they are nominated by the Supreme Judicial Council;
  - (g) Confirm the appointment of the Prosecutor-General after he is nominated by the Supreme Council of the Public Prosecution;
  - (h) Confirm the appointment of the Auditor-General after he is selected by the Cabinet;
  - (i) Confirm Sudan's ambassadors abroad at the nomination of the Cabinet, and accept the accreditation of foreign ambassadors to Sudan;
  - (j) Declare war based on a recommendation from the Security and Defense Council, which consists of the Sovereignty Council, the Prime Minister, the Minister of Defense, the Minister of Interior, the Minister of Foreign Affairs, the Minister of Justice, the Minister of Finance, the Supreme Commander of the Armed Forces, the Prosecutor-General and the Director-General of the General Intelligence Service, provided that [the declaration of war] is ratified by the Transitional Legislative Council within 15 days from the date of the declaration. If the Transitional Legislative Council is not in session, an emergency session is convened;
  - (k) Declare a state of emergency at the request of the Cabinet, which is ratified by the Transitional Legislative Council within 15 days from the date of the declaration;
  - (l) Sign laws passed by the Transitional Legislative Council. In the event that the Sovereignty Council fails to sign it for 15 days without providing reasons, the law is deemed in effect. If within the said 15 days, the Sovereignty Council provides reasons for its refusal to sign, the law is returned to the Transitional Legislative Council for deliberation on the Sovereignty Council's observations. The draft law is adopted if the Transitional Legislative Council passes it again; in this case, the Sovereignty Council's approval is not necessary for the law to enter into force.
  - (m) Ratify final rulings issued for execution from judicial authorities;
  - (n) The power to pardon people convicted and vacate the sentence or conviction in accordance with the law;
  - (o) Sign international and regional agreements after ratification by the Transitional Legislative Council;
  - (p) Sponsor the peace process with armed movements;
  - (q) Issue regulations organizing its activities.
- (2) For the purposes of this article, "confirm" means the formally necessary signature for the issued decision to enter into effect. The decision enters into effect within 15 days from the date that it is submitted to the Sovereignty Council. If the Sovereignty Council provides reasons for its refusal to confirm or ratify within 15 days from the date that it receives the decision, the decision is returned to the body that issued it to deliberate the Sovereignty Council's observations. If the competent body issues the decision again, the decision or ratification is considered legally effective.

- (3) The Sovereignty Council issues decisions by consensus or, in the absence of consensus, by a two-thirds majority of its members.

#### Conditions for Membership in the Sovereignty Council

12. The chairman and members of the Sovereignty Council meet the following conditions:
  - (1) He is of Sudanese nationality by birth, and not hold the nationality of any other country;
  - (2) He is not be less than 35 years of age;
  - (3) He possesses integrity and competence;
  - (4) He has not have been convicted by a final ruling from a competent court for a crime related to honor, trustworthiness or financial responsibility.

#### Loss of Membership in the Sovereignty Council

13. (1) Members of the Sovereignty Council lose their membership for any of the following reasons:
  - (a) Resignation;
  - (b) Illness that prevents them from performing their duties, according to a medical decision issued by an accredited body;
  - (c) Conviction by a final ruling from a competent court on a crime related to honor, trustworthiness or financial responsibility;
  - (d) Loss of one of the conditions of membership;
  - (e) Death;
- (2) In the event that a seat on the Sovereignty Council is vacant, the Transitional Legislative Council nominates a replacement member, if the member whose seat was vacated is civilian, and the Supreme Commander of the Armed Forces nominates the replacement if he was military, and the Sovereignty Council confirms the appointment.

### **Chapter 5: Transitional Cabinet**

#### Composition of the Transitional Cabinet

14. (1) The Cabinet is composed of a Prime Minister and a number of ministers not exceeding 20 from national talent of independent counsel, appointed by the Prime Minister from a list of candidates from the Forces of Freedom and Change, and confirmed by the Sovereignty Council, except for the Ministers of Defense and Interior, who is nominated by the military component of the Sovereignty Council.
- (2) The Forces of Freedom and Change selects the Prime Minister, and he is appointed by the Sovereignty Council.
- (3) Ministers bear collective and individual responsibility before the Transitional Legislative Council for the performance of the Cabinet and ministries.

