

The Transitional Constitution of the Sudan, 1985

A document containing an organic law by which the Republic of the Sudan shall be governed until a permanent constitution has been laid down.

Part I

General Provisions

Title and Commencement

1. This document may be cited as "The Transitional Constitution of the Sudan, 1985" and shall take effect from date issued by the Transitional Military Council.

The Republic of Sudan

2. The Sudan is a unitary democratic republic with sovereignty over all regions within its international borders.

Supremacy of the Transitional Constitution

3. The provisions of this Constitution shall prevail over all laws and shall repeal the provisions of any laws conflicting with the provisions of this Constitution to the extent of removing such conflict.

Sources of Legislation

4. The Islamic Sharia and Custom are the main sources of legislation and the personal affairs of non-Muslims shall be governed by their respective laws.

Part II

Principles Directing the State Policy.

National Unity

5. The State shall work for consolidation of the spirit of national unity and solidarity among all the Sudanese and elimination of racial and regional prejudice.

Democratic System

6. The State shall work for the establishment and consolidation of basis of democracy in the country and ensure the participation of the citizens through the democratic institutions in the public life.

Multi-Party System

7. The political system shall be founded on the free formation of political parties and the law shall protect the parties committed to the democratic ideals and means mentioned in the Constitution.

Independence of the Judiciary

8. The judiciary is an independent body and no executive or legislative power shall interfere with or control its functions.

Independence of the Universities

9. The State shall guarantee the independence of the universities, freedom of thought and scientific research.

Independence of the Public Service

10. The public service shall be independent and neutral and subject to rule of law.

Rule of Law

11. The State and every person, natural or legal, whether official or unofficial, is subject to the rule of law as implemented by the courts.

Independence of the Public Information Media

12. The State shall guarantee the independence and the national character of the information media owned by the State and provide equality of opportunities of expression therein, in accordance with the law protecting such independence.

The Economy

13. The State shall work for the realization of social justice in the field of economy and for direction of the economy through sound planning guaranteeing steady development of production.

The Foreign Policy

14. The foreign policy of the State shall be based on the principles of non-alignment, consolidation of the world peace, settlement of international and regional disputes through peaceful means, maintenance of neighbourliness and consolidation of relations with all nations, particularly with Arab, African and Islamic nations.

The People's Armed Forces

15. The ~~People's~~ Armed Forces are ~~indivisible~~ part of the people and their task is protection of the country, integrity of its territory, security and protection of the gains of ~~Rajab~~ popular revolution.

Decentralization of Government

- 16.(1) The five Northern Regions and the National Capital shall be administered on the basis of decentralized government in accordance with law.
- (2) The system of regional self-government of the Southern Region shall be based on one Sudan in accordance with the Southern Provinces Regional Self-Government Act 1972 or any amendments thereto passed by two-thirds of the Transitional Military Council and the Council of Ministers in a joint meeting, provided that any such amendment despite implementation, shall be subject to the referendum referred to in the Regional Self-Government Act, whenever that is practicable.

Part III

Fundamental Rights & Freedoms

- 17.(1) All persons in the Republic of the Sudan are equal before the law.
- (2) Citizens are equal in their rights and duties and in the opportunities of work and gain without discrimination by reason of birth, race, colour, sex, religion or political opinion.

Freedom of Belief and Practice of Rites

18. All persons shall enjoy freedom of belief and practice of religious rites within the limits of morals, public order and health as prescribed by law.

Freedom of Opinion & Expression

19. All persons shall have the right to freedom of expression, publication and press in accordance with law.

Freedom of Forming Trade-Unions and Societies

20. Citizens shall be guaranteed the right to form societies, unions, trade-unions and bodies in accordance with the restrictions provided in the law.

Guarantee of Freedom and Personal Security

21. Every person shall have the right to freedom and personal security and no person shall be arrested or detained or confined except in accordance with the law.

Freedom of Meetings and Processions

22. All citizens shall have the right to hold peaceful and non-violent meetings and processions, in accordance with restrictions provided in the law.

Freedom of Stay & Movement

23. All citizens shall have the right to freedom of stay and movement inside and outside the country, in accordance with the restrictions provided in the law.

Freedom of Correspondence

24. All citizens shall have the right to freedom and secrecy of correspondence, in accordance with the restrictions provided in the law.

The Right of Property

25. The right to private property shall be guaranteed to the citizens and groups as regulated by law. Property shall not be confiscated or seized except for public interest on payment of a fair compensation.

The Right of Litigation

26. The right of litigation shall be guaranteed for all, and any person shall have the right to resort to the competent courts and there shall be no immunity for any act by the State from Judicial control.

No Offence or Punishment without Law

27. No act shall be incriminated or penalty be inflicted except in accordance with a law effective at the time the offence was committed.

Presumption of Innocence & Right of Defence

28. The accused is presumed innocent until he is proved guilty. The accused shall have a fair and speedy trial, and he shall have the right to defend himself including the right to choose his advocate.

A Fair Punishment

29. No accused person shall be subjected to enticement or intimidation or torture, and he shall not be inflicted with a cruel punishment or one degrading the human dignity.

