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POUR LE DÉVELOPPEMENT

Text Arising from the 25th August Protocol and Stakeholders Positions, Draft I

22 September 2014

Key:

Red= GRSS

Blue= SPLM/A-IO

Yellow= SPLM-FD

Italics=Political Parties

Green= CSO

PREAMBLE

The Government of the Republic of South Sudan (hereinafter referred to as the "Government" or the GRSS), and the Sudan People's Liberation Movement/Army (in Opposition) (hereinafter referred to as (SPLM/A (IO)) and others namely: SPLM Leaders (Former Detainees), Political Parties, Civil Society, and Faith-Based Leaders; jointly referred to as "Stakeholders";

Concerned about the grave and continuing crisis in South Sudan, resulting in senseless loss of life, mass displacement and destruction of property;

Mindful that the crisis in South Sudan cannot be permitted to continue amid the impending threat of war-induced-famine and further devastation;

Determined to end the war and restore peace and stability in the country;

Acknowledging the concerted efforts of IGAD and its Member States, which together convened five Extraordinary Summits between December 2013 and August 2014, and initiated the IGAD Peace Process for South Sudan;

Further acknowledging the extensive consultations carried out by the Special Envoys throughout the region and beyond, and the efforts toward a negotiated resolution of the crisis;

Recalling the achievements made thusfar: the signing of the Cessation of Hostilities Agreement on 23rd January 2014, the establishment and operationalization of the Monitoring and Verification Mechanism, the deployment of a Regional Protection Force under the mandate of the United Nations Mission in South Sudan, and the progress to date of the multi-stakeholder dialogue;

Applauding the critical support provided by IGAD Partners and Friends of South Sudan to the peace process;

Do hereby **Agree** that the terms of a political transition shall be further determined by the agreed outcomes of the IGAD-led multi-stakeholder peace process, and that such terms shall necessarily be formulated in accordance with these Principles;

I. AGREED PRINCIPLES: TRANSITIONAL GOVERNANCE ARRANGEMENTS (TGONU)

1. Establishing a Transitional Government of National Unity (TGONU) offers the best chance for the people of South Sudan to take the country forward [**Protocol Principle 1**];

- i. *There shall be established a broad-based TGONU at National level and corresponding government structures at State and local levels;*
- ii. **The TGONU shall be constituted in accordance with the provisions of the Peace Agreement;**
- iii. **There shall be established an all-inclusive Transitional Federal Government of National Unity (TFGONU) in the Republic of South Sudan to replace the present Government of the Republic of South Sudan (GRSS);**

A) Functions and Mandate of The Transitional Government of National Unity

- i. **Implementation of the Peace agreement.**
- ii. **To carry out the routine functions of the government**
- iii. **Repatriation, rehabilitation and Resettlement of IDPs and returnees**
- iv. **To oversee a permanent constitution making process**
- v. **To conduct reconciliation and healing, build consensus on national issues and foster social harmony and peaceful coexistence**
- vi. **To restore peace, security and order in the country**
- vii. **To rebuild the destroyed physical infrastructure in the conflict affected States and give special attention to prioritizing the rebuilding of livelihoods of those affected by the conflict**
- viii. **To conduct and supervise the upcoming population census and national elections**
- ix. **To prioritize the construction of trunk roads linking South Sudan with Uganda, Kenya, Ethiopia and Sudan, as well as power generating**
- x. **To follow up on the implementation of Cooperation Agreement between South Sudan and Sudan**
- xi. **To organize and carry out reforms in all the institutions including the security sector**
- xii. **Perform other functions or duties as shall be decided by the TGoNU.**
- xiii. **To implement the peace agreement;**
- xiv. **Oversee government functions during the Transitional Period;**
- xv. **Implement critical reforms as negotiated in the peace agreement;**
- xvi. **Conduct National Census and Elections;**
- xvii. **Permanent Constitution Making Process;**
- xviii. **National Reconciliation and Healing;**
- xix. **Repatriation, relief, resettlement, reintegration, reconstruction and rehabilitation of Internally Displaced Persons (IDPs)**
- xx. **Special Funds for Reconstruction of War affected states and compensation of persons whose property has been destroyed**

B) Mandate of the Transitional Government

The Transitional Government of National Unity shall exercise the following mandate:

- i. Implement this Peace Agreement reached by the parties during the IGAD mediated Peace Talks on the conflict in South Sudan;
- ii. Lead the process of national reconciliation and healing to overcome the grave challenges that threaten to tear the country apart;
- iii. Oversee the constitutional review process leading to a new Constitution that reflects the aspirations and will of the people of South Sudan;
- iv. Conduct national census and demarcation of constituency boundaries;
- v. Create conducive political and legal environment for multiparty democracy and for holding of free and fair elections at the end of the Interim Period;
- vi. Implement the cease-fire Agreement and undertake security sector transformation and reforms to ensure that security forces are national in character, respect the Constitution, rule of law and human rights of all citizens;
- vii. Rehabilitation and reform of the civil service,
- viii. Ensure prudent, transparent and accountable management of national wealth and resources for building the nation and promoting the welfare of the people;
- ix. Undertake programmes for the relief, resettlement and rehabilitation and repatriation of citizens who have been internally displaced and refugees from the neighbouring countries;
- x. Work closely with the African Union, particularly with the IGAD sub- region and the international community, to consolidate peace and stability in the country during the Interim Period; and
- xi. To facilitate the work of the AU Commission of Inquiry into the Human Rights Violations committed since 15th December 2013, as well as any investigation by the UN Human Rights Commission and other human rights bodies, in order to ensure justice and accountability and deter impunity.
- xii. *The mandate of the transitional government is to establish and consolidate peace, instil confidence of the people in their government and lead the country to a genuine multi-party democracy. It is of vital importance that the transitional government should be depicted in the minds of the people of South Sudan as **a Government of Reform Programme** and should practically be seen as such.*
- xiii. The mandate of TGoNU shall be as provided under section 2.2 of this agreement
- xiv. Oversee and implement the Agreement and to secure conditions of peace, prevent a return to violence and provide a process to produce a sustainable social compact.
- xv.

C) Functions and Powers of TGoNU

- iv. Protect and defend the Transitional Federal Constitution;

- v. Formulate the country's policies in respect to overall economic and social development;
- vi. Draw up and implement plans and strategies of development;
- vii. Establish national standards and basic criteria for the evaluation of policies in public health, education, science, technology, culture as well as for the protection and preservation of historical legends and sites;
- viii. Formulate and execute the country's financial, monetary and foreign investment policies;
- ix. Enact laws for the utilization and protection of land and other natural resources, historical sites and objects;
- x. Establish and administer national defense and public security forces as well as federal police, prisons, wildlife and civil defense forces;
- xi. Administer the Federal Reserve Bank, print and borrow money, mint coins, regulate foreign exchange and money in circulation. Determine by law the conditions and terms under which states can borrow money from internal sources;
- xii. Formulate and implement foreign policy.
- xiii. Negotiate and ratify international agreements;
- xiv. Be responsible for the development, administration and regulation of air, rail, river transport and major roads linking two or more states, as well as for postal and telecommunications;
- xv. Levy taxes and collect duties on revenue sources granted to the Federal Government.
- xvi. Draw up, approve, and administer the Federal budget;
- xvii. Determine and administer the utilization of the water of lakes linking two or more states or of rivers crossing the boundaries of two or more states;
- xviii. Regulate inter-state and foreign trade;
- xix. Deploy, at the request of state authorities, Federal forces to arrest a deteriorating security situation within that state when its authorities are unable to control it;
- xx. Enact laws, in order to give practical effect to political rights provided for in the Transitional Federal National Constitution, all necessary laws governing political parties and elections;
- xxi. Has the power to proclaim and to lift national states of emergency and states of emergencies limited to certain parts of the country;
- xxii. Determine and administer matters relating to nationality and citizenship;
- xxiii. Determine and administer all matters relating to immigration, the granting of passports, entry into and exit from the country, refugees, and asylum seekers;
- xxiv. Patent inventions and protect copyrights;
- xxv. Establish uniform standards of measurement, and calendar and;
- xxvi. Enact laws regulating the possession and the bearing of firearms

The functions and powers of the Transitional Government of National Unity shall be as follows. These tasks shall be transformed into programmes that the TGoNU shall implement:

- xxvii. *carry on all the normal functions of government during the transitional period predicated on good governance;*
- xxviii. *implement the Peace Agreement. This includes critical reforms in the security sector, civil service, national economy, etc...**These reforms will be spelt out in detail.***
- xxix. *oversee an integrated process of national reconciliation and healing;*
- xxx. *carry out a population census (if time allows);*
- xxxi. *convene the national constitutional conference that shall discuss and agree on the principles of the permanent constitution for the country;*
- xxxii. *produce a draft permanent constitution and put it to a popular referendum for adoption;*
- xxxiii. *facilitate registration of all the political parties and ensure a level democratic field for them consistent with the basic principles of multiparty democracy;*
- xxxiv. *ensure the active participation of the people, as citizens, in politics and civic life through the exercise of fundamental freedoms, independent judiciary and the media;*
- xxxv. *revitalize agriculture and create sustainable rural livelihoods by directing oil revenues to rural infrastructure and agricultural development;*
- xxxvi. *invest in service delivery such as health sector, education, water and infrastructure;*
- xxxvii. *the diplomatic service, consolidation of relations with countries and regional and international bodies;*
- xxxviii. *expedite the repatriation, relief, rehabilitation, and resettlement of the refugees and IDPs, and reconstruction of conflict-affected areas, while healing the trauma from conflict; and*
- xxxix. *conduct free and fair elections towards the end of the interim period on the basis of the permanent constitution.*

D) Functions and Powers of TGoNU

- xi. *Initiate and supervise people driven constitution making process*
- xli. *Implement the institutional reform*
- xlii. *Establish an independent justice system to address amongst others options of transitional justice*
- xliii. *Implement resettlement, rehabilitation and integration of IDPS*
- xliv. *Conduct census and demarcation of constituencies*
- xlv. *Conduct free, fair and credible elections*
- xlvi. *Pursuant to the 10th June, 2014 Agreement, there shall be established a transitional government of national unity whose key functions shall be to restore security, stability, law and order, work to regain the confidence of the people, especially those most affected by the conflict, and ensure the wellbeing of all citizens. During the Transitional Period, critical reforms in Security Sector, Civil Service, Judiciary, Economic and Financial Sector, Service Delivery, Reconstruction and Development, Media, Natural Resources Sector, Physical Infrastructure, Foreign Policy, Commissions, National security Agencies, Police, Prison, Wildlife Services, Civil Defence, National Election Commission, National Bureau of Statistics, and Social Service Sector; review*

of the Political Parties Act and the Constitutional Review Commission shall be carried out as stipulated in the Agreement;