#### The Cabinet's Competencies and Powers

15. The Cabinet has the following competencies and powers:
  - (1) Carry out the tasks of the transitional period in accordance with the program of the Freedom and Change Declaration contained in this Charter;
  - (2) Work to stop wars and conflicts and build peace;
  - (3) Expedite draft laws, the draft general budget of the state, international treaties and bilateral and multilateral agreements;



- (4) Draft plans, programs, and policies for the public civil service, which shall be responsible for administering the apparatus of the state by applying and implementing such plans and programs;
- (5) Form independent national commissions in accordance with the provisions of Chapter 12;
- (6) Appoint and dismiss the heads of the civil service, oversee and guide the work of state agencies, including the activities of ministries, public institutions, bodies and authorities and the companies subordinate or connected thereto, and coordinate between them in accordance with the law;
- (7) Supervise the enforcement of the law in accordance with the various competencies and take all measures and procedures to perform its transitional duties;
- (8) Issue regulations organizing its activities.

#### Conditions for Membership in the Cabinet

16. (1) The Prime Minister and members of the Cabinet meet the following conditions:
  - (a) He is Sudanese by birth;
  - (b) He is not be less than 25 years of age;
  - (c) Fairness, competence, qualification, and he has the practical expertise and the appropriate administrative capabilities for the position;
  - (d) He has not been convicted by a final ruling from a competent court of a crime of honor, trustworthiness or financial responsibility;
- (2) Subject to the condition found in Paragraph (1-a) of this article, the Prime Minister and the Ministers of Defense, Interior, Foreign Affairs, and Justice shall not bear the nationality of another country. Exemptions from this condition may be granted by agreement between the Sovereignty Council and the Forces of Freedom and Change for the Prime Minister, and by agreement between the Sovereignty Council and the Prime Minister with respect to the ministers mentioned in this paragraph.

#### Loss of Membership in the Cabinet

17. (1) The Prime Minister or member of the Cabinet lose their position for any of the following reasons:
  - (a) Resignation of the Prime Minister and its acceptance by the Sovereignty Council;
  - (b) Resignation of the minister and its acceptance by the Prime Minister and confirmation by the Sovereignty Council;
  - (c) Ministers may be dismissed by the Prime Minister, and such dismissal is confirmed by the Sovereignty Council;
  - (d) Withdrawal of confidence by the Transitional Legislative Council with a two-thirds majority;
  - (e) Conviction by a final ruling from a competent court of a crime related to honor, trustworthiness or financial responsibility;
  - (f) Illness that prevents him from performing his duties in accordance with a medical decision by a legally competent body;
  - (g) Death;
  - (h) Loss of one of the conditions of membership;
  - (i) In the event that the position of Prime Minister is vacant, the Transitional Legislative Council names a Prime Minister, and the Sovereignty Council confirms his appointment.

**Chapter 6:  
Common provisions for constitutional positions**

Financial Disclosure and Prohibition of Commercial Activities

18. (1) Upon assuming their positions, members of the Sovereignty Council, Cabinet, governors or ministers of provinces or heads of regions and members of the Transitional Legislative Council submit a financial disclosure including their properties and obligations, including those of their spouses and children, in accordance with the law.
- (2) The chairman and members of the Sovereignty Council and ministers, governor and ministries of provinces or heads of regions undertake to not practice any profession or commercial or financial activity while occupying their positions. They do not receive any financial compensation, gifts, or work of any type from any non-government entity, whatever the case may be.

Prohibition on Candidacy in Elections

19. The chairman and members of the Sovereignty Council and ministers, governors of provinces, or heads of regions, are not be entitled to run in the public elections that follow the transitional period.

Challenging Actions of the Sovereignty Council and Cabinet

20. (1) Anyone harmed by the actions of the Sovereignty Council or Cabinet may challenge the same before:
- (a) The Constitutional Court, if the challenge is directed at any infringement of the constitutional order or constitutional freedoms, protections or rights.
- (b) A court, if the challenge is directed at violation of the law.

