

A Critical Analysis of the Evolution of Constitutions in Sudan¹

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Abstract:

This paper is part of a wider research on the topic of reflecting on the Interim National Constitution of Sudan of 2005.

The focus of the paper is to highlight the process of developing constitutions in Sudan since the pre-independence period in 1953. The paper accounts for the evolution of constitution making in Sudan as basically characterized by elitism, exclusionism and limited participation.

These characteristics hampered the achievement of sustained peace and democracy to date.

The purpose of this paper is to highlight the mistakes of the past in order to avoid repeating them, and to delineate participatory mechanisms needed in future for developing the permanent constitution and the main issues that it should address. The paper was updated in July 2011.

Introduction

In this paper, the main research concepts that need to be defined are those of constitution and participatory methods of developing a constitution. These will be dealt with in the introduction. The first section of the paper discusses the pre-2005 evolution of constitutions and their main characteristics. The second section focuses on the method of developing the 2005 constitution. The conclusion gives a summary and way forward.

Constitutions are basically supreme laws made to guarantee that excessive powers of the executive body are downsized and checked so that peoples' fundamental freedoms and rights are not jeopardized or violated by the executive machineries – namely the government. If the constitution provides for excessive powers for the government, then it defies its purpose and becomes a document for non-constitutionalism.

Constitutions, then, are documents developed to represent citizens' views and address five main dimensions of nation building, namely:

1. Systems of rule that guide the relation between government and citizens, to guarantee justice, equality and dignity of citizens.
2. Sustained equitable development that encompasses socio-cultural as well as economic development in detailed separate chapters.
3. Peaceful and just coexistence of citizens, that achieves social justice and peace without socio-cultural hegemony or marginalization.
4. Respect for fundamental freedoms and human rights of citizens.
5. Achieve principles of good governance and rule of law.

If these are components of constitutions in general, the Sudanese constitution needs to address further challenges of combining traditional and modern systems of administration and justice; legitimating democratic rule and eliminating the legitimacy of the use of armed power to rule; decentralized systems of co-federalism or federalism, to overrule centralization and hegemony; transparency and accountability to negate monopoly, corruption, nepotism, domination and non-respect for the rule of law.

Further, elaborate chapters on socio-economic rights are needed to address issues of poverty alleviation, basic services and human development rights, as well as the concerns of those who suffered from the adverse impacts of war and mal-development. Issues of identity and the relation of the state and religion are also crucial and need to be addressed in our constitution. Handling diversity, peaceful mechanisms to resolve conflict, distribution of resources with people's just and equal rights and needs as the main focus, and opening and offering equal opportunities for all citizens to ascend the social and political hierarchy are crucial. Resolving issues of power sharing to allow diverse groups the possibility of access to power is also vital. These are all issues that need to be addressed, debated using participatory means and agreed on in order to be achieved and then constitutionalized in the constitution document.

The deficiency of the current constitution is that it did not adequately address these challenges. Hence, it remains a document full of loopholes that need to be revisited, debated and amended in order to enable it to rise to the expectations and aspirations of the people of Sudan.

This can only be achieved through a wide participatory methodology. Participatory methods of developing laws, and particularly the supreme law of a country, its constitution, have been used by several countries. In the African continent, it is a new phenomenon due to long years during which dictatorship characterized systems of rule in African countries. Yet, lessons can be learnt from the Tanzanian, Ugandan and South African examples in developing a participatory constitution.

Participation refers to a process of active engagement between equal partners to define and achieve a certain goal or mission: the concept has to be de-linked from the notion of the mere giving of advice. Moreover, power relations of hegemony need to be neutralized and egalitarian relations between the different players, stakeholders, actors and partners as we wish to define them, need to be the principle guiding their interaction and engagement.

A constitution is a forceful means for empowerment linked directly to citizenship and governance systems. To achieve that, constitution making requires engaged citizens who are aware of their rights and can fight for their protection. The constitution as the supreme law continues to be an important blueprint of the nature of the relationship between the state and its citizens. As the constitution has such fundamental importance in regulating citizens' relations and rights, they should participate in its making and accept it as reflecting their aspirations, values and different positions. Their participation will also lessen the gap between what is stated in the supreme law, laws derived from it and public morality. Bearing this in mind, the process of developing the constitution has to be participatory.