Inviolability of Dwelling

30. Dwellings are inviolable and they shall not be searched or entered except by consent of the residents subject to the conditions and in accordance with proceedings prescribed by the law.

The Right of Participation in Public Affairs

31. Every citizen shall be guaranteed the right to participate in public affairs, and in voting and standing as a candidate, in accordance with the law.

Protection of Constitutional Rights

- 32.(1) Any person is entitled to apply to the Supreme Court to protect or implement any of the rights guaranteed by this Constitution, and the Supreme Court may issue any judgement it deems fit to guarantee such rights.
- (2) Notwithstanding the provisions of sub-Article (1) above, whoever a judge decides that there is a charge against him that he corrupted or participated in corrupting the economic, political or social life or violated or undermined the Provisional Constitution of the Republic of the Sudan 1964 during the period 24 May 1969 to 5 April 1985, shall not challenge the constitutionality of any law depriving him the rights and freedoms guaranteed by Articles 19, 20, 21, 22, 23 and 27 inclusive until his innocence is proved.

Restriction of the Rights & Freedoms

33. The rights and freedoms guaranteed by this Constitution shall not be restricted except by a legislation passed by the legislative power with the aim of protecting the public security or morals or public health or the safety of national economy.

Part IV

Government Organs During Transitional Period
Before the Holding of the Constituent Assembly

Chapter I

The Transitional Military Council & Powers of

34. The Transitional Military Council, in its present constitution, is the highest constitutional power in the Republic of the Sudan, and is concerned with the sovereignty functions, and vests in it the supreme command of the People's Armed Forces, and participates, together with the Council of Ministers, in making laws.

Duration of the Transitional Military Council

35. The Transitional Military Council shall continue exercising its powers until the holding of the Constituent Assembly and election of the Head of State at a time not exceeding the twenty-sixth day of April, 1986.

Consultation with the Transitional
Council of Ministers

36. The Transitional Military Council, ^{when} acting upon this Constitution or any other law, shall take its decisions in consultation with the Council of Ministers, whenever the matter so requires.

The Quorum

37. The quorum for the meetings of the Transitional Military Council shall be satisfied by the presence of nine members.

Vacancy of Office

- 38.(1) The office of the Chairman and members of the Transitional Military Council shall fall vacant in the following cases:-
- (a) Death.
 - (b) Loss of civil capacity.
 - (c) Conviction in an offence connected with honour and honesty.
 - (d) Medically reported as being of unsound mind.
 - (e) Resignation.
- (2) When the office of the Chairman of the Transitional Military Council or any of its members falls vacant, the Transitional Military Council shall his successor who shall take the oath before the Chief Justice as shown on the schedule annexed to this Constitution.

Power of Pardon

39. The Transitional Military Council, in consultation with the Council of Ministers, may grant general pardon or commute sentences subject to conditions or otherwise to any person charged with or convicted of an offence.

Allocations of the Chairman and Members
of the Transitional Military Council

40. The law shall define the allocations of the Chairman and Members of the Transitional Military Council, at present and until such law, they shall be paid the allocations which were effective immediately before the coming of this Constitution into force.

Making of Regulations & Rules

41. The Transitional Military Council may make regulations and rules regulating its functions, procedure and manner of exercising its powers.

Chapter II

The Executive Power

The Prime Minister and Members
of the Transitional Council of Ministers

42. Subject to provisions of Article 46, the present Prime Minister and Ministers who have been appointed for the transitional period, shall remain in office for the duration of such period.

Responsibilities of the Council of Ministers

43. (1) The Prime Minister and Ministers constitute together the Council of Ministers, and the Council shall be responsible collectively to the Transitional Military Council for the government executive and administrative functions.
- (2) The Transitional Council of Ministers shall advise the Transitional Military Council towards exercising its functions according to this Constitution or any other law.
- (3) The Ministers are responsible severally to the Prime Minister for the administration of their ministries.

Duration of the Transitional Council of Ministers

44. The Transitional Council of Ministers shall continue exercising its powers until the holding of the Constituent Assembly and election of the Head of State at a time not exceeding the twenty-sixth day of April, 1986.

The Quorum

45. The quorum for the meetings of the Council of Ministers shall be satisfied by the presence of more than half the number of the members.

Vacancy of Office

46. The office of the Prime Minister and Members of the Council of Ministers shall fall vacant in the following cases:-

- (a) Death.
- (b) Loss of civil capacity.
- (c) Conviction in an offence connected with honour and honesty.
- (d) Medically reported as being of unsound mind.
- (e) Resignation.
- (f) When relieved from office by the Transitional Military Council upon a recommendation from the Prime Minister.

Filling the Vacant Office

- 47.(1) When the office of the Prime Minister falls vacant, the Transitional Military Council shall, in consultation with the national forces which agreed to the National Charter, appoint a successor to fill the vacant office.
- (2) When the office of a Minister falls vacant, the Transitional Military Council shall, in consultation with the Prime Minister, appoint a successor to the vacant office.
- (3) The Prime Minister or the Minister shall take the oath as shown on the schedule annexed to this Constitution, before the Chairman of the Transitional Military Council.

The Allocations

48. The law shall define the allocations of the Prime Minister and the Ministers. At present and until making such law, they shall be paid the allocations which were effective immediately before the coming into force of this Constitution.