- xlvi. The Transitional Government shall review the composition and membership of all existing commissions and independent institutions;
- xlvi. During the Transitional Period, critical institutional reforms in the Security Sector, Civil Service, Judiciary, Economic and Financial Sector, Service Delivery, Reconstruction and Development, Media, Natural Resource Sector, Physical Infrastructure, Foreign Policy Commissions, Private Security, National Security Agencies, Police, Prisons, Wildlife Services, Civil Defence (fire brigade service), National Elections Commission, National Bureau of Statistics, and Social Services Sector, Anti-Corruption Commission, the Central Bank (The central bank to be Federal Reserve Bank after reforms) and Financial Institutions, Auditor Generals Chamber, Civil Aviation Authority, Human Rights Commission, Fiscal and Monetary Policies, Resource Allocation Commission, National Census, and review of the Political Parties Act shall be carried out as stipulated in the Agreement;
- xlix. The TFGONU shall exercise all powers of a national government as stipulated in Chapter I section 3 (3) above; and
- i. The TFGONU shall hand over power to the elected government at the end of the Transitional Period; and
 - ii. The Vision and Mission of TFGONU shall be:

Vision:

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

Mission:

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

Official Language

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

Language

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

E) Decision making mechanism in the TGoNU

- i. *By Consensus*
- ii. The Powers, decisions making and dispute resolution mechanism shall be as provided under the five schedules of the amended transitional constitution of the Republic of South Sudan, 2011

F) Dispute resolution mechanism

- i. Any dispute relating or arising from interpretation of this Agreement shall be referred to the Constitutional Court/ Supreme Court
- ii. *To be worked out in the peace agreement*
- iii. The Powers, decisions making and dispute resolution mechanism shall be as provided under the five schedules of the amended transitional constitution of the Republic of South Sudan, 2011

G) Seat of the TGoNU

- iv. The seat of the TGoNU shall be in Juba/Ramchiel, meanwhile preparations for the relocation of the capital shall be completed.

H) Pre-transitional Period

2. The Transitional Period shall be preceded by a Pre-Transition period of 90 days, during which tasks necessary to initiate the Transition shall be completed; these tasks shall be negotiated by the stakeholders in the negotiations [**Protocol Principle 10**];

There shall be a Pre-Transitional Period whose duration shall be [CSOs 6], [Political Parties 2] months commencing with the signing of the peace agreement;

There shall be Pre-Transitional Period whose commencement and duration shall be 3 months commencing from the date of signing of the Peace Agreement

Establishment of the Transitional /Interim Government of National Unity shall be preceded by a Pre-Interim Period of three months.

The TGONU will commence at the end of the pre-Transitional period and shall last for 3 years;

- i. The Peace Agreement negotiated, and the necessary amendments to the Transitional Constitution, shall be presented to the national Legislature for adoption within the first 4 weeks from the conclusion of the Agreement. The Legislature will not introduce any amendments to the text;
- ii. The amended Transitional Constitution shall not be amended or repealed during the Transitional Period except by way of special procedure and qualified majorities (three quarters of all the members of the National Legislature) in order that the provisions of the Peace Agreement are protected, as provided for in the Transitional Constitution, and shall form the basis upon which South Sudan shall be governed during the Transitional Period;
- iii. The Stakeholders shall refrain from any form of unilateral revocation or abrogation of the Peace Agreement;
- iv. The Peace Agreement negotiated, **and the necessary amendments to the Transitional Constitution** shall be presented to the National Legislature for adoption **as it is** within **2 [3 for pol parties] weeks** from the **date of signature** [of conclusion of] the Agreement. **The Legislature will not introduce any amendments to the text.**
- v. A representative National Constitutional Amendment Committee (NCAC) shall be established by the President in consultation with the SPLM/A In Opposition and all other stakeholders whose task shall be the drafting of a Legal and Constitutional Framework for the incorporation of the Peace Agreement into the current Transitional Constitution of the Republic of South Sudan, 2011.
- vi. The NCAC shall accomplish its task within four (4) weeks from the date of its formation and after which the Minister of Justice shall table the draft before National Legislature for ratification.
- vii. The National Legislature shall after one (1) month from the date of presentation, deliberate on the draft amended constitution and adopt it within one month thereafter.
- viii. The National Legislature shall within seven (7) days from the date of adoption present the amended draft constitution to the President for assent and signature.
- ix. The amended Transitional Constitution shall not be amended or repealed during the Transitional Period except by way of special procedures and qualified majorities in order that the provisions of the Peace Agreement are protected, as provided for [there in] in the Transitional Constitution, and shall form the basis upon which South Sudan will be governed during the Transitional Period.
- x. The Stakeholders/**Parties** shall refrain from any form of unilateral revocation or abrogation of the Peace Agreement.

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

3. Individuals, groups and parties to the conflict shall be accountable for their actions. Individuals found to have committed atrocity crimes, war crimes, or other crimes against humanity, as identified by the African Union Commission of Inquiry for South Sudan, shall not be eligible for participation in the Transitional Government, or, if already participating in the Transitional Government shall resign **[Protocol Principle 15]**
4. The Executive shall guide the transitional agenda and national elections as shall be agreed by the participating stakeholders in the IGAD-led peace process **[Protocol Principle 12];**
5. National elections shall be held 60 days before the end of the Transitional Period in order to introduce a new political dispensation in South Sudan **[Protocol Principle 9];**

- i. The TGONU shall conduct a census before elections
- ii. During the Transitional Period, national elections shall be organized by the TGONU in accordance with the provisions of the National Elections Act and the Political Parties Act.

Towards the end of the Transitional Period, general elections shall be organized by the TGONU.

- i. The TGONU shall determine whether to conduct census for the purpose of elections or use available statistics from the population census of 2008 to carry out elections;
- ii. During the Transitional Period, national elections shall be organized by the TGONU. The TGONU shall review the electoral system and procedures as contained in the National Elections Act, 2012:

6. The Transitional Period shall last for a period of 30 months **[Protocol Principle 8];**

- i. The TFGONU will commence at the end of the Pre-Transitional Period and shall last for **[4 years];**
- ii. *The TGONU and its institutions as provided for in the Peace Agreement shall be established and come into existence at the end of the Pre-Transitional Period and shall last for three (3) years;*
- iii. **The duration of the Transitional Period shall be three calendar years beginning from the day the Agreement is adopted by the National Legislature**

I) Composition and Structure of The Transitional Government

7. The Transitional Government shall include representatives nominated by the Government, the SPLM/A (IO), the SPLM Leaders and other Political Parties, shall be negotiated by the parties mentioned above in the negotiations **[Protocol Principle 11];**
8. The Executive of the Transitional Government shall comprise the President, the Vice President, the Prime Minister and the Council of Ministers **[Protocol Principle 7];**

The people of South Sudan, in their social and political diversity, shall participate in the institutions of the TGONU at all levels, which shall respect the need for representation and inclusiveness in the staffing and management of its agencies, organs, departments and ministries without prejudice to merit;

The nature and the structure of the TGONU shall be equitably constituted with their mandates (as shall be) defined by this Agreement;

The different pillars of government (Executive, Legislature and Judiciary) as reformulated for the Transitional Period, shall *entitled to* operate independently and ensure the principle of checks and balances is upheld

Parties that will form the Government are:

- i. The current government,
- ii. SPLM/A in Opposition,
- iii. SPLM Leaders (FPD),
- iv. Political Parties

Power sharing among the above shall be as follows:

- i. Government..... (28%)
- ii. SPLM/A (IO)..... (27%)
- iii. SPLM Leaders (FPD)..... (25%)
- iv. Political Parties (20%)
- v. Each of the four groups shall allocate 25% - 30% for women.
- vi. Allocation of cabinet portfolios shall be as follows with 40% women representation
- vii. 40% of the cabinet to the GRSS
- viii. 30 % of the cabinet to the SPLM/A in Opposition
- ix. 20 % Political parties
- x. 10% of the cabinet to the SPLM Leader (FPD)

The appointment, replacement and removal procedures shall be jointly done by the President and Prime Minister as shall be provided under the amended Transitional constitution of South Sudan, 2011

Selection, Replacement and Removal Procedures

- i. Each political party shall select the number allocated to it and gives the names to the appointing authority;
- ii. In the event that the performance of the member nominated by a political party is not satisfactory, the appointing authority discusses the matter with the Leader of the political party concerned who shall nominate a replacement in case they agree that this is the course of action to take.
- iii. The details of replacement and removal of government political office bearers shall be negotiated and included in the Agreement.

Allocation of portfolios

- i. 70% goes to GRSS (SPLM)
- ii. 20% goes to SPLM/A In Opposition
- iii. 10% goes to all the other stakeholders

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

- i. SPLM/SPLA 70%

- ii. GRSS 20%
- iii. Other Stakeholders 10%

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

- i. Federal (Ministerial, Ambassadorial, Under Secretary, legislature, and Independent Commissions/Institutions).
- ii. State (Governor, Ministerial, Commissions/Institutions Heads, and Legislature).
- iii. County (Commissioners and Councilors).