The Evolution of the Pre-2005 Constitutions

The first constitution developed in Sudan was in 1956 after the declaration of the independence of Sudan in January of that year. It was called the Transitional

Constitution because it was an amendment and adaptation of the 1953 Self-Government Statute so as to declare independence. It was not greatly participatory, nor inclusive of all the different factions of Sudan in the process of its formulation:

The first constitution, that is, the Transitional Constitution of 1956, was just an adaptation of the Self-Government Statute of 1953 done hurriedly by a ministerial committee in the wake of the sudden decision made by parliament on December 19th 1955 to disregard the plebiscite provided for in the Self-Government Agreement and to declare independence by a joint decision of the two houses of parliament from the 1st of January 1956. The ministerial committee referred to above, was left with only a few days to prepare the independence constitution. (Ishag Shadad, 2008.)

Despite this short time, it is important to highlight three main features of the 1956 Transitional Constitution. The first was a positive contribution where the sources of legislation were not stated. The silence on this issue was intended to please the Southern Sudanese and guarantee that a civil nation would be developed wherein all Sudanese of various religions would coexist peacefully under equal rights irrespective of religion. This was needed to guarantee that the Southerners would side with the declaration of a united, independent Sudan. The second positive aspect was the formation of a Presidency Council rather than one president. This indicates that the founders of Sudan's independence acknowledged the diversity and ethnic/regional composition of the country which necessitated a council representing different regions and entities.

The third characteristic was negative because of the constitution's failure to include aspects of federalism or the right of the South to self-determination which was debated in the Transitional Legislative Council of 1955. This silence on the other hand led to both suspicion and resentment from the South's leaders. As Ishag Abulgasim Shadad (2008) rightly states, "The basis of the independence constitution of 1956 and the other two transitional constitutions of 1964 and 1985, was as we have highlighted above, the draft Self-Government Statute prepared upon the request of the Legislative Assembly elected in 1948. Yet the elections for this assembly were boycotted by most Sudanese political parties who consistently requested its dissolution and urged all Sudanese to abstain from any cooperation with the said assembly as with the whole process of self-government devised by the then colonial government. The abstention from participation in such self-government institutions led ultimately to reaching independence with political leaders who had no experience in government."

To overcome the deficiency of developing a constitution in a non-participatory nature, without a Sudanese perspective, a two-year process of developing a permanent constitution followed, whereby a draft was supposed to be passed by Parliament in December 1958. However, the first military coup of 17th November 1958 halted the process and General Abboud, leader of the coup, who declared himself head of state, issued the Defense of Sudan Act of 1958 which was to guide the ruling of the country until 1964.

The Act was essentially an emergency type of legislation to strictly regulate political activity in the country, and the Transitional Constitution with all other democratic institutions and political parties were dissolved.

The national uprising of October 1964 overthrew the military regime of Abboud, leading to yet another Interim Constitution in 1964 that just amended the 1956 Transitional Constitution. Both Constitutions included Bills of Rights and equality before the law. The major positive dimensions in this constitution were that it gave women equal political rights to vote and run for political office as well as other rights to education, work and equal payment for equal work. It also preserved the Presidency Council as representing the highest authority of the State but it created the positions of head of the Council and deputy to be elected by the Parliament.

The democratic period was short and much time was spent preparing for the Roundtable Peace Conference that would discuss the South-North problems in particular and develop a more comprehensive, integrative and participatory constitution. Yet participation was reserved for the elites of the political parties. The notion of a bottom-up approach to participation was not and still is not an ideology or principle that guides constitution making in Sudan. This is also validated by Shadad who states:

The Transitional Constitution of 1964 was prepared in great haste during the negotiations between representatives of the trade unions and political parties on one side and the representatives of the armed forces on the other side in the aftermath of the incidents leading to the October revolution. As a result the 1964 constitution could make little or no changes on 1956 constitution.