Making of Regulations & Rules

49. The Transitional Council of Ministers may make regulations and rules regulating its functions and the manner of exercising its powers.

The Conduct of Ministers

- 50.(1) The proceedings, deliberations and decisions of the Council of Ministers shall be confidential and every minister is obliged not to disclose them outside the Council's meeting hall, provided that the Prime Minister may authorize explicitly the Minister to disclose any of the decisions of the Council.
- (2) The conduct of the Prime Minister and Ministers shall be such that it does not cause a conflict directly or indirectly between their official duties and their own interests, and they are particularly required not to exploit their official capacity for their own benefit or the benefit of persons related to them.
- (3) If the Prime Minister or any Minister violates these obligations, he shall be liable for removal from office in addition to any further legal action.

Duty of the Prime Minister to Report
to the Transitional Military Council

51. The Prime Minister shall report to the Transitional Military Council all the decisions of the Transitional Council of Ministers.

Chapter III

Procedure of Legislation in
Transitional Period

- 52.(1) The Transitional Military Council or the Prime Minister or any Minister may propose a bill to the Council of Ministers for consideration.

- (2) The Council of Ministers shall pass the bill and present it to the Transitional Military Council for confirmation and issue.
- (3) The Transitional Military Council shall confirm the bill and issue it under the signature of the Chairman of the Military Council. The bill shall not come into force without such signature.
- (4) If the Military Council makes any substantial observations or objections to a bill passed by the Council of Ministers, the bill shall be returned to the Council of Ministers with such observations or objections. If the Council of Ministers passes the bill in accordance with the observations or objections made, it shall be sent back to the Military Council for issue.
- (5) If the Council of Ministers does not agree to the observations or objections made, the bill shall be presented to a joint meeting of the Transitional Military Council and the Council of Ministers for resolving by absolute majority.
- (6) Notwithstanding the foregoing sub-Articles, the Constituent Assembly Elections Bill shall be presented to a joint meeting of the Transitional Military Council and the Council of Ministers for passing by absolute majority.

Ratification of International
Agreements & Treaties

53. No agreement or treaty with any state or an international body, and no decision taken in respect of any international agreement, shall have effect in the Sudan unless ratified by law.

Part V

Government Organs After the Holding
of the Constituent Assembly

Chapter I

The Constituent Assembly & Constitution of

54. The Constituent Assembly shall consist of one elected house and the law shall prescribe the number of members and procedure of their election and their allocations.

Election of Constituent Assembly

55. (1) The election of the Constituent Assembly is subject to the control, orders and direction of an independent Election Commission appointed in accordance with law.
- (2) The law shall define the powers and responsibilities of the Election Commission.

Powers of the Constituent Assembly

56. (1) The Constituent Assembly shall prepare the draft permanent constitution and pass it.
- (2) The Constituent Assembly shall consider and pass bills.
- (3) The Constituent Assembly shall elect in its first sitting the Chairman and Members of the Head of State.
- (4) The Constituent Assembly shall elect the Prime Minister from among its members.
- (5) The Constituent Assembly shall exercise control over the Government, pass the general budget, approve the State policies and it may withdraw its confidence from the Government or remove any minister from office.
- (6) The Constituent Assembly may debate or take decision on any matter and may also set up committees to investigate any matter referred to it.

- (7) The Constituent Assembly may make regulations governing its work, procedure, constitution of its committees and conduct of the members.

Duration of the Constituent Assembly

57. The life of the Constituent Assembly is four years from the date of its first session. The Assembly shall not be dissolved and it shall turn into a parliament having passed the permanent constitution.

Constitution of the Legislative Body

- 58.(1) The legislative power in the Sudan consists of the Head of State and the Constituent Assembly.
- (2) The Constituent Assembly shall, in consultation with the Head of State, define the procedure of legislation to be operative until the issue of the permanent constitution.

Qualifications of the Member
of the Constituent Assembly

59. Every Sudanese is qualified to be a member of the Constituent Assembly when he attains the age of thirty years.

Disqualification

- 60.(1) The persons mentioned hereunder shall not be qualified for the membership of the Constituent Assembly:-
- (a) Persons who hold paid offices in the Government of the Sudan, with the exception of such offices the holders of which are determined by law as not disqualified.
 - (b) Persons deprived of vicil capacity.
 - (c) Persons convicted in offences connected with honour and honesty.
 - (d) Persons politically isolated according to a judicial judgement.

- (e) Persons of unsound mind.
 - (f) Persons who are illiterate.
- (2) As regards this Article, a person shall not be deemed to hold a paid office in the Sudan Government for being only a Minister.

Oath of the Constituent Assembly Members

61. Every member of the Constituent Assembly, prior to exercising his duties, shall take before the Chief Justice, the oath shown on the schedule annexed to the Constitution. The Speaker shall take the same oath before the Assembly.

Vacancy of Office

62. The seat of the Constituent Assembly member shall fall vacant in the following cases:-
- (1) On his death.
 - (2) When he absents himself for twelve successive sittings without leave from the Assembly.
 - (3) If he loses any of the qualifications stated in this Constitution.
 - (4) If any other person is convicted of an offence involving corrupt practices committed on behalf of the member or with his knowledge or his connivance, in respect of the election at which he has been elected.
 - (5) If he submit in writing his resignation from the membership of the Constituent Assembly.