- i. *The Council of Ministers, Parliament, State Assemblies, State governments and County Commissioners shall be composed of persons nominated by political parties as follows: SPLM factions, 60% and other political parties, 40%.*
- ii. *Representation of the political parties in the national Council of Ministers shall be in the same proportion above in the three ministerial sectors of governance, economy and services.*
- iii. *The actual composition of the national Council of Ministers and governments of the States shall be subject to negotiations and included in the Peace Agreement.*
- iv. *Independent Commissions, Institutions and Authorities shall be revisited and whatever is agreed upon shall be reconstituted in the same proportions as in (1) above.*
- v. *The President and Prime Minister shall, respectively, be from SPLM-IG, and SPLM-IO. The Vice President shall be from the political parties other than the two mentioned.*
- vi. *Women shall comprise at least 25% of the executive and legislative organs.*
- vii. **The Transitional Executive shall consist of**
 - a. **The President and the Prime Minister, to be shared between the Government and SPLM/A-IO;**
 - b. **In event of disagreement on the above , the two principals are to be excluded;**
 - c. **Vice President, to the Political Parties;**
 - d. **Two Deputy Prime Ministers; one to the SPLM Leaders (FPD) and one GRSS ;**
 - e. **The persons who will assume the positions of President, Prime Minister and Vice President shall not be eligible to run for office in the next election and**
 - f. **the cabinet shall be shared as in (f) below.**

(1) On the national level, executive power shall be shared between a President who shall be the Head of State and a

Prime Minister who shall be the Head of Government. The President shall be assisted by a Vice President;

(2) On the State level the top Executive officer shall be the Governor assisted by a Deputy Governor who shall also hold a ministerial docket;

(3) On the local level, the county shall be led by the Commissioner.

Leadership of the TGoNU shall consist of heads of Executive, Legislature and Judiciary

- i. Establish office of the Prime Minister and Deputy Prime Minister
- ii. Composition: The institution of Presidency shall consist of President, Vice President and Prime Minister
- iii. President: The President shall be nominated by the SPLM in the Government in consultation with the SPLM/A in Opposition and then endorsed by the National Legislature.
- iv. Vice President: The Vice President shall be nominated by SPLM/A in Opposition in consultation with SPLM in Government, SPLM Leaders-FPD and Political parties and endorsed by the National Legislature.
- v. Prime Minister: The Prime Minister shall be nominated by the SPLM-In-Opposition in consultation with the SPLM in Government and to be endorsed by the National Legislature and shall be the head of the national cabinet.
- vi. The two deputies Prime Ministers shall be nominated by the SPLM in Government and the Political parties respectively and to be endorsed by the national legislature

The TFGONU shall consist of three branches, namely;

- i. The Legislature;
- ii. The Executive; and
- iii. The Judiciary;

The Executive shall include

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

The structure of the TGONU shall be as follows:

- i. President;
- ii. Prime Minister;
- iii. Vice President;
- iv. Two Deputy Prime Ministers;
- v. National Cabinet and Deputy Ministers; and
- vi. Limited number of Advisors.

J) President

9. The Head of State and Government, Commander-in-Chief of the Armed Forces of the TGONU shall be the elected, incumbent President of the Republic; the President of the Republic shall be deputized by a Vice President of the Republic **[Protocol Principle 2];**

- i. Maintain the presidency of the republic as provided for under article 97 and 104 of the Transitional Constitution of Republic of South Sudan, 2011

K) Functions and Powers of the President

The President is the Head of State and shall exercise the following functions and powers:

- i. Preserving the sovereignty of the Republic of South Sudan and protects its territorial integrity;
- ii. Performing all the ceremonial functions of the Head of State;
- iii. Carrying out the functions and duties of the Commander-in-Chief of the armed forces (SPLA);
- iv. Exercising command authority over the armed forces which shall flow from him to the Prime Minister, the Minister of Defense and the Chief of General Staff;
- v. Appointing the Vice President in accordance with this Peace Agreement;
- vi. Appointing the Prime Minister in accordance with this Peace Agreement;
- vii. Appointing the two Deputies of the Prime Minister on recommendation of the Prime Minister in accordance with this Peace Agreement;
- viii. Appointing presidential advisors in consultation with the Prime Minister;
- ix. Appointing the Chief Justice, Justices of the Supreme Court and Constitutional Court on the recommendation of the Judicial Service Commission;
- x. Declaration and termination of state of emergency in accordance with the Constitution;

- xi. Initiating constitutional amendments in consultation with the Prime Minister, assents to bills passed by the National Legislature and signs them into law;
- xii. Convening, summoning and adjourning the National Legislature in consultation with the Prime Minister and Speaker of the National Legislature;
- xiii. Declaring war in consultation with the Prime Minister and in accordance with the Constitution;
- xiv. The President shall chair meetings of the National Defense Council (NDC);
- xv. Appointing ambassadors and diplomatic representatives to foreign countries on recommendation of the Minister of Foreign Affairs through the Prime Minister;
- xvi. Appointing new Governors for Jonglei, Unity, Lakes and Northern Bahr el Ghazal states, to serve for the duration of the Interim Period, in consultation with the Prime Minister;
- xvii. Commissioning, appointing and dismissing officers of the military and other organized forces in consultation with the Prime Minister and with approval of the National Defence Council;
- xviii. Signing letters of accreditation of diplomatic and consular representatives of the Republic of South Sudan to foreign countries, regional and international organizations, and accepting the credentials of diplomatic and consular representatives of foreign countries and receiving their letters of credence;
- xix. Overseeing the implementation of laws of the country, exercising the prerogative of pardon, commuting or approving death sentences, in accordance with the provisions of the Constitution and the law;
- xx. Conferring decorations and Medals of Honour, both civil and military; in accordance with the laws governing such decorations and medals;
- xxi. Addressing the opening sessions of the National Legislature; and special sitting once a year on the state of the nation;
- xxii. Addressing the National Legislature any time as the situation may require;
- xxiii. Any other function vested in him/her in conformity with the Constitution and the law;
- xxiv. When the President is unable to discharge his/her functions owing to absence, illness or any other cause, the Vice President shall discharge his/her functions until the date on which the President resumes his/her duties.

10. In the event that the post of President falls vacant, the provisions of the Transitional Constitution of the Republic of South Sudan shall prevail [**Protocol Principle 13**].

Eligibility Criteria for President and Vice President

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

L) Prime Minister

11. There shall be established the office of the Prime Minister nominated by the SPLM/A (IO) and who shall be acceptable to the President; whose duties and powers shall be negotiated in the peace process [**Protocol Principle 3**];
12. The Prime Minister shall be a credible, professional and competent person to accomplish the tasks entrusted to him to coordinate the implementation of the interim process [**Protocol Principle 4**];
13. The Prime Minister shall work harmoniously with the President during the interim period [**Protocol Principle 5**];
14. The Prime Minister will not be eligible to stand for any public office in the national elections at the end of the Transitional Period [**Protocol Principle 6**];
15. Should the post of Prime Minister fall vacant during the Transitional Period, the post shall be filled by the nominee of the SPLM/A (IO), as per the terms to be negotiated [**Protocol Principle 13**];

- i. Office of the Prime Minister (Prime Minister - SPLM/A IO and two Deputies Prime Minister -(GRSS and the political parties
- ii. There shall be established during the Transitional Period, the Office of the Prime Minister who shall be the executive head of Government;

- iii. The Prime Minister shall be appointed by the President in accordance with this Peace Agreement;
- iv. The Prime Minister shall be assisted by two Deputy Prime Ministers, one of whom shall act on his/her behalf during his/her absence; each shall be assigned a ministerial portfolio;
- v. In appointing or removing the members of his/her cabinet, the Prime Minister shall consult with the President in accordance with this Peace Agreement taking into account the power sharing arrangements;
- vi. The Office of the Prime Minister shall fall vacant in the event of death, physical incapacitation, mental infirmity or gross violation of the Constitution;
- vii. If the Prime Minister loses his/her position as stated in (v) above, the President shall appoint another Prime Minister from the same party or group(ing) of the departed Prime Minister in accordance with this Peace Agreement;
- viii. A candidate for the Office of the Prime Minister shall meet the eligibility criteria for the President prescribed under Article 98 of the Transitional Constitution

Functions and Powers:

The Prime Minister:

- i. Is the Chief Executive and Head of Government and chairs the meetings of the National Council of Ministers;
- ii. Directs the daily business/operations of the Government;
- iii. Appoints members of the National Council of Ministers after consultation with the President in accordance with this Peace Agreement;
- iv. Chairs the National Security Council and be a member of the National Defense Council;
- v. Oversees the implementation of laws and policies passed by the National Legislature;
- vi. Initiates legislation on all matters of national development in accordance with the Transitional Constitution and presents such bills to the National Legislature;
- vii. Negotiates international agreements, treaties and conventions with approval of the Council of Ministers and approval of the National Legislative Assembly;
- viii. Causes the preparation of the annual budget of the country and its presentation to the National Legislature;
- ix. Consults with the President and the Council of Ministers on issues of public policy and functioning of government;
- x. Appoints senior civil servants after approval by the Council of Ministers;
- xi. Directs, coordinates and oversees the work of the ministries and other public institutions and agencies.

M) The Council of Ministers:

Composition, Powers and Functions

- i. All the Articles of the Constitution from Article 108 to 121 inclusive, under Chapter III, of the Constitution providing for the establishment, powers, functions, competences of the National Council of Ministers and all other related matters thereto, shall apply to the new Council of Ministers with the following modifications:
 - a. In Article 108 (2) and (3) the words "President" and "Vice President", wherever they appear, shall be deleted and the "President" shall be replaced with "Prime Minister".
 - b. Other articles relating to the Council of Ministers shall be amended to conform to this Peace Agreement.
 - c. The Transitional Council of Ministers shall consist of Prime Minister, two Deputy Prime Ministers and Ministers of which at least (30%) thirty percent shall be women and it shall be representative of the people of South Sudan.
 - d. The Council of Ministers shall be chaired by the Prime Minister and in his/her absence one of the Deputies shall act;
 - e. Selection of members of the Council of Ministers shall be based on the power sharing formula agreed upon by the Government, SPLM/A in Opposition, SPLM Leaders (FPD) and the Political Parties in accordance with this Agreement;
 - f. No member of the cabinet may be removed except after consultation with his/party or group who shall nominate a replacement;
 - g. Decisions of the cabinet shall be by consensus failing that, by simple majority; members of the cabinet shall be bound by collective responsibility.
- ii. *On the national level, the Council of Ministers shall comprise of twenty-one (21) line Ministers as detailed below.*
- iii. *There shall be no more than five Deputy Ministers to be limited to a few ministries such as Foreign Affairs (one), Finance and National Economy (two).*
- iv. **The Cabinet (18 Ministries)**
Ministries of
1.Office of the President, 2.cabinet affairs, 3.Justice, 4.defense, 5.interior, 6.foreign affairs, 7.Petroleum energy and Mining, 8.education science and Technology, 9.finance and National Economy, 10.info and communicaton, petroleum, 11. labour and civil service, 12.gender and social w, 13.Tourism, 14. Agriculture, forestry, animal resources and Fisheries, 15.water electricity and dam, 16. Transport and Infrastructure, 17. Land housing and physical planning, 18 Health,

The cabinet shall be organized into clusters

- i. 31 ministries

- ii. Deputy Ministers whose number shall not exceed half (1/2) of the total size of the cabinet
- iii. The cabinet shall comprise of at most twenty two (22) Federal Departments headed by Secretaries;
- iv. There shall be five (5) deputy Secretaries where appropriate;
- v. There shall be established Independent Commissions and Institutions;
- vi. The government may establish new Commissions as needs may arise;
- vii. The Secretaries, heads of Independent Commissions, Public Corporations and state-owned enterprises, shall reflect the diversity and national character of South Sudan; and
- viii. Allocation of Departmental positions, heads of Independent Commissions, Public Corporations and state-owned enterprises shall be as per the agreed power sharing ratios.
- ix. There shall be established the Office of Federal Litigations (Civil and Criminal) independent of the Department of Justice.