The same feature characterized the Transitional Constitution of 1985, which came into effect after the popular uprising of 1985 against General Nimeiri's regime. All these three constitutions, like the current Interim Constitution of 2005, were transitional in nature, hurriedly prepared, and not made or passed by a constituent assembly elected for such purpose.

All the three transitional constitutions of 1956, 1964 and 1985, which are more or less alike, were based on the self-government statute of 1953 which in its turn was an adaptation of the draft self-government statute, prepared by the then high court judge Stanley Baker, to be presented to a constitutional committee chosen by the then Legislative Assembly which was dissolved before receiving the said draft. Besides the haste and lack of participation that characterized the process of constitution making, this history had a negative impact on our constitutional development.

Yet the best thing that happened during the 1964-69 democratic period was the ratification of the two human rights covenants, which influenced the drafting of the constitution in the making and the legal reforms. However, the influence of the Islamic Front started to emerge and they pushed for separating the Islamic Sharia courts as independent from the Supreme Court and legislative council. This was implemented in the 1966 amendments to the 1964 Transitional Constitution. A key negative amendment that also took place in 1965 was the inclusion of article 5, which made communist activities non-constitutional. This amendment led to the liquidation

of the Communist Party. An exclusionist agenda started to prevail and paved the road to the 1969 coup led by generals with socialist and communist agendas. We need to learn from past experiences of exclusionism that have led to military coups or rebellion.

Another military coup in May 1969 overthrew the democratically elected government of 1965. Led by Numeiri, the May 1969 coup froze the Interim Constitution and only in 1973 developed what was called the Permanent Constitution of Sudan. During the period from May 1969 to 1973 the country was ruled by Military Acts issued by the Military Council. The constitution came after the signing of the Addis Ababa Peace Accords in 1972 which ended the first civil war in Southern Sudan. There were three main dimensions in this constitution which are worth noting. The first was that the Addis agreement was not incorporated into the Permanent Constitution and hence it was easy to disregard what was agreed upon. The constitution included the issue of non-centralized governance and the right to self rule for the Southern region (articles 6 to 8). However, it stated in article 9 that Islamic Law and custom are sources for legislation. In 1979, the May Regime became reconciled with Islamist elements. This ushered in a new phase with more emphasis on Islamic principles. This mainly influenced the principles of law-making, which were justice, equity and good conscience, requiring judges to interpret jurisprudential terms and experiences in the light of the basic legislative rules of Islamic jurisprudence. The amended constitution of 1979 then was greatly Islamicized, a development which paved the road for the declaration of the Islamic *hudood* personal laws and the Islamicization of all other laws in 1983. This constitutional and legal change had repercussions on issues of identity and equal citizenship.

The 1973 constitution made Islamic *Shariah* for the first time the source of law in Sudan. This of course influenced the laws, particularly when in 1983 all laws were declared to be Islamic, resulting in equal citizenship being compromised. The enactment of the constitution and the Islamicization of the law led in 1983 to the breaching of the Addis Peace Accords and the division of the united South into three states, all factors that prompted the eruption of the country's second civil war in the South which raged until 2004. The second important element in that constitution was that it made the system of government in Sudan a republican presidential state and abolished the system of a presidential council. A one-person President of the Republic was to be elected through a referendum. Hence, Numeiri ruled the country as president until 1985. The 1969 regime continued until its downfall in April 1985 through another popular uprising. The establishment of a one-person presidential system during a dictatorship made the Sudanese aware that such a system could lead to the concentration of powers in the hands of the president and hence jeopardize democracy. The experience was not welcomed by the Sudanese political parties and hence not considered in the 1985 Interim Constitution.