Filling of Vacant Seats

63. When a seat falls vacant in the Constituent Assembly, a by-election shall be held to fill the seat during 60 days from the date of such vacancy.

Decision on Matters Pertaining to
Membership of the Constituent Assembly

64. Any matter arising about the right of any person to be or to continue as a member in the Constituent Assembly shall be referred to the Speaker who may, if he deems it fit, refer the matter to the constitutional circuit of the Supreme Court.

Speakership of the Constituent Assembly

- 65.(1) The Constituent Assembly shall elect the speaker from among its members or a person who is qualified to be a member.
- (2) The Constituent Assembly shall elect a deputy speaker from among its members. The deputy speaker shall chair the sitting in the absence of the speaker.
- (3) The Speaker or the Deputy Speaker may resign in writing from his office at any time. The Speaker shall address his resignation to the Deputy Speaker and the latter shall address his resignation to the Speaker. Either of them may be removed from his office by a resolution of the Assembly passed by all the members.
- (4) The allocations of the Speaker and his deputy shall be prescribed by law, provided that such allocations shall not be amended in a manner detrimental to them during their term of office.

The Secretary-General of
the Constituent Assembly

- 66.(1) There shall be a Secretary-General for the Constituent Assembly to be appointed by the Speaker, provided that the Assembly approves such appointment by a majority of two-thirds.

- (2) The Secretary-General of the Constituent Assembly shall not be removed except by an order of the Speaker in an execution of a proposal for his removal passed by the Assembly by a majority of two-thirds.

Sessions of the Constituent Assembly

- 67.(1) The Chairman of the Transitional Military Council shall convene the Constituent Assembly for its first session within two weeks from the date of the declaration of the election results.
- (2) The Head of State shall, on the advice of the Prime Minister, fix the date of the beginning and place of each session of the Constituent Assembly, provided that the Assembly shall be convened at least once each year and that the beginning of each new session shall be within three months from the date of the last sitting of the previous session.

The Quorum

68. Subject to the provisions of Article 73(b), an absolute majority of the members of the Constituent Assembly shall constitute a quorum for its sittings.

Seat of the Assembly

69. The Constituent Assembly shall hold its sitting in its official quarters at Omdurman. The Head of State may, in consultation with the Speaker, call the Assembly to convene elsewhere as an exceptional case. Any sitting not held at the place and the time specified shall be considered as cancelled and resolutions passed shall be deemed null and void.

The Language

70. The deliberations of the Constituent Assembly, business of its committees and its correspondence shall be conducted in Arabic, provided that English language may be used with the permission of the Speaker or the Chairmen of Committees as the case may be.

Freedom of Deliberations

- 71.(1) Any member of the Constituent Assembly is entitled, subject to the provisions of the Assembly regulations, to direct questions to or interrogate the Prime Minister or the Minister concerned on any matter.
- (2) The Constituent Assembly may set up committees to consider any matter before it. The procedure and functions of such committees shall be defined by the regulations.
- (3) Subject to the provisions of this Constitution and any regulations issued under it, freedom of deliberations in the Assembly is guaranteed, and no member shall be liable for any action against him before any court for anything expressed by him in the Assembly or any of its committees.

Right of Minister to Participate
in the Proceedings

72. Every Minister is entitled to participate in the deliberations and proceedings of the Constituent Assembly, and any of its committees of which he is a member.

Voting

73. Subject to the provisions of the Constitution:-
- (a) All matters before the Constituent Assembly for a decision shall be resolved by a majority of the members present with the exception of the passing of the Constitution.
- (b) The Constitution shall be passed by a majority of two-thirds of the members of the Constituent Assembly. The regulations shall prescribe the procedure of discussing and passing the Constitution.

The Regulations

74. The Speaker shall, by order, lay down regulations for the procedure and conduct of the business of the Constituent Assembly and composition of its committees. The Assembly, may, later on and from time to time, add to or amend or repeal such regulations.

Inadmissibility of Challenging the
Proceedings of the Constituent Assembly

75. No court or any other authority shall challenge the proceedings of the Constituent Assembly on the ground that such proceedings are inconsistent with the Assembly regulations or the rules of procedure.

Chapter II

The Head of State

Constitution of the Head of State

76. The Head of State shall consist of a chairman and four members who together constitute the Head of State.

Qualifications of the Head of State

77. No person shall be appointed as a chairman or member of the Head of State unless he is qualified to be a member of the Constituent Assembly.

Powers of the Head of State

78. The Head of State is the supreme constitutional power in the Republic of the Sudan and is concerned with the sovereignty functions and vests in it the supreme command of the People's Armed Forces.

Oath of the Chairman & Members
of the Head of State

79. The Chairman and members of the Head of State shall, prior to assuming office, take the oath shown on the schedule annexed to this Constitution, before the Constituent Assembly.

The Quorum

80. Three members of the Head of State shall constitute a quorum for a meeting.

A Majority Decision

81. The decisions of the Head of State shall be taken by a majority of the members present.

Power of Pardon

82. The Head of State may grant general pardon or commute sentences subject to conditions or otherwise, to any person charged with or convicted of an offence.