Mandate of the Cabinet

- i. Implement the Peace Agreement;
- ii. Develop policies and programs of the TFGONU; and
- iii. Conduct usual activities of Government.

Eligibility Criteria for Cabinet Ministers and Heads of Independent Institutions

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

The Council of Ministers

- i. *The Council of Ministers will be presided over by a Prime Minister who will be the head of government. The PM is responsible for running the day-to-day affairs of government but reports to the President in the conduct of government business.*
- ii. *The Cabinet shall comprise the PM and twenty-one (21) Ministers. The Deputy Ministers shall not exceed five. The composition of the Council of Ministers shall reflect competence and regional balance.*
- iii. *Similar arrangements shall apply on the State level. The State Council of Ministers shall comprise the Governor, Deputy Governor (who shall also hold a ministerial docket) and six Ministers, two of whom shall be women.*

The national Council of Ministers shall comprise of the following portfolios:

No	Line Ministry	Ministerial Sector
1	<i>Cabinet Affairs (including Inter-state Coordination)</i>	<i>Governance</i>
2	<i>Foreign Affairs</i>	
3	<i>Defence</i>	
4	<i>Interior</i>	
5	<i>Justice</i>	
6	<i>Information and Communication</i>	
7	<i>Parliamentary Affairs</i>	
8	<i>Finance and National Economy</i>	<i>Economy</i>
9	<i>Energy and Mining</i>	
10	<i>Commerce, Industry and Investment</i>	
11	<i>Agriculture</i>	
12	<i>Animal Resources and Fisheries</i>	
13	<i>Transport and Roads (including bridges)</i>	
14	<i>Water Resources and Irrigation</i>	
15	<i>The Environment (including Forestry, Wildlife Conservation and Physical Planning)</i>	
16	<i>Civil Service and Administrative reform</i>	<i>Services</i>
17	<i>General Education</i>	
18	<i>Higher Education and Scientific Research</i>	
19	<i>Health</i>	
20	<i>Culture, Tourism and Sports</i>	
21	<i>Social Welfare and Humanitarian Affairs (including gender, veterans' affairs, etc.)</i>	

Existing Commissions (for review)

- i. Anti-Corruption Commission
- ii. Public Grievances Chamber
- iii. Fiscal, Financial Allocation and Monitoring Commission
- iv. Audit Chamber
- v. Relief and Rehabilitation Commission
- vi. De-Mining Authority
- vii. Disarmament, Demobilization and Reintegration
- viii. Peace Commission
- ix. HIV/AIDS Commission
- x. National Bureau of Statistics
- xi. Human Rights Commission
- xii. Reconstruction and Development Fund
- xiii. Civil Service Commission
- xiv. Land Commission
- xv. Employees Justice Chamber
- xvi. War Disabled, Widows and Orphans Commission
- xvii. War Veterans Commission
- xviii. Bureau for Community Security and Small Arms Control
- xix. South Sudan High Elections Committee
- xx. Local Government Board
- xxi. South Sudan Law Reform (Review) Commission

In implementation of the Peace Agreement the following commissions and institutions shall be established:

- a. National Truth, Reconciliation and Healing Commission;
- b. Joint Ceasefire Commission;
- c. Joint High Military Integration Commission;
- d. Civil Service Reintegration Committee;
- e. Commission for Implementation of the Peace Agreement;
- f. The Public Procurement Board;
- g. National Constitutional Review Committee;
- h. National Revenue Authority;
- i. Joint Security Sector Reform and Transformation Commission;
- j. Strategic Defence and Security Review Committee.

The following independent commissions and authorities are the most essential:

- a. General Audit Chamber*
- b. South Sudan Relief and Rehabilitation Commission*
- c. National Revenue Authority*
- d. Anti-Corruption Commission*
- e. National Bureau of Statistics*
- f. National Elections Commission*

- g. Political Parties Council*
- h. National Reconciliation and Healing Commission*
- i. Electric Power Authority*
- j. 10 Human Rights Commission*
- k. Civil Service Commission*
- l. Fiscal and Financial Allocation and Monitoring Commission*
- m. National Land Commission*
- n. Refugees Commission*
- o. Disarmament, Demobilization and Reintegration Commission*
- p. National Corporation for Radio and Television*
- q. National Petroleum and Gas Corporation*
- r. Bureau of Standards.*

N) Legislature

16. Upon the adoption of the amended Constitution, the National Legislature shall be reviewed with a view to expand the National Legislature to reflect the new political dispensation that shall be negotiated by the stakeholders in the negotiations; (nominated portion of National Legislature) **[Protocol Principle 14]**

- i. There shall be a national single chamber Parliament composed of 250 members and a State Assembly in each State composed of 48 members.*
- ii. The Speaker of the national Parliament shall be an agreed national figure.*

The Transitional Federal Legislature (TFL)

- i. There shall be established a Transitional Federal Legislature which reflects a broad spectrum of South Sudanese society as per the agreed power sharing ratios;*
- ii. The Transitional Federal Legislature shall be **Bicameral** in nature and shall replace the current National Legislature during the transitional period;*
- iii. Members of the Transitional Federal Legislature shall reflect the diversity of the people of South Sudan;*
- iv. Selection and appointment of members of the Transitional Federal Legislature shall be subject to internal consultations among the parties to the Peace Agreement as per the agreed power sharing ratios; and*
- v. The size of the Transitional Federal Legislative Assembly shall be 250 members and the size of the Senate shall be 42 members;*
- vi. Members of the Transitional National Legislature (TNL) shall not serve in the Cabinet and vice-versa.*

Functions of the Senate (Upper House)

- i. The Senate shall elect a Speaker and Deputy Speaker;*

- ii. Vet and confirm Presidential nominees for constitutional and other executive positions;
- iii. Ratify treaties;
- iv. Conduct a 'vote of no confidence' against any executive officer including the President of the Republic and Vice President;
- v. Oversee national reconstruction, development and equitable service delivery in the states;
- vi. Monitor the repatriation, relief, resettlement, rehabilitation, reintegration of returnees and internally displaced persons, and reconstruction of disaster and conflict affected areas;
- vii. Legislate for the promotion of culture of peace, reconciliation and communal harmony among all the people of the states;
- viii. Perform any other function as determined by the Transitional Federal Constitution or the law.

Functions of the Transitional Federal Legislative Assembly (Lower House)

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

The National Legislature:

- i. The current National Legislature shall continue to discharge its functions to the end of its tenure in July, 2015 in accordance with the Transitional Constitution, and shall approve this Peace Agreement.
- ii. After July 2015, a new Transitional National Legislature shall either be extended or re-constituted by the Transitional Government in consultation with Parties to the Peace Agreement; and its tenure shall end with the end of the transitional period.
- iii. The offices of the Speaker and Deputy Speakers of the National Legislative Assembly and the Speaker and Deputy Speaker of the Council of States shall be subject to power sharing among the SPLM parties to this Peace Agreement.

Constituting the Transitional Federal Legislature (TFL)

- i. Selection of Members

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

ii. Election of Speaker and Deputy Speaker of the Senate

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

iii. Election of Speaker and Deputy Speaker of the Transitional Federal Legislative Assembly

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

iv. Eligibility criteria for the Speaker and Deputy Speaker

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

v. Person with minimum educational qualification of a University Degree.

vi. Eligibility criteria for the Transitional Federal Legislature

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

vii. Eligibility criteria for the Speaker and Deputy Speaker of the Federal Legislative Assembly and Senate

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

O) State and Local Government—Executive, Judiciary and Legislature

State **Executive, local governments and** State legislatures, **and local governments**

- i. If the transitional period extends beyond the current mandate of elected bodies and officials, their mandate shall be automatically extended to cover the full transitional period until the elections.
- ii. In the areas affected by conflict in Unity, Upper Nile and Jonglei States, the Presidency/**President** in consultations with the citizens of the said states, shall establish the State governments and local authorities.
- iii. In the areas affected by conflict in Unity, Upper Nile and Jonglei States, the Presidency and Office of the Prime Minister in consultations with the citizens of the said states, shall establish the State governments and local authorities.

Eligibility criteria for Governor and Deputy Governor

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

Constituting the State Transitional Legislative Assembly

i. Selection of Members

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

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

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

- iv. Mandate of the State Transitional Government
 - a. Implement the provisions the of Peace Agreement related to the state,
 - b. Normal state functions.

- v. Structure of the State Transitional Government

The State Government shall consist of three branches, namely;

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

- vi. Powers and Functions of the State

A State shall have the following powers:

- a. Establish a State administration that best advances self-rule, a democratic order on the supremacy of the law, and the protection and the defense of the State Constitution;
- b. Enact and execute state constitution and other laws;
- c. Formulate and execute policies, strategies and plans for State social and economic development;
- d. Administer land and the use of other natural resource in accordance with State laws;

- e. Levy and collect taxes and duties on revenue sources allocated to the State and to draw up and administer State budget;
- f. Enact laws on administrative matters and on conditions of services of state employees. In the implementation of this responsibility it shall ensure that educational qualification and experience are requirements for any administrative position; and
- g. Establish and administer state police, wildlife, prison and civil defense within the State.

vii. The State Transitional Legislative Assembly

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

viii. Functions and Powers of the State Transitional Legislative Assembly

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

- shall be selected as per agreed power sharing ratios within two weeks;
- j. Perform any other functions as determined by the state transitional constitution or the law.