The Transitional Government that followed did not suspend the *Shariah* laws, but it suspended the 1973 constitution and amended it to create what was known as the 1985 Interim Constitution. The elected government spent much time negotiating over the constitution, law reform and peace in the South. The main problematic concern was to eliminate the source of law clause in order to prepare for legal reform of what were perceived as typical Islamic penal and economic/commercial laws. Though the penal laws were frozen in terms of the application of *hudood*, no law reform was

undertaken. The Interim Constitution of 1985 that followed the popular uprising had two main positive dimensions: (i) equality before the law (article 17) for all Sudanese; and (ii) respect for fundamental human rights and for democratic principles. Further, it stated in article 76 that the head of state was a Presidency Council of five, comprised of a head and four members. However, the democratic period was again short and did not complete a full cycle of re-election or the formation of a permanent constitution. The 1985 Interim Constitution maintained a non-centralized system of government, with five regions in the north and a self-rule region for the South. It maintained an elaborate bill of rights and respect for democracy and the rule of law. However, issues of identity and secularism were debated but no agreement was reached on whether Sudan is holistically an Arabized and Islamized nation, or a combination of Africanized and Arabized nation, or a unique “Sudanized” nation made up of an amalgamation of diverse sub-cultures, cultures that have commonalities and differences but have managed to co-exist in diversity, needing to be handled in a careful way to co-flourish on equal basis without hegemony or marginalization. This issue has not been substantially tackled to date.

Further, issues of power sharing, resource distribution and the details of the federal system were not elaborated. Negotiations with the southern rebel movements discussed most of these issues. However, the 1989 coup halted all peaceful negotiations and agreements reached between political parties and rebel movements.

In June 1989 another military coup occurred, the constitution was frozen and political parties and all democratic institutions, including the parliament, were dissolved as was the usual pattern of previous coups. El-Bashir’s military government did not develop a constitution quickly and the country was ruled through Republican Decrees until 1998, when a permanent Islamic constitution was drafted by the Islamists who dominated the state apparatus. The 1998 constitution was named the Sudan Republic Constitution and formulated in such a way as to fundamentally establish an Islamic state. The constitution maintained a presidential republican system where the head of the state, the president, was to be elected, and cancelled the presidential council system that was the norm during periods when democratic systems governed Sudan. Though the constitution contained articles referring to rights, all these articles were limited by the phrase “according to the legal regulations”, which rendered these rights non-constitutional and made the laws supreme over the rights granted by the constitution. Another characteristic is that it stated that Sudanese people were equal before the judiciary *and not the law*. This was a major infringement to equal citizenship which is the essence of nation-building.

It is worth noting that legal reform was carried out through a top-bottom elitist approach, as Fadlalla (2008) states: “Dramatic changes that occurred in the legal system were often the work of one or a few individuals, with little public debate.” Hence, people called the 1998 constitution Hassan al-Turabi’s (the leader of the Islamic Front) constitution. In a well documented incident, a 10-person committee drafted the 1998 constitution, that draft was read in its first version in parliament, and a second alternative draft was substituted the next day, read before the parliament and then passed by parliament and signed by the head of state. This incident shows how constitutions have been hurriedly made with top-down approaches imposing the vision of a small group to dominate others. The parliament was elected from members

of the Islamic Front as other political forces boycotted the “Ingaz” elections and government.

Such a top-down methodology will not lead to nation building but rather to the cleavages, hegemony, exclusionism and instability that have characterized political life in Sudan since independence.

Further, it is imperative before concluding to emphasize that the sources of law should not be mentioned in the Constitution, as indicating sources will impact on developing the laws, on peoples’ rights, relations with each other, and lead the definitions of citizenship, dignity and justice to be compromised. If the sources are perceived by some to marginalize, discriminate, lead to less dignity and violations of human rights of some citizens and make them “second-class citizens”, then the emphasis on and inclusion of such sources will be a cause of nation-destruction rather than building cohesion.

The Making of the 2005 Interim National Constitution

The Comprehensive Peace Agreement, developed over years of negotiation since 2003 and finally completed and signed in the 9th of January 2005, had an impact on the development of the 2005 Interim Constitution.