Vacancy of Office

83. The office of the Chairman or a member of the Head of State falls vacant in the following cases:-
- (a) On his death.
 - (b) If he loses civil capacity.
 - (c) If he is convicted of an offence connected with honour and honesty.
 - (d) If he is medically reported as being of unsound mind.
 - (e) If he submits his resignation to the Constituent Assembly.
 - (f) If the Constituent Assembly resolves to remove him for any reason.

Filling of Vacancy

84. When the office of the Chairman or a member of the Head of State is vacant, the Constituent Assembly shall elect a person to fill such office within one month.

Allocations

85. The law shall define the allocations of the Chairman and members of the Head of State.

Regulations & Rules of Procedure

86. The Head of State shall lay down the regulations and rules organizing its business.

Charging the Members of the
Head of State with Offence

- 87.(1) If it is required to charge the Chairman or a member of the Head of State with the offence of violating the Constitution, such charging shall be directed by the Constituent Assembly.
- (2) Such a charge shall be submitted in writing and signed by at least one fourth of the members of the Constituent Assembly.
- (3) When such a charge is presented in the manner stated above, the Assembly shall investigate the charge or order that an investigation be held in the matter.
- (4) On completion of the investigation stated in sub-Article (3), the charge shall be presented to the Assembly. If a resolution is passed confirming the charge by three-quarters of the total number of the Constituent Assembly at the time, the Chairman or the member shall be removed accordingly from office as from the date of such resolution.
- (5) When the Chairman or a member of the Head of State, is accused in the manner stated above, he shall be entitled to attend in person to defend himself.

Duration of Head of State

88. The Head of State shall remain in office until the selection of a Head of State in accordance with the Constitution to be passed by the Constituent Assembly.

Chapter III
The Council of Ministers
The Prime Minister

89. The Head of State shall appoint as a Prime Minister the person elected, from time to time, by the Constituent Assembly from among its members for the purpose.

The Ministers

90. The Head of State shall, on the advice of the Prime Minister, appoint a number of Ministers.

Qualifications of Ministers

91. No person shall be appointed a minister unless he is qualified to be a member of the Constituent Assembly.

Responsibility of the Council of Ministers

- 92.(1) The Council of Ministers consists of the Prime Minister and Ministers and it is responsible collectively to the Constituent Assembly for the government executive and administrative work.
- (2) Each Minister is responsible severally to the Prime Minister for the administration of his ministry.

Presidency of the Council of Ministers

- 93.(1) The Prime Minister shall preside over the meetings of the Council of Ministers.
- (2) The Prime Minister may appoint a member to preside over the meetings of the Council in his absence. If there is no such an appointment, the Council may select a member to preside over each meeting.

The Ministerial Oath

94. The Prime Minister and the Ministers shall, before exercising their duties, take the oath shown on the schedule annexed to this Constitution, before the Head of State.

The Quorum

95. The presence of half the number of the Council of Ministers constitutes a quorum for its meetings and decisions shall be adopted by a majority of the members present.

Vacancy of Office

96. (1) The office of Prime Minister falls vacant in the following cases:-
- (a) On his death.
 - (b) If he loses his qualifications for membership of the Constituent Assembly.
 - (c) When the Head of State accepts his resignation.
 - (d) If the Constituent Assembly withdraws its confidence from him.
- (2) The office of a Minister falls vacant in the following cases:-
- (a) On his death.
 - (b) If he loses his qualification for membership of the Constituent Assembly.
 - (c) When the Head of State accepts his resignation on the advice of the Prime Minister.
 - (d) If the Head of State removes him on the advice of the Prime Minister.
 - (e) If he is dismissed by the Constituent Assembly.

Filling of Vacant Office

- 97.(1) If the office of Prime Minister is vacant the Head of State shall appoint as a Prime Minister, the person elected by the Constituent Assembly for the purpose.
- (2) When the office of any minister is vacant the Head of State shall, on the advice of the Prime Minister, appoint a person to fill such office.

The Allocation

98. The law shall prescribe the allocations of the Prime Minister and Members of the Council of Ministers.

Regulations and Rules of the
Council of Ministers

99. The Council of Ministers shall lay down the regulations and rules organizing its work and exercise of its powers.

The Conduct of Ministers

- 100.(1) The proceedings and deliberations of the Council of Ministers shall be confidential and every Minister is obliged not to disclose them outside the meeting hall of the Council, provided that the Prime Minister may authorize explicitly the Minister to disclose any of the decisions of the Council.
- (2) The conduct of the Prime Minister and Ministers shall be such that it does not cause a conflict, directly or indirectly, between their official duties and their own interests, and they are particularly required not to exploit their official capacity for their own benefit or of persons related to them.
- (3) If the Prime Minister or any Minister violates these obligations, he shall be liable for removal from office in addition to any further legal action.

Part VI

Finance

Definition of Financial Year

101. In this Part the word "year" means the financial year which is twelve months ending the 30th day of June of every calendar year.