State Executive

i. Structure

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

ii. Mandate of the State Cabinet

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

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

iii. Eligibility criteria for Executive Officers (State Cabinet Ministers)

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

iv. State Ministries

- a. Ministry of Finance and Economic Development;
- b. Ministry of Agriculture, Forestry, and Cooperatives;
- c. Ministry of Education, Science, and Technology;
- d. Ministry of Labor and Public Service;
- e. Ministry of Local Government and Law Enforcement;
- f. Ministry of Information and Communication;
- g. Ministry of Gender, Child, and Social Welfare;
- h. Ministry of Parliamentary Affairs;
- i. Ministry of Animal Resources and Fisheries;
- j. Ministry of Culture, Youth and Sports;
- k. Ministry of Physical Infrastructure and Public Utilities;
- l. Ministry of Health; and
- m. Ministry of Natural Resource and Environment.

v. State Powers

- a. All powers not given separately to the Federal Government, or powers not given expressly and concurrently to the states and the Federal, are to be exercised by the states; and
- b. States shall have the following powers:
 - 1. Establish a state administration that best advances self-rule, a democratic order on the supremacy of the law, and the protection and the defense of the state and the Federal Constitutions;
 - 2. Enact and execute constitution and other laws;
 - 3. Formulate and execute policies, strategies and plans for their economic and social development;
 - 4. Administer land and the use of other natural resources in accordance with state laws;
 - 5. Levy and collect taxes and duties on revenue sources allocated to the state and to draw up and administer state budget;
 - 6. Enact laws on state matters. In the implementation of this responsibility it shall ensure that educational qualifications and experience are requirements for any administrative position; and
 - 7. Establish and administer state police force, and to maintain public order and peace within the state.

The State Judiciary

The State Judiciary shall comprise

- i. The High Court

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

ii. County Courts

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

State Executive:

- i. Elected State Governors shall continue to perform their functions to the end of their tenure in July 2015, under the Transitional Constitution;
- ii. The President shall appoint new Governors for the four states of Jonglei, Lakes, Northern Bahr el Ghazal and Unity, in consultation with the Prime Minister and the Parties to the Peace Agreement taking into account the need for reconciliation and stability of these States; and shall serve for the whole of the Transitional Period.
- iii. After the expiry of the tenure of elected Governors on 9th July 2015, the same shall either be re-appointed or new State Governors shall be appointed by the President in consultation with the Prime Minister;
- iv. State Executives shall be reconstituted in a manner that ensures power sharing among the parties to the Peace Agreement.
- v. State Governments shall perform their functions in accordance with their State Constitutions.

(a) State Assemblies:

- i. The current State Assemblies shall continue to discharge their functions to the end of their tenure in July, 2015 in accordance with State Transitional Constitutions.
- ii. After July 2015, state transitional assemblies shall either be re-constituted or their tenure extended by the State Governors in consultation with the President and the Prime Minister; and their tenure shall end with the end of the Transitional Period.

Local Government (Counties):

- i. County Commissioners shall be appointed by the Governors during the Transitional Period;
- ii. County Commissioners in the States of Jonglei, Upper Nile and Unity, who were affected by the crisis of 15th December, shall be reinstated in their positions.

The Guiding Principles of Local Government

Nature and Establishment of Local Government and Local Government Councils

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

Territory of the Local Government

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

Local Government Authority

- i. The Local Government Authority shall be derived from the people and shall be exercised in accordance with the people's will as prescribed in the Transitional Federal Constitution, State Transitional Constitution and any other applicable law;
- ii. The Local Government Authority shall be vested in each Local Government Council, executive and customary courts which shall be a legal entity with the right to sue and be sued in their own name; and

- iii. The authority of each Local Government shall be exercised through its democratic and representative institutions of government established in accordance with the Transitional Federal Constitution, State Transitional Constitution, and any other law;

Sources of Local Government Legislation

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

Objectives of the Local Government

The objectives of the Local Government shall be to: –

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

Principles of Local Governance

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

- i. Principle of subsidiarity, where decisions and functions shall be delegated to the lowest competent level of Government;
- ii. Self-governance and democracy;
- iii. Participation of all citizens in the exercise of their rights to express their opinions in the process of decision making in public affairs;
- iv. Rule of law, maintain law and order and law enforcement in a fair and impartial manner while respecting and honoring the norms, virtues and values of the society;
- v. Transparency, to build mutual trust between government and citizens through the provision of information and guaranteed access to information;
- vi. Equity, to provide an equitable distribution of resources throughout the Local Government organs;
- vii. Equality, to provide equal services and opportunities for all members of the local community with the aim of improving their welfare;
- viii. Responsiveness, to increase the sensitivity of the employees of government and non-governmental organizations to the aspirations of the people in service delivery and meeting public demands;
- ix. Accountability, to ensure accountability of decision-makers to the people in all matters of public interest; and
- x. Efficiency and effectiveness, to ensure good public service delivery through optimum and responsible use of resources.

TRANSITIONAL LOCAL GOVERNMENT

Local Government Establishment

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

Mandate of the Local Government

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

Structure of the Local Government

The Local Government shall consist of three branches, namely;

- i. The Legislative Council;
- ii. The Executive and;
- iii. The Customary Courts;

Powers and Competences of the Local Government

- i. All powers not given separately to the Federal and State Governments, or powers not given expressly and concurrently to the States and the Federal government are reserved to the local government;
- ii. Local government shall have the following powers:
 - a. Subject to the provisions of the Transitional Federal Constitution and State Transitional Constitution, the Local Government shall exercise legislative, executive and judicial authority on matters and functional areas as specified in Appendix II of the local government Act, 2009.

Responsibilities of the Local Governments

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

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

Schedules

Schedule a: The Federal Powers

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

- i. National Defense and National Security and Protection of the National Borders;
- ii. Foreign Affairs and International Representation;
- iii. Nationality and Naturalization;
- iv. Passports and Visas;
- v. Immigration and Aliens;
- vi. Currency, Coinage and Exchange Control;
- vii. Constitutional Court and such National Courts responsible for enforcing or applying National laws;
- viii. Federal Police (including Criminal Investigation Department – CID}, Coordination of International, Regional and bilateral Criminal Matters, and Standards and Regulations including the standards for training the police in the Federal Capital);
- ix. The fixing of and providing for salaries and allowances of civil and other officers of the National Government;
- x. Postal Services;
- xi. Civil Aviation;
- xii. Maritime shipment;
- xiii. Beacons;
- xiv. Navigation and Shipment;
- xv. National Lands and National natural resources;
- xvi. Central Bank, the Incorporation of National banks and issuing of paper money;
- xvii. Bills of Exchange and Promissory Notes;
- xviii. Weights, Measures and Standards, Dates and Standards of Time;
- xix. Meteorology;
- xx. Establishment and Maintenance of National Prisons;
- xxi. National Institutions as envisaged under the Peace Agreement or as set forth in the Transitional Charter;
- xxii. Customs, Excise and Export Duties;
- xxiii. Intellectual Property Rights, including Patents and Copyright;
- xxiv. National Flag, National Emblem and National Anthem;
- xxv. Signing of International Treaties on behalf of the Republic of Sudan;
- xxvi. National Debt and borrowing on public credit;
- xxvii. National Census, National Surveys and National Statistics;
- xxviii. National States of Emergency;
- xxix. International and Inter-State Transport, including roads, airports, waterways, harbors and railways;
- xxx. National Public Utilities;
- xxxi. National Museums and National Heritage Sites;
- xxxii. National Economic Policy and Planning;
- xxxiii. Nile Water Commission, the management of the Nile Waters, transboundary waters and disputes arising from the management of interstate waters between Northern states and any dispute between Northern and Southern states;
- xxxiv. National information, publications, telecommunications regulations;

- xxxv. National Taxation and National Revenue Raising;
- xxxvi. National Budget;
- xxxvii. Laws providing for National elections and their supervision by the Electoral Commission;
- xxxviii. Issuance of National ID Card.

Schedule B: Powers of States

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

- i. The Constitution of the State, subject to compliance with the Transitional Charter;
- ii. State Police, prisons;
- iii. Local Government;
- iv. State information, state publications and state media;
- v. Social Welfare including State pensions;
- vi. The Civil Service at the State level;
- vii. The State Judiciary and administration of justice at State level including maintenance and organization of State Courts, and subject to national norms and standards, civil and criminal procedure;
- viii. State Land and State Natural Resources;
- ix. Cultural matters within the State;
- x. Regulation of religious matters subject to the National Constitution and the Peace Agreement;
- xi. Internal and external borrowing of money on the sole credit of the State within the National macro-economic framework;
- xii. The establishment, tenure, appointment, and payment of State officers;
- xiii. The management, lease and utilization of lands belonging to the State;
- xiv. The establishment, maintenance and management of reformatory institutions;
- xv. The establishment, regulation, and provision of health care, including hospitals and other health institutions;
- xvi. Regulation of businesses, trade licenses, working conditions, hours, and holidays within the State;
- xvii. Local works and undertakings;
- xviii. Registration of marriage, divorce, inheritance, births, deaths, adoption and affiliations;
- xix. Enforcement of State laws;
- xx. Statutes enacted under the Penal Law power, save for the penalization for the breach of National laws relating to the national competencies;
- xxi. The development, conservation and management of State natural resources and State forestry resources;
- xxii. Primary and secondary, Post Secondary Education schools and education administration in regard thereto; (Move Basic and Secondary Education to County)
- xxiii. Laws in relation to Agriculture within the State;

- xxiv. Airstrips other than international and national airports within civil aviation regulations;
- xxv. Intrastate public transport and roads;
- xxvi. Population policy and family planning;
- xxvii. Pollution control;
- xxviii. State statistics, and State surveys;
- xxix. State referenda;
- xxx. Charities and endowment;
- xxxi. Quarrying regulations, (subject to the Agreement on Wealth Sharing);
- xxxii. Town and rural planning;
- xxxiii. State cultural and heritage sites, State libraries, State museums, and other historical sites;
- xxxiv. Traditional and customary law;
- xxxv. State finances;
- xxxvi. State irrigation and embankments;
- xxxvii. State Budget;
- xxxviii. State archives, antiquities, and monuments;
- xxxix. Direct and indirect taxation within the State in order to raise revenue for the State;
- xl. State public utilities;
- xli. Vehicle licensing;
- xlii. Firefighting and ambulance services;
- xliii. Recreation and sport within the State;
- xliv. Firearms Licenses;
- xlv. Flag and emblem.