Procedural Immunity

21. (1) Criminal procedures may not be taken against any members of the Sovereignty Council, Cabinet, Transitional Legislative Council or governors of provinces/heads of regions without receiving permission to lift immunity from the Legislative Council.
- (2) The decision to lift this procedural immunity is issued by a simple majority of members of the Legislative Council.
- (3) Until the Transitional Legislative Council is formed, lifting immunity falls within the competencies of the Constitutional Court. If the Legislative Council is not in session, an emergency session is held.

Oath of the Chairman and Members of the Sovereignty Council and Cabinet

22. The chairman and members of the Sovereignty Council and ministers swear the following oath before the President of the Judiciary:
- “I ..... swear by Almighty God, as chairman/members of the Transitional Sovereignty Council/Cabinet, that I will be sincere and faithful in my loyalty to the Republic of Sudan, and that I will perform my duties and responsibilities with seriousness, trustworthiness and transparency for the advancement, prosperity and progress of the Sudanese people. I swear that I will uphold, protect and preserve the Transitional Constitutional Charter, that I will observe the laws of the Republic of Sudan, and that I will defend the sovereignty of the country. I swear that I will work for its unity, that I will strengthen the pillars of democratic governance, and that I will protect the dignity and honor of the people of Sudan. With God as my witness.”

## Chapter 7: Transitional Legislative Council

### Composition of the Transitional Legislative Council

23. (1) The Transitional Legislative Council is an independent, legislative authority. It may be dissolved. The number of members therein shall not exceed 300 members, and it represents all forces participating in change, except for members of the National Congress and political forces that participated in the former regime until its downfall;
- (2) The participation of women is not be less than 40% of the membership of the Transitional Legislative Council;
- (3) 67% of the members of the Transitional Legislative Council are selected by the Forces of Freedom and Change, and 33% are selected by other forces who did not sign the Freedom and Change Declaration. The appointments take place and the percentages of each force are determined in consultation between the Forces of Freedom and Change and the military members of the Sovereignty Council;
- (4) The Transitional Legislative Council is formed and begins to exercise its duties in a period not exceeding 90 days from the date that this Charter is signed;
- (5) In forming the Transitional Legislative Council, the components of Sudanese society are taken into account, including political, civil and professional forces, Sufi orders, native administrations, and armed movements, whether or not they signed the Freedom and Change Declaration, as well as other components of Sudanese society.

### Competencies, Powers and Term of Office of the Transitional Legislative Council

24. (1) The Transitional Legislative Council has the following competencies and powers:
- (a) Enact laws and legislation;
  - (b) Oversee the performance of the Cabinet, hold it accountable, and withdraw confidence therefrom or from any of its members, if necessary;
  - (c) Approve the general budget of the state;
  - (d) Ratify bilateral, regional and international agreements and treaties;
  - (e) Enact legislation and regulations organizing its activities and select the Speaker of the Council, Deputy Speaker and its specialized committees;
- (2) In the event that confidence is withdrawn from the Prime Minister, the Transitional Legislative Council names the Prime Minister, who is confirmed by the Sovereignty Council;
- (3) Until the Legislative Council is formed, the Council's powers are invested in the members of the Sovereignty Council and the Cabinet, who exercise them in a joint meeting, and who take decisions by consensus or by a two-thirds majority of members.
- (4) In the event that the position of Prime Minister is vacant on account of death or disability before the Transitional Legislative Council is formed, his replacement is appointed by the same method that the Prime Minister was initially appointed;
- (5) Decisions of the Transitional Legislative Council are issued by simple majority;
- (6) The term of the Transitional Legislative Council comes to an end at the conclusion of the transitional period.

### Conditions of Membership in the Transitional Legislative Council

25. Members in the Transitional Legislative Council meet the following conditions:
- (1) He is a Sudanese national by birth;

- (2) He is not be less than 21 years of age;
- (3) He possesses integrity and competence;
- (4) He has not been convicted by a final ruling from a competent court of a crime relating to honor, trustworthiness, or financial responsibility;
- (5) He must be able to read and write.