The power-sharing protocol signed on 26th May 2004 by the Sudan People’s Liberation Movement and the National Congress Party at Naivasha indicated a number of measures that needed to be undertaken in order to achieve sustained peace. Among the most important actions was the development of an Interim National Constitution (INC) to constitutionalize the Comprehensive Peace Agreement (CPA). Specific dates were indicated in the agreement for the finalization of the formation of a national constitutional commission and a draft of the INC to be passed by the parliament to be formed in accordance with the said protocol. The power-sharing protocol indicated in article 3-4-12-2 that the commission was to be formed from members of the NCP, SPLM and other political forces and representatives of civil society as agreed upon by the two signatories of the CPA without indicating specific percentages. Yet, in article 41, the total membership was specified as 60 members divided between the SPLM and NCP according to the power-sharing ratio, with each of them including members of civil society amongst their representatives. The commission formed in accordance with the power-sharing protocol gave 52% representation to the NCP, 28% to the SPLM, and 14% and 6% to other Northern and Southern political forces.

However, after the signing of the Cairo Agreement between NCP and the National Democratic Alliance (NDA) in 2005, the signatories to the CPA agreed that the NDA would be represented by nine members, forming 15% of the total membership. The NDA had an extra 18 members for consultative purposes on call to help the assigned nine members. However, after the passing of the constitution, the members were reduced by the president to only three, with reference to the exceptional powers granted to him by the constitution itself in article 14-2. The constitution commission’s functions were stated in the Naivasha power-sharing protocol in accordance with the

1998 constitution with needed modifications to encompass what was agreed upon in the CPA.

Hence, the formation of the constitution commission was basically exclusive, with about 15% representing the NDA, which in 2005 consisted of the Democratic Unionist Party, the Communist Party and a few other leftist groups.

The Eastern Front, the Darfur rebel movements, the Umma National Party and the National People's Party were not part of the NDA in 2005, nor did they have representatives in the commission. These political forces represent substantial Sudanese constituencies. Hence, the exclusionist dimension in the formation of the commission was in line with the CPA process itself, which excluded the NDA before its split with the separation of the Umma party and the Eastern Front. In addition, it excluded all these political forces from the negotiations and signing.

Moreover, the haste in developing the INC followed the same trend of previous constitutions. According to the CPA, signed on 9th January, the National Constitution Review Commission was to be established by 25th of January. The INC was to be drafted by 8th March 2005 and to be passed by 22nd March 2005. Delays took place in the entire schedule and the commission was first formed in June 2005. The deliberations for the development of the draft were undertaken in five weeks only, then the draft was presented to the National Assembly (parliament) for approval, which was guaranteed as the parliament itself was composed of a majority of the two signatories of the CPA (52% NCP and 28% SPLM), and subsequently signed by the president in July to become the new Sudan National Interim Constitution of 2005.

Some politicians may agree that several drafts had been circulated to discuss general aspects of the constitution since 2003. However, the main drafters of the specific articles were the SPLM and the NCP who were working in closed circles, helped by some international experts, to write the draft. The six-week period was to finalize an a draft that had already been prepared and agreed upon. Hence, the INC included many articles that consolidated the powers of the two signatories of the CPA, as well as giving legal binding to the CPA itself as the only peace agreement that was protected by the constitution and constitutionalized.

The straitjacket of the INC, which was meant to validate only the CPA, later created problems with integrating the Darfur and Eastern peace agreements in a similar way to the CPA.

It is beyond the limits of this paper to discuss the implications of the INC on sustained peace in Sudan. However, it is indicative to highlight how the process of formulating the INC was characterized by both haste and exclusiveness.

An ideal framework for developing a constitution in a participatory inclusive way will be presented below as an attempt to overcome the defects of the past that made the Sudanese people pay a very high price of years of conflict, loss of life and dictatorship that hampered development, security, justice and prosperity to its people.

Concluding Remarks: The Way Forward

To give a short summary, one can divide constitution making in Sudan into four main phases: the immediate post-independence and democratic period; military dictatorship; Islamization; and the post-CPA phase.