Schedule C: Powers Local Government

- i. The upholding, protection and enforcement of the provisions of the peace agreement in conformity with the Transitional Charter and the State Constitution;
- ii. Provision of basic services;
- iii. Regulation of Local Government, information, publications and media;
- iv. The regulation of social welfare including Council pensions;
- v. The management of Civil Service at the Local Government level;
- vi. The coordination of Customary Courts and administration of justice at the Local Government level;
- vii. Regulation, administration and protection of Local Government Council Land and Natural Resources;
- viii. Acquisition of land from the relevant authority for use for service provision and development;
- ix. Observing, harmonizing and promoting cultural activities within the Local Government Council;
- x. Internal borrowing on the sole credit worthiness of the Local Government Council within the National Government macro-economic framework;
- xi. The establishment tenure, appointment, and payment of Local Government employees, and the supervision of Local Government officers and seconded staff;
- xii. The management, leasing and utilization of lands belonging to the Local Government Council;

- xiii. The establishment, maintenance and management of community juvenile delinquency centres and institutions;
- xiv. The establishment, regulation, and provision of primary health care;
- xv. Regulation of businesses trade licenses, working conditions, hours, and local holidays within the Local Government Council;
- xvi. Local works and undertakings;
- xvii. Registration of marriages, divorces, inheritance, births, deaths, adoption and affiliation.
- xviii. Enforcement of national and State laws;
- xix. Enforcement of By-Laws enacted under the customary law;
- xx. The development, conservation and management of the Local Government Council natural and forestry resources;
- xxi. The establishment and management of Basic and Secondary education institutions;
- xxii. Support in maintenance of Airfields other than international airports within Civil Aviation Regulations;
- xxiii. Inter Council public transport and roads;
- xxiv. The management of the Local Government Council statistics and survey works;
- xxv. The regulation of charities and endowments;
- xxvi. Quarrying regulations;
- xxvii. Town and rural planning;
- xxviii. The regulation and management of cultural and heritage sites, libraries, museums, and other historical sites;
- xxix. The management of the Local Government Council finances;
- xxx. The regulation and management of irrigation and embankments;
- xxxi. The management of archives antiquities, and monuments;
- xxxii. Direct and indirect taxation within the Local Government Council Area in order to raise revenue for the Local Government Council;
- xxxiii. The management of the Local Government Council's public utilities;
- xxxiv. The management of fire fighting and ambulance services;
- xxxv. The management of recreation and sport facilities within the Council; and
- xxxvi. The protection of Governments flags and emblems.

Schedule D: Concurrent Powers

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

- i. Economic and Social Development in South Sudan;
- ii. Legal and other professions and their associations;
- iii. Tertiary education, education policy and scientific research;
- iv. Health policy;
- v. Urban development, planning and housing;
- vi. Trade, commerce, Industry and industrial development;
- vii. Delivery of public services;
- viii. Banking and insurance;

- ix. Bankruptcy and insolvency;
- x. Manufacturing licenses;
- xi. Airports only with respect to the states in accordance with Civil Aviation standards and regulations;
- xii. River transport;
- xiii. Disaster preparedness, management and relief and epidemics control;
- xiv. Traffic regulations;
- xv. Electricity generation and water and waste management;
- xvi. Information, Publications, Media, Broadcasting and Telecommunications;
- xvii. Environmental management, conservation and protection;
- xviii. Relief, Repatriation, Resettlement, Rehabilitation and Reconstruction;
- xix. Without prejudice to the National Regulation, the initiation, negotiation and conclusion of International and Regional Agreements on culture, sports, trade, investment, credit, loans, grants and technical assistance with foreign governments and foreign non-governmental organizations;
- xx. Financial and economic policies and planning;
- xxi. Women's empowerment;
- xxii. Gender policy;
- xxiii. Animal and livestock control, animal diseases, pastures and veterinary services;
- xxiv. Consumer safety and protection;
- xxv. Residual powers, subject to schedule D;
- xxvi. Mother, Child protection and care;
- xxvii. Water Resources other than interstate waters;
- xxviii. Notwithstanding Schedules A and B such matters relating to taxation, royalties and economic planning as specified in the Agreement on Wealth Sharing;
- xxix. State Courts responsible for enforcing or applying National laws;
- xxx. Such matters relating to taxation, royalties and economic planning as is specified in the Agreement on Wealth Sharing as a matter or matters in regard to which the state governments is accorded concurrent authority;
- xxxi. Human and animal drug quality control.

Schedule E: Residual Powers

The residual powers shall be dealt with according to its nature (e.g., if the power pertains to a national matter, requires a national standard, or is a matter which cannot be regulated by a single state, it shall be exercised by the National Government. If the power pertains to a matter that is usually exercised by the state or local government, it shall be exercised by the state). Where a matter is susceptible to Southern Sudan regulation, in respect of the states of Southern Sudan, it shall be exercised by the Government of Southern Sudan.

Schedule F: Resolution of Conflicts in Respect of Concurrent Powers

If there is a contradiction between the provisions of State law and/or a National law, on the matters referred in Schedule C, the law of the level of government which shall

prevail shall be that which most effectively deals with the subject matter of the law, having regard to:-

- i. The need to recognize the sovereignty of the Nation while accommodating the autonomy of the States;
- ii. Whether there is a need for National or state norms and standards;
- iii. The principle of subsidiarity;

The need to promote the welfare of the people and to protect each person's human rights and fundamental freedoms.

P) Judiciary

The **National/Federal** Judiciary

- i. The Judicial authority is vested in the courts. They are independent subject to the law and the Transitional Federal Constitution. There shall be the following courts:
 - a. The Supreme Court;
 - b. The Federal Court of Appeal;
 - c. Trial Courts;

The Supreme Court

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

The Federal Courts of Appeal

- i. The Federal Court of Appeal may hear appeals from lower courts;

- ii. The Federal Court of Appeal shall be located in a state capital.
- iii. Each court shall be composed of seven (7) judges.

Trial Courts

These are courts of first instance on federal matters.

The National Judiciary:

- i. Decentralization of the Judiciary and establishment of state judicial institutions to the level of High Courts whose decisions shall be appealable to the National Courts of Appeal and to the Supreme Court.
- ii. Building institutional and human resource capacity of the Judiciary is a critical task that must continue to be pursued;
- iii. Scaling up the operational capacity of the Judiciary to ensure timely trials and delivery of judgments and avoid case backlogs;
- iv. Implementation of training programmes for judicial personnel and support staff;
- v. Provision of reference legal materials in the courts such as law reports, law books and other publications;
- vi. Hire more judicial personnel and build new court houses in the counties;
- vii. Streamline the role of Judges and Prosecution Attorneys in pre-trial proceedings to avoid contradictions;
- viii. Develop internal monitoring systems for judicial performance and link career advancement to performance;
- ix. Mainstream gender in the judicial process;
- x. Promote the use of information technology to improve operational efficiency of courts;
- xi. To avoid overcrowding in prisons there will be need to use non-custodial sentences;
- xii. Weed out any corrupt Judges from the Judiciary; and
- xiii. Simplification of judicial rules and procedures to facilitate access to justice for the ordinary citizens.

1. The independence of the Judiciary

- i. *The judicial power is an independent authority and shall be vested in the judges; it shall be exercised by the Constitutional Court, by the federal courts provided for in this Agreement, and by the courts of the states.*
- ii. *The judiciary shall be subject to the Constitution and the law which the judges shall apply impartially without fear or favour. Any interference in judicial matters or legal cases is a punishable crime.*
- iii. *The Judiciary shall have an independent budget that shall be charged on the consolidated fund, and the Judiciary shall have the financial independence in the management of its affairs.*

2. Opinion of the Judicial Authority on Bills

Any Bill on the affairs of the Judiciary or affecting its work shall be presented to the Judiciary for comment. If it objects to the Bill or any of its provisions, the Bill shall not be adopted except by a vote of two thirds of members of the National Assembly.

3. Immunity of judges

- i. Justices and Judges are independent, not subject to removal, and no authority is above them in their judicial work except the law, and they are equal in rights and duties.*
- ii. The law shall specify the conditions and procedures of their appointment, secondment or retirement; and regulate their discipline; all this in a manner that will preserve the independence of the Judiciary.*

4. Publicity of Court Hearings

Court hearings shall be public, except when considerations of public order or morality make the court to decide that a hearing be conducted in camera. In all cases, the verdict of the court shall be pronounced in a public hearing.

Second: The Judiciary and Public Prosecutions

1. Competence of the Judiciary

The Judiciary has jurisdiction to adjudicate in all disputes and offences except those that fall under other judicial authorities. It alone has the power to settle disputes related to the affairs of its members.

2. Public Prosecutions

Public Prosecutions are an integral part of the judiciary, with the responsibility to investigate, raise and direct criminal proceedings except as specifically exempted by law. Other functions of Public Prosecutions shall be determined by law.

3. Appointment of the Attorney General

Public Prosecutions shall be under the responsibility of an Attorney General appointed by the President of the Republic from amongst the deputies of the Chief Justice, Vice-Presidents of the Courts of Appeal or Assistants of the Attorney General on the nomination of the High Judicial Council, for a period of four years or the remainder for his retirement age, whichever is the earlier, and only once during his/her service.