The Budget

102. The Minister of Finance shall prepare the yearly budget which comprises the estimates of Revenue and estimates of Expenditure except the expenditure chargeable against the Reserve. When the Council of Ministers approves the budget it shall be submitted for passing to the Transitional Military Council or the Constituent Assembly as the case may be.

Appropriation Bills

103.(1) The proposals of the Council of Ministers for all items of expenditure, with exception of those mentioned in sub-Article (2) hereunder, shall be submitted for passing to the Transitional Military Council or the Constituent Assembly as the case may be, in the form of an appropriation bill containing estimates of certain items covering the different required services.

(2) The following items of expenditure shall be excepted and shall not be submitted to the Transitional Military Council or the Constituent Assembly for passing, but they shall be paid out of the revenue:-

- (a) Debts incurred by the Government before the coming of this Constitution into force.
- (b) Salaries paid to the members of the Judiciary.
- (c) Salaries paid to the members of the Public Service Commission.
- (d) Salary paid to the Auditor-General.

- (3) The Transitional Military Council may approve or not approve any estimate included in the appropriation bill, provided that it shall not approve a greater sum or alter the allocation.

Advance Expenditure Appropriation Bills

- 104.(1) The Council of Ministers may present to the Transitional Military Council or the Constituent Assembly as the case may be, an advance expenditure appropriation bill comprising estimates of sums required for expenditure on government services from the first day of the financial year until the passing of the budget.
- (2) The advance expenditure appropriation bill shall be considered in the same manner as an appropriation bill.

Supplementary Appropriation Bills

- 105.(1) The Council of Ministers may present to the Transitional Military Council or the Constituent Assembly as the case may be, supplementary estimates for expenditure when it appears that:-
- (a) The sum originally approved for expenditure does not suffice for the current year.
- (b) A need arises during the current year for expenditure on new services not provided for in the budget.
- (2) The supplementary estimates shall be considered in the same manner as an appropriation bill.

Allocations to Government Reserve Funds

106. When the Council of Ministers requires to allocate funds out of the revenue to the Government Reserve or transfer funds from the Reserve to another, a bill shall be presented to the Transitional Military Council or the Constituent Assembly as the case may be, covering such allocations or such transfer of funds. The said bill shall be considered in all

respects in the same manner as an appropriation bill, provided that there is no need for the Council of Ministers to present, in accordance with this Article, a separate bill to the Transitional Military Council or the Constituent Assembly as the case may be, if any of such allocations were included as expenditure in an appropriation bill or a supplementary appropriation bill.

Expenditure out of the Reserve

107. When the Council of Ministers requires expenditure out of the Government Reserve, it shall present a bill to the Transitional Military Council or the Constituent Assembly as the case may be, covering such expenditure. The said bill shall be considered in all respects in the same manner as an appropriation bill.

Taxes

108. Proposals to impose new taxes or alter ~~or~~ abolish existing taxes shall be presented to the Transitional Military Council or the Constituent Assembly as the case may be, in the form of a bill, provided that the Council of Ministers may, whenever it considers that the public interests demands so, issue an order that such proposed new tax or alteration or abolition of an existing tax shall take effect from the date of presenting the said bill to the Transitional Military Council or the Constituent Assembly as the case may be. If the bill is rejected the rejection shall not have retrospective effect.

Approval of Minister of Finance to Finance Bill

- 109.(1) No bill or amending bill, the purpose of which is to impose or increase any tax, or to impose any charges upon the revenue or the reserve funds, or to increase government expenditure or decrease the

revenue, shall be presented unless the approval of the Minister of Finance has been obtained beforehand.

- (2) Such bill or amendment shall not be considered to have such effect or purpose by the mere fact it leads to imposition of fines or financial penalties, or to payment of licence fees or charges for services rendered.
- (3) The declaration of Minister of Finance that a bill or the proposed amendment carries such effect, shall be final and shall not be challenged.

Final Accounts

- 110.(1) The Council of Ministers shall lay before the Transitional Military Council or the Constituent Assembly as the case may be, the final accounts of the financial year covering the Govt. revenue and expenditure charged to reserve funds.
- (2) The Auditor-General shall present his report on the accounts to the Transitional Military Council or the Constituent Assembly as the case may be, at the same time when the final accounts are being laid before the Military Council or the Assembly or as soon as possible later on.
- (3) If it appears from the report on the accounts that the expenditure exceeded the sum allocated approved by the Transitional Military Council or the Constituent Assembly as the case may be, the Council of Ministers shall present an appropriation bill.

Reversion of Property, Asscts, Rights, Debts, & Obligations

111. Subject to the provisions of this Constitution, all property and assets owned by the Government of the Republic of the Sudan immediately before this Constitution took effect, shall revert to such Government, and all the rights, debts and obligations of the Government of the Republic of the Sudan resulting from any contract or any other source, shall also be rights, debts and obligations in respect of such Government.

Power of Ownership

112. Subject to the provisions of any law, the executive power of the Sudan Government extends to granting or selling or disposing of or mortgaging any property allotted for the purposes of the Government. Its power extends also to purchasing or owning any property for the said purposes as well as concluding contracts.

Contracts

113. It shall be provided in all contracts concluded in accordance with the Sudan Government executive power, that the contracts are concluded by such Government and the contracts shall be executed by the Government in the manner it prescribes.