#### Loss of Membership in the Transitional Legislative Council

26. (1) A member of the Legislative Council loses his position for any of the following reasons:
- (a) Resignation and its acceptance by the Transitional Legislative Council;
  - (b) Dismissal by the Transitional Legislative Council, in accordance with the regulations organizing work;
  - (c) Conviction by a final ruling from a competent court of a crime related to honor, trustworthiness or financial responsibility;
  - (d) Illness that prevents him from performing his duties, according to a medical decision from a legally competent body;
  - (e) Death;
  - (f) Loss of one of the conditions of membership set forth in Article 25.
- (2) In the event that the seat of a member of the Transitional Legislative Council is vacant, the entity that originally nominated him selects a replacement member, who is approved by the Sovereignty Council. If this is impossible, the Transitional Legislative Council selects a replacement member.

#### Oath of the Speaker and Members of the Transitional Legislative Council

27. The Speaker and Members of the Transitional Legislative Council swears the following oath:
- "I ..... swear by Almighty God, as Speaker / member of the Transitional Legislative Council that I will be sincere and faithful in my loyalty to the Republic of Sudan, and that I will perform my duties and responsibilities with seriousness, trustworthiness and transparency for the advancement, prosperity and progress of the Sudanese people. I swear that I will uphold, protect and preserve the Transitional Constitutional Charter, that I will observe the laws of the Republic of Sudan, and that I will defend the sovereignty of the country. I swear that I will work for its unity, that I will strengthen the pillars of democratic governance, and that I will protect the dignity and honor of the people of Sudan. With God as my witness."

### **Chapter 8: National judiciary bodies**

#### Supreme Judicial Council

28. (1) A Supreme Judicial Council is established to take the place of the National Judicial Service Commission, and [the Council] assumes the duties of the latter. The law defines its composition, competencies and powers.
- (2) The Supreme Judicial Council selects the president and members of the Constitutional Court and the president of the judiciary and his deputies.

#### The Judicial Authority

29. (1) In the Republic of Sudan, jurisdiction is entrusted to the judicial authority.
- (2) The judicial authority is independent from the Sovereignty Council and the Transitional Legislative Council and the executive branch, and it has the necessary financial and administrative independence.
- (3) The judicial authority has jurisdiction to adjudicate disputes and issue rulings in accordance with the law.
- (4) The President of the Judiciary of the Republic of Sudan is the head of the judicial authority and president of the National Supreme Court, and he is responsible for administering the judicial authority before the Supreme Judicial Council.
- (5) The agencies and institutions of the state implement the rulings and orders of the courts.

#### The Constitutional Court

30. (1) The Constitutional Court is an independent court, separate from the judicial authority. It is competent to oversee the constitutionality of laws and measures, protect rights and freedoms, and adjudicate constitutional disputes.
- (2) The Constitutional Court is formed and its competencies and powers is defined by law.

### **Chapter 9: Public Prosecution**

31. The Public Prosecution is an independent agency that works in accordance with the organizing laws.
32. The Supreme Council of the Public Prosecution nominates the Prosecutor-General and his assistants, who is appointed by the Sovereignty Council.

### **Chapter 10 Auditor-General**

33. The Public Audit Agency is an independent agency that works in accordance with the organizing laws.

### **Chapter 11: Uniformed Agencies**

#### Armed Forces

34. 1. The armed forces and Rapid Support Forces are a national military institution that protect the unity and sovereignty of the nation. They are subordinated to the Supreme Commander of the Armed Forces and subject to the sovereign authority.
2. The Armed Forces Law and the Rapid Support Forces Law organize the relationship of the military institution with the executive authority.

#### Police Forces

35. 1. The police forces are national, uniformed law enforcement forces, and are competent to preserve the security and safety of society. They are subject to the policies and decisions of the executive authority by law.
2. The Police Law and Armed Forces Law organize their relationship with the sovereign authority.

#### General Intelligence Service

36. The General Intelligence Service is a uniformed agency that is competent in national security. Its duties are limited to gathering and analyzing information and providing it to the competent bodies. The law defines its obligations and duties, and it is subject to the sovereign and executive authorities by law.