Third: The Constitutional Court

1. Jurisdiction of the Constitutional Court

- i. The Constitutional Court is an independent judicial organ on its own. It is the custodian of the Constitution and the constitutions of the states, and has the*

authority to look into the following matters and issue decisions and sentences thereon and follow up their implementation in accordance with this Constitution and the law:

- a. the interpretation of the Constitution and legal provisions;*
 - b. have original jurisdiction to decide on disputes that arise under the Constitution and the constitutions of states at the instance of individuals, juridical entities or governments;*
 - c. have original and final jurisdiction to resolve disputes between the states and between the Federal Government and a state in respect of areas of exclusive and concurrent competences;*
 - d. adjudicate on the constitutionality of laws and set aside or strike down laws or provisions of laws that are inconsistent with the Constitution or the constitutions of the states to the extent of the inconsistency;*
 - e. protection of rights and fundamental freedoms guaranteed by the*
 - i. Constitution;*
 - b. have criminal jurisdiction over the President in accordance with the constitution;*
 - c. any other matters as shall be assigned to it by law.*
- ii. The decisions of the Constitutional Court shall be final and binding.*

2. Composition of the Constitutional Court

- i. The Constitutional Court shall be composed of a President, three Vice Presidents, five senior Judges according to judicial seniority and two Advocates of at least twenty years' standing.*
- ii. The President of the Constitutional Court shall be appointed by the President from among the three Vice Presidents of the Court; and the Vice President of the Court shall be appointed by the President on the recommendation of the general assembly of the Court.*
- iii. The Constitutional Court shall be assisted by a general assembly, the composition and functions of which shall be prescribed by law.*
- iv. Organisation and procedure of the Constitutional Court as well as the terms and conditions of service of its members and employees shall be regulated by law.*

3. Publication of decisions of the Constitutional Court

Decisions of the Constitutional Court shall be published in the official Gazette. The law shall regulate the consequences of a court's ruling that a legal provision is unconstitutional.

Fourth: Structure of the Judiciary

1. Courts and Judicial Institutions

- i. *The Judicial power shall comprise the Supreme Court, Courts of Appeal and lower courts, and any judicial institutions formed by the High Judicial Council.*
- ii. *The Judiciary shall be decentralized and there shall be establishment state judicial institutions to the level of High Courts whose decisions shall be appealable to the National Courts of Appeal and to the Supreme Court.*
- iii. *The Chief Justice is the head of the Judiciary and the Chairman of the High Judicial Council.*
- iv. *The judicial power shall be under the administration of the High Judicial Council.*
- v. *The law shall regulate the composition of each court, competences and the procedures to followed before it.*

2. The High Judicial Council

- i. *The High Judicial Council is an independent council responsible for the administrative affairs of the Judicial power, including public prosecutions. The law shall regulate the composition and functions of the council; and the conditions of service of its members and employees.*

Fifth: Advocacy

- ii. *Advocacy is an independent private legal profession and one of the pillars of justice. The law shall regulate the profession including the safeguards required to create a conducive environment for the advocates to perform their work freely.*

Qualification and Appointment of Director Federal Litigation

- i. The Director of Federal Litigation shall be nominated and, with the approval of the Senate, appointed by the President.
- ii. The qualifications for appointment as Director of Federal Litigation are the same as for the appointment as a judge of the High Court.
- iii. The Director of Federal Litigation shall have power to direct the Inspector-General of the Federal Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction.
- iv. The Director of Federal Litigation shall hold office for a term of eight years and shall not be eligible for re-appointment.
- v. The Director of Federal Litigation shall exercise Federal powers of prosecution and may—
 - a. institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed;
 - b. take over and continue any criminal proceedings commenced in any court

(other than a court martial) that have been instituted or undertaken by another person or authority, with the permission of the person or authority; and

- c. discontinue at any stage before judgment is delivered any criminal proceedings instituted by the Director of Federal Litigation or taken over by the Director of Federal Litigation.
- d. If the discontinuance of any proceedings takes place after the close of the prosecution's case, the defendant shall be acquitted.
- vi. The Director of Federal Litigation may not discontinue a prosecution without the permission of the court.
- vii. The powers of the Director of Federal Litigation may be exercised in person or by subordinate officers acting in accordance with general or special instructions.
- viii. The Director of Public Prosecutions shall not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority.
- ix. In exercising the powers conferred the Federal Transitional Constitution, the Director of Federal Litigation shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.
- x. Transitional Federal Assembly may enact legislation conferring powers of prosecution on authorities other than the Director of Federal Litigation.

Removal and resignation of Director of Federal Litigation

- i. The Director of Federal Litigation may be removed from office only on the grounds of—
 - (a) inability to perform the functions of office arising from mental or physical incapacity;
 - (b) non-compliance with Leadership and integrity;
 - (c) bankruptcy;
 - (d) incompetence; or
 - (e) gross misconduct or misbehavior.
- ii. A person desiring the removal of the Director of Federal Litigation may present a petition to the Public Service Commission which, shall be in writing, setting out the alleged facts constituting the grounds for the removal of the Director.
- iii. The Public Service Commission shall consider the petition and, if it is satisfied

that it discloses the existence of a ground, it shall send the petition to the President.

- iv. On receipt and examination of the petition, the President shall, within fourteen days, suspend the Director of Federal Litigation from office pending action by the President in accordance with tribunal appointed and shall, acting in accordance with the advice of the Public Service Commission, appoint a tribunal consisting of—
 - (a) four members from among persons who hold or have held office as a judge of a superior court, or who are qualified to be appointed as such;
 - (b) one advocate of at least fifteen years' standing nominated by the statutory body responsible for the professional regulation of advocates; and
 - (c) two other persons with experience in public affairs.
- v. The tribunal shall inquire into the matter expeditiously and report on the facts and make recommendations to the President, who shall act in accordance with the recommendations of the tribunal.
- vi. A Director of Federal Litigation who is suspended from office shall be entitled to half of their remuneration until removed from, or reinstated in, office.
- vii. A tribunal appointed shall elect a chairperson from among its members.
- viii. A tribunal appointed shall be responsible for the regulation of its proceedings.
- ix. The Director of Federal Litigation may resign from office by giving notice, in writing, to the President.
- x. PLEASE SEE APPENDIX I FOR THE SPLM/A (IO)'S FULL POSITION ON GOVERNANCE AND POWER SHARING

II. AGREED PRINCIPLES: TRANSITIONAL SECURITY ARRANGEMENTS

- 17. To sign the implementation matrix of the Cessation of Hostilities Agreement, its and its addendum, and fully implement the provisions of the Cessation of Hostilities Agreement to immediately stop the war, which is contributing to the humanitarian crisis [**Protocol Principle 16**];
- 18. Immediately begin negotiations on a Permanent Ceasefire that will result in the declaration of the disposition of forces, cantonment, demobilization, disarmament

and reintegration, and the eventual withdrawal of allied forces, in accordance with the Cessation of Hostilities Agreement, and re-unification of the hitherto fragmented national army [**Protocol Principle 17**];

Q) PERMANENT CEASEFIRE

PLEASE SEE APPENDIX II FOR THE SPLM/A (IO)'S FULL POSITION ON PERMANENT CEASEFIRE AND SECURITY ARRANGEMENTS

- i. The parties to an immediate cessation of all hostilities and observance of permanent ceasefire that is independently monitored and verified;
- ii. Negotiate location of assembly/ cantonment sites, population centers that are to be demilitarized, and withdrawal timelines, which will form part of the Peace Agreement;
- iii. Movement begins immediately upon signing the Peace Agreement/Permanent Ceasefire and should be complete in 45 days. The results of the strategic defence and security review will dictate the length of time forces remain in assembly/cantonment areas.
- iv. Upon signing the agreement the stakeholders agree to complete withdrawal of foreign allied forces from South Sudan to their countries of origin within one month in accordance with the provision of the Cessation of Hostilities Agreement;
- v. The withdrawal to start within D-Day+7 days and to be completed within 30 days.
- vi. Upon signing of the agreement the stakeholders shall, within 7 days after adoption of Permanent Ceasefire Agreement, establish a ceasefire management mechanism that consists of two elements:
 - a) A Joint Ceasefire Commission (JCC) responsible for the day-to-day operational management of the ceasefire and security arrangements process through the provision of Monitoring and Verification Teams and;
 - b) The Joint Technical Commission (JTC) shall be responsible for addressing political issues that might impede progress as well as disputes that cannot be resolved by the Joint Ceasefire Commission. The stakeholders shall agree to the composition of these structures;
- vii. The mandate of the IGAD MVM shall be amended within the same timeframe to reflect the Peace Agreement/Permanent Ceasefire provisions.

19. Negotiate and agree to undertake comprehensive institutional reforms in the security sector during the Transitional Period, to restore public confidence and that lead to enduring reforms beyond the Transitional Period [**Protocol Principle 18**];

R) SECURITY SECTOR REFORM

- i. Security Sector Reform generally refers to a process to reform or rebuild a state's security sector. It responds to a situation in which a dysfunctional security sector is unable to provide security to the state and its people effectively and under democratic principles.
- ii. *The first duty of a government is to provide credible and sustainable public and personal security for every citizen. Therefore, the arms should be in the hands of the Government only.*
- iii. *During the transitional period the TGoNU commits to equitable composition / participation in the key national security management and oversight bodies, including a National Security Council, National Defence Council, Parliamentary Security Committee and Military Command Council. Modalities of appointments to these bodies shall be as provided in the Peace Agreement.*
- iv. **The TGoNU shall undertake a complete Security Sector Reform within the transitional period.**
- v. In some cases, the security sector reform can itself be a source of widespread insecurity due to discriminatory and abusive policies or practices. In this respect, an unreformed or unconstructed security sector represents decisive obstacle to the promotion of sustainable development, democracy and peace. SSR processes therefore seek to enhance the delivery of effective and efficient security and justice services, by security sector institutions that are accountable to the state and its people, and operate within a framework of Democratic governance, without discrimination and with full respect for human rights and the rule of law.
- vi. SSR targets all state institutions and other entities with a role of ensuring the security of the state and its people including: armed forces; law enforcement and intelligence service; and other institutions that play a role in managing and overseeing the design and implementation, such as ministries, parliament, human rights commissions and civil society organizations etc.
- vii. *The security organs must be professional and reflect the national character of South Sudan.*

viii. Before the current situation where South Sudan was under a transition, the main aim of SSR was to introduce the principles of democratic governance to the security sector, focusing on creating accountability mechanisms and addressing public mistrust of security sector institutions. Unfortunately another cycle of civil war started on 15th Dec. 2014 and still ongoing. And with IGAD-led peace mediation due to be signed soon, there urgent need to look into areas to be addressed during Transitional Period., some of which are:

- a) Defence reforms
- b) Police reforms
- c) Correctional service reforms
- d) Wildlife service reforms
- e) Civil defence reforms
- f) National Security Intelligence reforms and
- g) Other private security units.

ix. Keywords to be considered in South Sudan SSR Process

- a) Demilitarization of our Society and civilian institutions
- b) Re-orientation of ex-combatants
- c) Socialization of Children living in reformatory institutions

x. Vision and Justification
(Comprehensive Transitional Security Sector Reform)

- a) Responsive security sector, which recognizes the heterogeneity of our society, for the protection of the comprehensive wellbeing of South Sudanese women, children and men.

xi. Important Factors to note in Planning SSR For South Sudanese:-

- a) The relationship between security, political context and the rule of law are intertwined/interconnected,
- b) SSR is a determinant factor in national development, consolidation of democracy and the rule of law,
- c) The role of international community,
- d) The role of South Sudanese citizens and national institutions

xii. The TGONU commits to forming a committee to be known as the Strategic Defence and Security Review Committee (SDSRC) embedded in the Ministry of Defence, to conduct a holistic strategic defence and security review (to be completed within 6 months after signing the Peace Agreement. The TGONU further commits that the results of the defence and security review will provide detailed policies for subsequent transitional security arrangement, and security sector reforms, including composition, demobilization, and amalgamation/integration.

xiii. The stakeholders shall consider the following parameters as the basis for the terms of references for SDSRC :

- a) Lay the ground for a significant change in how the country formulates and delivers its defence and security policy
- b) Carry out a comprehensive assessment to clarify the requirements of South Sudan's national army and its relationship with other security institutions and actors.