Part VII

The Chamber of the Auditor-General

114. There shall be established an independent chamber of audit presided over by an auditor-general responsible to the Transitional Military Council or the Head of State and the Constituent Assembly as the case may be, for the discharge of his duties.

Functions of the Auditor-General

- 115.(1) The Chamber shall, in the course of auditing, exercise control over the authorities subject to audit, with the aim of promoting the efficiency and preserving the public funds through evaluation of the performance and means of realizing the objectives and making sure of the best utilization of the human, technical and financial resources.
- (2) The Chamber shall submit to each of the Transitional Military Council or the Head of State and the Constituent Assembly, its reports on the accounts whose auditing is assigned to it by law, within nine months at most from the end of each financial year.

- (3) The law shall prescribe the functions, duties and powers of the Chamber of the Auditor-General and manner of its direction.

Appointment of the Auditor-General

- 116.(1) The Transitional Military Council or the Head of State as the case may be, shall, with the approval of the Constituent Assembly, appoint the Auditor-General.
- (2) The Auditor-General shall, before assuming office, take the oath shown on the schedule annexed to this Constitution, before the Transitional Military Council or the Constituent Assembly.

Duration of Auditor-General

117. The Auditor-General shall hold office for a period of five years and may be eligible for re-appointment. He shall not practice any commercial business or a professional activity during the tenure of his office.

Removal of the Auditor-General

118. The Auditor-General shall not be removed from office except by an order of the Transitional Military Council or a decision of the Head of State confirmed by two-thirds of the members of the Constituent Assembly.

Allocations of the Auditor-General

119. The allocations of the Auditor-General and terms of his service and right of pension shall be determined by law. At present and until the issue of such law, the allocations effective immediately before the coming into force of this Constitution shall continue.

Auditors Working in
the Chamber of Audit

120. Auditors working in the Chamber of the Auditor-General are independent in the discharge of their duties and subject only to rule of law. They shall be responsible to the Auditor-General and the law shall determine their grades, allocations, terms of service and proceedings of discipline.

Part VIII

The Judicial Power

The Administration of Justice

121. The administration of justice in the Republic of the Sudan shall be vested in a separate independent authority to be called the "Judiciary".

Responsibility of the Judiciary

122.(1) The Judiciary shall be responsible directly to the Transitional Military Council or the Head of State as the case may be, for the performance of its duties in accordance with the provisions of the Constitution and the law.

(2) Judges shall be independent in the performance of their judicial duties and subject only to rule of the Constitution and the law.

Judicial Appointments

123.(1) The Transitional Military Council or the Head of State as the case may be, shall appoint the Chief Justice and his deputies upon the recommendation of the Supreme Council of the Judiciary and Judges of the Supreme Court.

(2) The Chief Justice by virtue of his office shall be the President of the Supreme Court and he shall supervise and control generally the Judiciary.

- (3) The Transitional Military Council or the Head of State as the case may be, shall appoint Judges of the Supreme Court and Judges of Courts of Appeal, Province and District Courts, on the recommendation of the Supreme Council of the Judiciary.

Duration of Office & Removal

- 124.(1) The Chief Justice, his deputies, Judges of the Supreme Court, and Judges of Courts of Appeal, Province and Districts Courts, shall stay in their offices until they attain the age of sixty-five years and their stay may extended according to law, provided that any judge may resign his office at any time by a written notice addressed to the Transitional Military Council or the Head of State as the case may be.
- (2) The Chief Justice or any of his deputies or any judge, shall not be removed except by an order of the Transitional Military Council or the Head of State on such a recommendation from two-thirds of the total number of the Supreme Council of the Judiciary and Judges of the Supreme Court with the exception the Chief Justice or one of his deputies or the Judge of Supreme Court concerned.

Custody of the Constitution

- 125.(1) The Supreme Court shall be the Custodian of the Constitution and shall have jurisdiction to hear, and determine the following matters and follow up their execution, in accordance with the Constitution and the law:-
- (a) Interpretation of the Constitution and the law.
 - (b) Questions involving constitutional matters and constitutionality of laws.
 - (c) Protection of the rights and freedoms guaranteed by the Constitution.

- (d) Conflict of judicial jurisdiction.
 - (e) Appeals on points of law, in accordance with the law.
 - (f) Any other matters determined by this Constitution or the law.
- (2) The High Court and Courts of Appeal shall exercise their judicial jurisdiction through the system of circuits prescribed by law provided that the number of judges in each circuit shall not be less than three.

The Supreme Council of the Judiciary

126.(1) There shall be established a Judiciary Council to be called the Supreme Council of the Judiciary composed as follows:-

- | | |
|--|-----------|
| (a) The Chief Justice | President |
| (b) Deputies of the Chief Justice and Heads of Judicial Organs | Members |
| (c) The Attorney-General | Member |
| (d) Head of the Bar Association. | " |
| (e) Dean of Law Faculty, University of Khartoum | " |

- (2) The law shall define the jurisdiction of the Supreme Council of the Judiciary and regulate its functions.