The post-independence democratic phase of 1956 was influenced greatly by the British principles of jurisprudence, human rights and codification and the self-government statute of 1953. During democratic periods, efforts to develop a permanent constitution through a slow process did not come to fruition. Hence, the constitutions during the three democratic periods were transitional and influenced by constitutions developed in the preceding periods. The 1985 constitution was influenced by the 1973 constitution in which the sources of legislation were stated as stemming from peoples' religions, good norms and customs. However, religion and norms were influenced by principles of majority rights; hence the principal sources were Islamic ones. Democratic principles of liberty, individual rights, justice, equity and respect for democratic principles and institutions were constitutionalized. The democratic periods that followed military regimes amended the constitution of 1956 but were unable to form a permanent constitution with a vision widely accepted by all the polity for building a nation. The democratic periods each time were short, about three years, and the will to develop a constitution that would encompass the visions of all Sudanese seemed to be hampered by negotiating peace to end the civil war. Attempting to achieve wide participation needs time, which the short-lived democracies did not have, and during periods in opposition preparation of a participatory nature was not possible and drafts of constitutions were not a priority. The goal of overthrowing the military through an uprising itself represented a short-term vision. The constitution was not conceived as a reconciliatory document that could achieve sustained peace and democracy by addressing the root causes of conflict and the overthrow of democracies through coups. A draft constitution produced during an opposition period could look like a national agreement or convention of a social contract nature addressing all the basic issues indicated above.

The military dictatorship regimes each had a different context. The Abboud regime of 1958-64 had no vision of how to build a nation nor a need to develop a constitution, hence that period witnessed government without a constitution. The period was also short and not stable.

As for Numeiri's regime (1969-85), in its first years (1969-71) socialism and Arabism dominated the vision but no constitution was developed, while the cleavage of 1971 within the military leadership led to a clear absence of a vision for nation building. However a socialist ideology still impacted on the 1973 constitution which contains ideas from Marxism, merged with Islamism, and hegemony of the centre merged with decentralization. Many contradictory principles were mixed that made implementation and application impossible.

Islamization started during the second democratic period and became prominent during undemocratic periods, influencing constitutions through amendments in the 1973, 1979 and 1998 constitutions. The ability of a few leaders who were committed to Islamic ideology and fundamentalism influenced the process of Islamization of the

nation, its constitution and laws. These leaders managed to influence and manipulate other leaders in political power after 1966, and then ruled themselves, declaring an Islamic state in all dimensions except for the name of the state, which remained unchanged as the Republic of Sudan. The departure from a more civil, secular-oriented state constitution to an Islamic one occurred through a process of over thirty years up to the signing of the 2005 Comprehensive Peace Agreement (CPA) and the Interim National Constitution (INC). The Arabization process commenced at the wake of independence in 1956. Bearing this context in mind is crucial for future analysis of how far Sudan can move towards developing a permanent constitution in a participatory way. Below the steps for developing in a participatory way the permanent constitution will be highlighted (Source: the 1956, 64, 73, 79, 98 constitutions of Sudan).

The Participatory Constitution-Making Framework

The new constitution should basically discuss among others the following issues. The suggested framework is made up of six levels for engagement:

1. The formation of a central expert committee representing political parties, native administration, other traditional and religious leaders, women's groups, other civil society members, especially NGOs, and minority groups. All these groups to nominate experts who could participate in developing an initial draft.
2. The formation of state-level or regional-level committees to develop drafts of state/region and national constitutions.
3. Special stakeholder groups like women, business, minorities, social development/relief practitioners, army/security, religious groups, athletics, artists, cultural groupings etc should all work on developing specific chapters, and review all articles of the drafts to guarantee that their rights are maintained.
4. Public opinion studies on visions, legal reform, issues related to identity, types of state and government, sources of legislation and any controversial issues to be studied and debated.
5. Public lectures and debates using different channels of communication to start dialogue between the people and with them on the above issues and others which can be identified during the process.

This model uses a bottom-up approach as well as a cyclic process where there is no one starting and ending point before the semi-final draft is presented to the elected parliament.