#### Military Courts

37. Notwithstanding the general jurisdiction of the judiciary, military courts may be established for the armed forces, Rapid Support Forces, police forces, and the General Intelligence Service in order to try their members with regards to their violations of military laws. Crimes against civilians or relating to the rights of civilians over which the regular courts of the judiciary are competent are be excepted therefrom.

### **Chapter 12: Independent Commissions**

38. (1) Independent commissions shall be established, and figures with attested competence and integrity shall be nominated therefor. They are formed and their competencies defined by the laws that establish them.
- (2) For nomination to membership on such commissions, candidates shall meet the following requirements:
  - (a) Academic qualification and practical expertise in the relevant field;
  - (b) May not have held sovereign or constitutional positions during the period of rule from June 1989;
  - (c) Neutrality, integrity, competence and professional independence;
- (3) The Sovereignty Council appoints the chairman and members of the following commissions, in consultation with the Cabinet:
  - (a) Peace Commission;
  - (b) Borders Commission;
  - (c) Constitutional Drafting and the Constitutional Conference Commission;
  - (d) Elections Commission.
- (5) [*sic*] (a) Legal Reform Commission;
- (b) Anti-Corruption and Public Funds Recovery Commission;
- (c) Human Rights Commission;
- (d) Civil Service Reform Commission;

- (e) Land Commission;
- (f) Transitional Justice Commission;
- (g) Women and Gender Equality Commission;
- (h) Any other commissions that the Cabinet deems necessary to establish.

### **Chapter 13: State of Emergency**

- 39. (1) Upon the occurrence of any emergent danger or natural or environmental disaster that threatens the unity of the country, or any part thereof, or its safety or economy, the Cabinet may ask the Sovereignty Council to declare a state of emergency in the country or any part thereof, in accordance with the Constitutional Charter and the law.
  - (2) The declaration of a state of emergency is presented to the Transitional Legislative Council within 15 days from the date of its issuance. If the Transitional Legislative Council is not in session, an emergency session is convened.
  - (3) Upon the Legislative Council's ratification of the declaration of a state of emergency, all exceptional laws, orders and measures issued thereunder remain in force.
  - (4) The declaration of a state of emergency is extinguished if the Legislative Council does not ratify it, and all the measures taken thereunder are extinguished, without retroactive force.
40. The powers of the Cabinet in a state of emergency are as follows: while the state of emergency is in effect, the Cabinet may take any measures without restriction, or may partially repeal or limit the effects of provisions of this Declaration. Furthermore, if the exceptional situation reaches the point that it threatens the safety of the nation, the Cabinet may, in consultation with the Sovereignty Council, suspend part of the rights document found in this Declaration. However, it may not reduce the right to life, protection from enslavement or torture, or the principle of non-discrimination on the basis of race, gender, religious conviction, disability, or the right to litigate or the right to a fair trial.

### **Chapter 14: Rights and freedoms Charter**

41. The essence of the rights document
- (1) The rights document is a pact between all the people of Sudan, and between them and their governments at every level. It is in obligation on their part to respect the human rights and fundamental freedoms contained in the document, and to work to advance them, and they shall be considered the cornerstone of social justice, equality and democracy in Sudan.
  - (2) All rights and freedoms contained in international human rights agreements, pacts, and charters ratified by the Republic of Sudan shall be considered an integral part of this document.
  - (3) Legislation shall organize the rights and freedoms contained in this document but shall not confiscate them or reduce them, and it shall only restrict such freedoms as needed by democratic society.
42. The State's obligations
- The state undertakes to protect and strengthen the rights contained in this document and guarantee them for all without discrimination on the basis of race, color, gender, language, religion, political opinion, social status, or other reason.