Regulation of the Judiciary

- 127.(1) The law shall regulate the manner of the administration of the Judiciary, determine the total number of the courts, their grades and jurisdiction and prescribe the circuits of the Supreme Court and Courts of Appeal and Province and District Courts, the conditions for appointment to the Judicial posts and a sufficient number of judges.
- (2) The law shall determine the terms of service, salaries, allocations, discipline and removal of judges and settlement of their post-service benefits.

The Oath

128. The Chief Justice, his deputies and Judges of the Supreme Court shall take the oath shown on schedule annexed to this Constitution, before the Transitional Military Council or the Head of State as the case may be, The rest of the judges take the oath before the Chief Justice.

Part IX

Courts Martial

129. The law shall regulate the establishment, composition, membership, jurisdiction and procedure of Courts Martial.

Part X

The Public Service Commission
Constitution and Jurisdiction

130. The Public Service Commission is an independent body having jurisdiction to decide on the affairs of the public service. It consists of the Council of Public Service and Committee for Appeals of Employees. The law shall prescribe the Constitution, jurisdiction, functions and procedure of the Commission.

Appointment of the Members of
the Public Service Commission

131. The Transitional Military Council or the Head of State as the case may be, shall appoint, in consultation with the Council of Ministers, the Chairman and members of the Public Service Commission.

Part XI

The Attorney-General

132. There shall be an attorney-General for the Republic of the Sudan, who shall, by the virtue of his office, be a minister. He shall assume, on behalf of the Government, the functions of legal character. The law shall determine his duties, jurisdiction and responsibilities.

Part XII

Transitional Provisions

Continuation of Existing Laws

133. Subject to the provisions of this Constitution, all laws valid immediately before this Constitution took effect, shall continue unless repealed or amended by the competent authority.

Emergency Powers

- 134.(1) The Transitional Military Council or the Head of State as the case may be, shall, in consultation with the Council of Ministers, when an imminent and serious danger is threatening the national unity or safety of the country or any part of its territory or its economy, declare a state of emergency in all the country or any part of it as the case may be, and take the necessary measures to prevent such danger, which may include suspension of all or part of the rights conferred by this Constitution, provided that the right to resort to the courts shall not be suspended. Such measures shall have the force of law.
- (2) The declaration of emergency and the relevant measures and orders, shall be presented to the Council of Ministers or the Constituent Assembly as the case may be, within fifteen days from date of declaration, to take a decision on either to extend its duration or reject it.

Continuation of the State Organs,

Institutions and Employees

135. The State organs, departments and institution existing before the coming into force of this Constitution, shall continue unless abolished or altered by the competent authority. The holders of offices and posts in such organs, departments and institutions, shall continue in the service unless an order in their respect is issued by the competent authority.

Amendment of the Constitution

136. This Constitution shall not be amended except by the agreement of two-thirds of the members of both the Transitional Military Council and the Council of Ministers in a joint meeting or by the Constituent Assembly which is entitled also to accept or reject this Constitution.

The Schedule

Text of the Oath of the Chairman & Members
of the Transitional Military Council

I _____ (Name) _____ swear by Almighty God to preserve loyally the Regime established by the 15th of Rajab 1405H Revolution, until the attainment of its declared objectives, undertake to hand over the power to the people at the end of the transitional period agreed upon, respect the law, perform my duty as _____ of the Transitional Military Council impartially, sincerely and honestly and preserve the independence of the country, unity and safety of its territory, serve the people and act for their welfare. God is my witness.

Text of the Oath of Ministers

I _____ (Name) _____ swear by Almighty God to preserve loyally the Regime established by the 15th of Rajab 1405H Revolution, respect the law, perform my duty as _____ during the transitional period agreed upon impartially, sincerely and honestly, preserve the independence of the country, unity and safety of its territory, serve the people and act for their welfare. God is my witness.

Text of the Oath of the
Constituent Assembly Members

I _____ (Name) _____ in my capacity as a member of the Constituent Assembly, swear by Almighty God (or affirm solemnly) to give my loyalty and true allegiance to the Constitution of the Republic of the Sudan and perform faithfully the duties to be assigned to me.

Text of the Oath of the Chairman
and Members of the Head of State

I _____ (Name) _____ swear by Almighty God to support to the best of my ability the Constitution of the Republic of the Sudan, perform my duties as _____ of the Head of State honestly, without fear or bias or ill-intention, and shall not disclose to any person any matter I came to know as _____ of the Head of State except for the discharge of my said duties. God is my witness.

Text of the Judicial Oath

I _____ (Name) _____ swear by Almighty God (or affirm solemnly) as long as holding the office of _____ to support, to the best of my ability, the Constitution of the Republic of the Sudan and realize justice to all classes of people, in accordance with the laws and custom of this country, without fear or bias or ill-intention. So help me God.

Text of the Oath of the Auditor-General

I _____ (Name) _____ having been appointed as Auditor-General of the Republic of the Sudan, swear by Almighty God (or affirm solemnly) to give my loyalty and allegiance to the Constitution of the Republic of the Sudan and perform faithfully the duties to be assigned to me.

Issued by the Transitional Military Council, under our hand at the People's Palace on the 25th of Maharram 1406H being the 10th of October, 1985.

(Signed)

Gen. Abdel Rahman Mohd Hassan Sowa El Dahab
Chairman

Transitional Military Council