A crucial point is that the formation of the constitution commission should be inclusive and representative of various groups and expertise.

Different Sudanese groups representing diverse ethnic, cultural and regional groups, minorities, disadvantaged and disabled, artists, athletes, political parties, various civil society members, academia, traditional leaders, the private sector, security forces and so on, should start from now to prepare for a draft of a constitution by beginning

dialogue, studies and expert group meetings. A review of the current and previous constitutions needs to be undertaken. People have to be alert to the importance of the supreme law to their lives so as to engage seriously in developing it as a means to achieve sustained peace and a united, developed, democratic nation.

The following issues need to be discussed before drafting the constitution document: development, freedom, federalism/confederalism, identity and diversity issues, sources of law and separation of religion from the state; unity and rights to separation, respect for human rights and good governance, handling conflict and resolving it peacefully, agreeing on issues of the type of state, power sharing, the economy, social welfare, people's rights to social development, gender equality, justice in resource distribution and the allocation of opportunities between regions, ethnic groups, classes and genders, as well as addressing critical issues to resolve the conflict between a modern state system and traditional ones.

To take lessons from the Kenyan process for wide public consultation we need the following: (see references)

To form a broad Constitution Review Commission to undertake the following:

- a) Examine and recommend the composition and functions of the organs of state, including the executive, the legislative and the judiciary and their operations, to examine their mutual checks and balances and secure their independence;
- b) Examine the various structures and systems of government, including the federal and unitary systems, and recommend an appropriate system for Sudan that would guarantee separate powers, affirm transparency, rule of law, accountability, downsizing exclusive powers, participation, democratic values and principles and citizenship, and equal rights.
- c) Examine and recommend improvements in the existing constitutional commissions, institutions and offices and the establishment of additional ones to facilitate constitutional governance and respect for human rights and gender, economic, social, religious, political and cultural development;
- d) Examine and recommend improvements in the electoral system of Sudan;
- e) **Without prejudice to sub-paragraph (i)**, examine and make recommendations on the judiciary, generally, and, in particular, the establishment and jurisdiction of courts and of the Constitutional Court, aiming at measures necessary to ensure judicial competence, accountability, efficiency, discipline and independence;
- f) Examine and review the place of local governments in the constitutional organization of the Republic of Sudan and the degree of the devolution of powers to them;
- g) Examine and review the place of property and land rights, including private, government and trust land, in the constitutional framework and the law of Sudan and recommend improvements to secure the fullest enjoyment of land and other property rights;
- h) Examine and review management and use of public finances and recommend improvements;
- i) Examine and review the right to citizenship and recommend improvements to ensure, in particular, gender parity in conferring those rights;

- j) Examine and review the socio-cultural factors that promote various forms of discrimination, especially gender- and ethnic-based ones, and recommend improvements to secure equal rights for all;
- k) Examine and review the rights of women and recommend constitutional articles and mechanisms to guarantee their rights, achievement of equality, and ending discrimination of any nature;
- l) Examine and review the rights of the child and recommend mechanisms to guarantee their protection;
- m) Examine and note recommendations on treaty-making and treaty implementation powers of the Republic and any other relevant matter to strengthen good governance and observance of Sudan's obligations to international law;
- n) Examine and make recommendations on the necessity of directive principles of state policy, especially so as to guarantee gender equality and diversity representation, equality, justice and protection to minorities, disabled and aged;
- o) Establish and uphold the principle of public accountability by holders of public or political offices; and
- p) Examine and make recommendations on any other matter connected with or incidental to the foregoing and which achieves the overall objective of the constitutional review process.

The Commission to form sub-committees, each to work on a certain issue as follows:

- a) Conduct and facilitate civic education in order to stimulate public discussion and awareness of constitutional issues;
- b) Collect and collate people's views on proposals to alter the constitution and, on that basis, to draft a bill to alter the constitution for presentation to the National Assembly; and
- c) Carry out or cause to be carried out such studies, researches and evaluations on other constitutions and constitutional systems to inform the commission and the people of Sudan in developing the constitution of the new state of Sudan.

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