43. Life and human dignity  
Every person has a fundamental right to life, dignity, and personal safety, which shall be protected by the law. No person may be deprived of life arbitrarily.
44. Citizenship and nationality  
(1) Citizenship is the basis of equal rights and obligations for all Sudanese.  
(2) Anyone born to a Sudanese mother or father has an inalienable right to possess Sudanese nationality and citizenship.  
(3) The law shall organize citizenship and naturalization, and no one who has acquired citizenship by naturalization shall be deprived of nationality except by law.  
(4) Any Sudanese person may acquire the nationality of another country, as regulated by law.
45. Personal freedom  
(1) Every person has the right to freedom and security. No one shall be subjected to arrest or detention, or deprived of freedom or restricted therefrom except for cause in accordance with procedures defined by law.  
(2) Every person who is deprived of freedom shall have the right to humane treatment and respect of their human dignity.
46. Prohibition of slavery and forced labor  
(1) Slavery and human trafficking shall be prohibited in all forms. No person shall be enslaved or subjected to forced labor.  
(2) No person shall be compelled to perform work by force except as a punishment following conviction by a competent court.
47. Equality before the law  
People are equal before the law, and have the right to the protection of the law without discrimination between them because of ethnicity, color, gender, language, religious faith, political opinion, racial or ethnic origin, or any other reason.
48. Women's rights  
(1) The state shall protect women's rights as set forth in international and regional agreements ratified by Sudan.  
(2) The state shall guarantee to both men and women the equal right to enjoy all civil, political, social, cultural, and economic rights, including the right to equal pay for equal work, and other professional benefits.  
(3) The state shall guarantee women's rights in all fields through positive discrimination.  
(4) The state shall work to combat harmful customs and traditions that reduce the dignity and status of women.  
(5) The state shall provide free healthcare for motherhood, childhood and pregnant women.
49. Children's rights  
The state shall protect the rights of the child as set forth in international and regional agreements ratified by Sudan.



50. Protection from torture  
No one may be subjected to torture or harsh, inhumane, or degrading treatment or punishment, or debasement of human dignity.
51. Fair trial
- (1) Accused persons are innocent until proven guilty by law.
  - (2) Upon being arrested, the person arrested shall be notified of the reasons for the arrest and shall be informed of the charge against them without delay.
  - (3) Any person, whether civil or criminal proceedings are being taken against them, shall have the right to a fair and open hearing before a competent ordinary court in accordance with the procedures defined by law.
  - (4) Charges may not be brought against any person because of an act or failure to act if such act or failure to act did not constitute a crime at the time of its occurrence.
  - (5) Every person shall have the right to be tried in their presence without unjustified delay on any criminal charge. The law shall regulate trials in absentia.
  - (6) The accused shall have the right to defend himself personally or via an attorney he selects. He shall have the right to be provided legal assistance by the state when he is unable to defend himself in crimes of extreme gravity.
52. Right to litigate  
The right to litigate shall be guaranteed for all, and no one shall be deprived of the right to resort to the justice system.
53. Restriction of the death penalty
- (1) The death penalty may only be inflicted as retribution (*qasas*), a *hudud* punishment, or as a penalty for crimes of extreme gravity, in accordance with the law.
  - (2) The death penalty may not be inflicted on anyone who has not reached 18 years of age at the time that the crime was committed, and it may not be inflicted on anyone who has reached 70 years of age, except in the case of *qasas* and *hudud* crimes.
  - (3) The death penalty may only be inflicted on pregnant women and nursing mothers two years after [they have finished] breastfeeding.
54. Right to privacy  
No one's privacy may be violated, nor shall it be permitted to interfere in the private or family life of any person in his home or correspondence, except by law.
55. Freedom of belief and worship  
Every person shall have the right to freedom of religious belief and worship. They shall have the right to profess or express their religion or belief through worship, education, practice, performance of rituals, or celebrations, in accordance with the requirements of the law and public order. No one shall be compelled to convert to a religion they do not believe in or to practices rites or rituals they do not voluntarily accept.
56. Freedom of express and the press
- (1) Every citizen shall have the unrestricted right to freedom of expression, to receive and publish information and publications, and to access the press, without prejudice to public order, safety and morals, as defined by law.

- (2) The right to access the internet, without prejudice to public order, safety, and morals, as defined by the law.
  - (3) The state shall guarantee freedom of the press and other media, as regulated by law in a democratic, pluralistic society.
  - (4) All media shall adhere to the ethics of the profession and shall not incite religious, ethnic, racial, or cultural hatred, or call for violence or war.
57. Freedom of assembly and organization
- (1) The right to peaceful assembly shall be guaranteed, and every person shall have the right to free organization without others, including the right to form political parties, associations, organizations, syndicates and professional unions, or the join the same in order to protect their interests.
  - (2) The law shall regulate the formation and registration of political parties, associations, organizations, syndicates and professional unions, in accordance with what is required by democratic society.
  - (3) No organization shall have to right to work as a political party, unless it has the following:
    - (a) Open membership for all Sudanese, regardless of religion, ethnic origin or place of birth;
    - (b) Democratically elected institutions;
    - (c) Transparent and open sources of funding.
58. The right to political participation
- Every citizen has the right to political participation in public affairs, as regulated by law.
59. Freedom of travel and residence
- (1) Every citizen has the right to freedom of travel and free choice of place of residence, except for reasons required by public health or safety, as regulated by law.
  - (2) Every citizen shall have the right to leave the country, as regulated by law, and they shall also have the right to return.
60. Right of ownership
- (1) Every citizen shall have the right to acquisition and ownership by law.
  - (2) Private property shall not be appropriated except by virtue of a law and for the public interest, and in return for fair, immediate compensation. Private funds may only be confiscated by virtue of a court ruling.
61. Right to education
- (1) Education is a right for every citizen. The state shall guarantee access thereto without discrimination on the basis of religion, race, ethnicity, gender or disability.
  - (2) Education at the general level shall be compulsory, and the state shall provide it free of charge.
62. Independence of universities and institutes of higher learning
- The state shall guarantee the independence of universities and academic research centers, and freedom of thought and academic research.

63. Rights of handicapped persons and the elderly
- (1) The state shall guarantee for handicapped persons all the rights and freedoms set forth in this document, in particular respect for their dignity. It shall vouchsafe appropriate education and work for them, and guarantee their full participation in society.
  - (2) The state shall guarantee for the elderly the right to respect for their dignity, and provide them with the necessary medical care and services as regulated by law.
64. Right to health
- The state shall undertake to provide primary health care and emergency services free of charge for all citizens, develop public health, and establish, develop and qualify basic treatment and diagnostic institutions.
65. Ethnic and cultural groups
- All ethnic and cultural groups shall have the right to enjoy their own culture and develop it freely. The members of such groups shall have the right to exercise their beliefs, use their languages, observe their religions or customs, and raise their children in the framework of such cultures and customs.
66. Protection of rights and freedoms
- Subject to Article 30 of this document, the rights and freedoms set forth in this document shall not be reduced. The Constitutional Court and other competent courts shall preserve, protect and apply this document, and the Human Rights Commission shall oversee its application in the state.

#### **Chapter 15: Comprehensive Peace Issues**

67. During the transitional period, state agencies shall work on performing the following duties:
- a. Achieve a just and comprehensive peace, end the war by addressing the roots of the Sudanese problem and handling its effects, taking into account the provisional preferential measures for regions affected by war and underdeveloped regions, and treat issues of marginalization and vulnerable groups and the groups most harmed.
  - b. Prioritize working on completing the comprehensive peace agreement mentioned in the above paragraph within a period not exceeding six months from the date that this agreement is signed, beginning within one month from the date that the Peace Commission is formed.
  - c. Apply UN Security Council Resolution 1325 and the relevant African Union resolutions regarding participation of women at all levels in the peace process, and apply regional and international charters regarding women's rights.
  - d. Conduct legal reforms that guarantee women's rights, by repealing all laws that discriminate against women, and protect the rights granted to them by this Constitutional Charter.
  - e. Work on stopping hostilities in disputed regions, and build a comprehensive and fair peace process by opening corridors for delivery of humanitarian assistance, and release prisoners and persons convicted because of the war, and exchange prisoners;
  - f. Issue a general amnesty for rulings issued against political leaders and members of armed movements because of their membership therein.

- g. Start implementing transitional justice and accountability measures for crimes against humanity and war crimes, and present the accused to national and international courts, in application of the no-impunity principle;
  - h. Facilitate the mission of the UN delegation of the High Commissioner of Human Rights to work in Sudan.
  - i. Return properties belonging to organizations and individuals that were confiscated due to war in accordance with the law.
  - j. Adhere to the relevant international standards for compensation and return of properties to displaced persons and refugees, and ensure and guarantee the human rights of displaced persons and refugees set forth in international agreements and national laws within the voluntary return process and after.
  - k. Ensure the right of displaced persons and refugees to participate in general elections and the Constitutional Conference.
68. The essential issues for peace negotiations include the following:
- a. Particularity of the regions affected by war;
  - b. Security arrangements;
  - c. Voluntary return and sustainable solutions for the issues of displaced persons and refugees;
  - d. Issues of marginalization and vulnerable groups;
  - e. Equal citizenship;
  - f. The system of governance and the relationship between the center, provinces/regions;
  - g. Issues of land and tribal lands (*hawakir*);
  - h. Fair distribution of power and wealth;
  - i. Fair and sustainable development;
  - j. Reconstruction of regions affected by the war;
  - k. Compensation and restoration of property;
  - l. Transitional justice, reconciliation and restitution of victims;
  - m. The administrative status of provinces/regions affected by the war;
  - n. Any other issues to achieve a comprehensive and just peace process.
69. The comprehensive peace agreements signed between the transitional authority and the armed movements shall be included in this Constitutional Charter in accordance with its provisions.

#### **Chapter 16: Miscellaneous provisions**

70. (1) The provisions of this Constitutional Charter have been derived from the political agreement of governing structures in the transitional period signed between the Forces of Freedom and Change and the Transitional Military Council. If any provisions of these two documents are in conflict, the provisions of this present Declaration shall prevail.
- (2) The Transitional Military Council shall be dissolved once the constitutional oath is sworn by the members of the Sovereignty Council.
- (3) Except where a relevant provision is included in this Constitutional Charter, the work of existing state agencies and institutions shall continue, unless they are dissolved, abolished, or reconstituted by any subsequent measure.

- (4) a. With the exception of the authorities and powers granted to the Sovereignty Council by virtue of this Constitutional Charter, all authorities and powers of the President of the Republic of an executive character and set forth in valid law shall be vested in the Prime Minister.
  - b. If a dispute arises between authority of a sovereign and an executive character, the Constitutional Court shall be competent to decide on such a dispute.
- (5) The Sovereignty Council and the Cabinet shall represent the state abroad in accordance with the powers of each body.
- (6) Peace agreements concluded between the government of Sudan and armed movements shall be reviewed to resolve imbalances so as to ensure a comprehensive and just peace.

In the Name of God, the Merciful, the Compassionate

**Matrix of Implementation of Measures of the Agreement between the Transitional Military Council and the Forces of Freedom and Change**

Item	Action	Date	Implementing Body	Observations
1	Signing of initial draft	4 August 2019	Transitional Military Council and Freedom and Change forces	
2	Final signing ceremonies	17 August 2019	Transitional Military Council and Freedom and Change forces	
3	Appointment of the Sovereignty Council and dissolution of the Transitional Military Council	18 August 2019	Chairman of the Transitional Military Council	
4	Sovereignty Council sworn in	19 August 2019	President of the Judiciary	
5	First session of Sovereignty Council	19 August 2019	Sovereignty Council	
6	Appointment of Prime Minister	20 August 2019	Sovereignty Council	
7	Prime Minister sworn in	21 August 2019	Sovereignty Council and President of the Judiciary	
8	Appointment of members of the Cabinet	28 August 2019	Prime Minister	
9	Approval of members of the Cabinet	30 August 2019	Sovereignty Council	
10	Ministers sworn in	31 August 2019	President of the Judiciary and Prime Minister	
11	First session of Cabinet	31 August 2019	Cabinet	
12	First joint session of Sovereignty Council and Cabinet	1 September 2019	Sovereignty Council and Cabinet	Comprehensive peace process begins

Signatories

Transitional Military Council  
[signature]

Forces of Freedom and Change  
[signature]