S) SECURITY INSTITUTIONS

The Army

- i. The army has been at the centre of this conflict, thus its reform is urgent. Since this requires enormous resources, the international community should assist generously in providing the required funds.*
- ii. The following principles must be rigorously applied as soon as a permanent ceasefire agreement is in place to create a national army from the warring parties and interested citizens of South Sudan:*
 - a. The total size of the army is to be decided in proportion to the population size of the country in accordance with accepted international norms;*
 - b. Proportional representation of the States of South Sudan in the army and within States Counties shall be represented in proportion to their population;*
 - c. The number of officers, their ranks and standards must conform to the accepted standards in army organization worldwide;*
 - d. The training shall be conducted together to fuse all soldiers into one organic unity with one military doctrine;*
 - e. Adult education and illiteracy campaign (writing and Reckoning) shall be undertaken in the army with the objective of wiping out illiteracy within the ranks in 6 – 12 months;*
 - f. DDR programmes must be vigorous, creative and attractive so that those affected do not feel the sense of loss;*
 - g. The army should be given an appropriate name as a national army such as South Sudan Armed Forces;*
 - h. The newly reconstituted army shall adopt a military doctrine based on respect of the people, political neutrality, respect for human rights and professionalism;*
 - i. The army must not stay in schools and villages of citizens, as is the case in some places now in South Sudan. It must stay in military barracks.*
 - j. The creation of the new army shall be carried out by a joint committee chaired by IGAD and UNMISS military personnel;*

iii. The National Army

- a) National Security Council
- b) National Military High Command Council

- c) Military Intelligence
- d) National Security (Internal and External)
- e) Military Judiciary
- f) Military Audit Authority (size, quality, discipline etc)
- g) Demilitarization (D)DDRR^R (Reorientation)

PLEASE SEE APPENDIX III FOR THE SPLM/A (IO)'S FULL POSITION ON NATIONAL ARMY REFORMS

PLEASE SEE APPENDIX IV FOR THE SPLM/A (IO)'S FULL POSITION ON JOINT PRESIDENTIAL GUARDS

National Security Service

- i. PLEASE SEE APPENDIX V (A) FOR THE SPLM/A (IO)'S FULL POSITION ON JOINT NATIONAL SECURITY
- ii. PLEASE SEE APPENDIX V (B)FOR THE SPLM/A (IO)'S FULL POSITION ON NATIONAL SECURITY SERVICE
- iii. *Reform of the Security Service*
 - a. *The Security Service of South Sudan must be professional and truly reflect the national character of the people of the country;*
 - b. *The duty of security service is information collection, analysis and passing the product to the authorities concerned;*
 - c. *Officers in the security service must be recruited from holders of University degrees;*
 - d. *The two organs of the security service shall be merged into one security organ headed by a Director General.*

Police

PLEASE SEE APPENDIX VI (A) FOR THE SPLM/A (IO)'S FULL POSITION ON FEDERAL POLICE SERVICE

PLEASE SEE APPENDIX VI (B) FOR THE SPLM/A (IO)'S FULL POSITION ON JOINT POLICE SERVICE

- i. *The police alone must take the responsibility of the maintenance of law and order, and it should be strengthened by continuous capacity building;*
- ii. *The police and other disciplined forces shall be organized on both federal and state levels;*
- iii. *Police and other disciplined forces must be professional by observing training, education and recruiting literate persons.*

iv. Representative and Gender Responsive Police and Law Enforcement Institutions

- a) Federal/National Police State Police
- b) Department of Community Policing (DCP)
- c) Criminal Investigation Department (CID)
- d) Public Security and Intelligence Department (PSID)
- e) Transport Police Service (TPS)
 - 1. Diplomatic Protection Police Service (DPPS)
 - 2. Tourism and Hospitality Police Service (THPS)
 - 3. Traffic Police Service (TPS)

Other Disciplined Forces

- i. Human Rights Sensitive Prison and Correctional Services (HRSPCSs)
 - a) Federal/National and State Prisons and Correctional Services(PCSs)
 - b) Women (PCSs)
 - c) Men (PCSs)
 - d) Reformatory and Socialization Institutions
 - e) Traditional Custodial Facilities
- ii. Civilian Defense and Environmental Protection
 - a. Fire Brigade
 - b. Protection and Management of Oil Industry Facilities
 - c. Airports Safety and Security
 - d. River Ports Safety and Security
 - e. Forest Protection and Conservation
- iii. Wild Life and Environmental Protection and Conservation
 - a) Professionalization of Wild Life Forces
 - b) Provision of necessary modern equipment
 - c) Designation and Development of Parks and Game reserves
 - d) Wildlife Management
- iv. Civil and Juridical Institutions
 - a) Customs and Excise Institutions
 - b) Equitable Immigration and Nationality Institutions
 - c) Bureau of Measures and Standards
 - d) Financial and Economic Security
 - e) Telecommunication Security Unit
 - f) Pension and Social Security Institutions
 - g) Human Rights Advisory Council
 - h) Orphanages

20. Establish during the Transitional Period a competent and effective oversight mechanism to help oversee implementation of the security sector reform programme and ensure accountability amongst the security agencies [**Protocol Principle 19**];

T) IMPLEMENTATION MECHANISMS

- i. Independent mechanisms to monitor the implementation of the Peace Agreement shall be established. Its composition shall be made up of the members from stakeholders and members from the region and international community;
- ii. The criteria for the selection of such a body and what process of appointments and removals shall be agreed;
- iii. The body shall be responsible to manage and resolve conflicts over implementation or interpretation of the agreement;
- iv. *Implementation shall be informed by the findings of the Defence and Security Review, which will guide the composition and terms of reference of the bodies for the remainder of the transitional period.*
- v. *Strategic Defence and Security Review*
 - a) *The TGoNU commits to forming a committee to conduct a holistic Strategic Defence and Security Review (SDSR), to be complete within six (6) months after signing the Peace Agreement.*
 - b) *The TGoNU further commits that the results of the Defence and Security Review will provide detailed policies for subsequent transitional security arrangements, and security sector reform, including security sector management and oversight, security force structures and composition, demobilization, and amalgamation/integration.*
 - c) *The following parameters shall serve as the basis for the terms of reference for the SDSR committee:*
 - d) *The Aim of the Strategic Defence and Security Review:*
 - e) *The aim of SDSR in South Sudan is to lay the ground for a significant change in how the country formulates and delivers its defence and security policy.*
 - f) *The SDSR seeks to do this through a comprehensive assessment to clarify the requirements of South Sudan's national army and its relationship with other security institutions and actors.*

vi. *Guiding Principles:*

- a) *National ownership, supported by regional/international assistance, resources, and academia;*
- b) *Conducted in a comprehensive, logical and rational manner, with each phase building on the previous one;*
- c) *Inclusive, consulting with individuals and organizations from within and outside TGoNU;*
- d) *Open and transparent, with the outcome of each phase communicated as widely as possible.*

vii. *Phases:*

Phase 1:

- a) *Firstly, a strategic security assessment that examines the military and non-military security challenges that affect RSS currently and in the future; Secondly, a security policy framework, clarifying the responsibilities of different bodies and agencies in responding to these security challenges, including the management and oversight of the security sector; Thirdly, a revised defence policy, identifying the specific role and missions of the national army and outlining a vision for its modernization.*

Phase 2:

- a) *An analysis of the operational capabilities that South Sudan's national army will require to meet the challenges identified in Phase 1, and the supporting systems and structures that are needed to ensure effective utilization of these capabilities.*
- b) *The key output should be a range of strategic models, specifying the level of human resources, equipment, and training needed to develop the military to respond to defence and security priorities, and the associated financial implications.*

Phase 3:

- a) *The findings of Phase 2 are submitted to the political leadership for evaluation. Their task is to decide which model, or combination of models, best meets the needs of the nation, along with the level of expenditure required.*
- b) *The findings of the review should then be published in a White Paper on Defence and Security, approved firstly by the executive and then by the legislative assembly.*

Phase 4:

- a) *The Ministries of Defence and Interior as well as any other security organ produce annual plans to turn RSS' vision of defence and security into practical, costed programmes.*

viii. Matrix and Joint Implementation Mechanism;

- a) Activities, action plan, timeframe, etc.;
- b) Guarantors and Witnesses
- c) Monitoring, Evaluation and Follow up Mechanisms for Peace Agreement:

ix. Security guarantee in the National and State Capitals

- a) Demilitarize Juba city, state capitals and major urban centres;
- b) Deploy UN and Regional Defence and Protection Force (DPF) to ensure, protection and safety of civilians and the government

III. Agreed Principles: Resource, Economic, and Financial Management

21. In accordance with existing international best practices, standards and norms, introduce during the Transitional Period a programme of economic and public financial management reform, implemented in accordance with the existing institutional and legal architecture; the terms of the reform programme shall be negotiated by the stakeholders in the negotiations [**Protocol Principle 20**];

- i. A long-term EFM reform programme as an agenda for the Transitional Government and public sector management to be implemented with the existing institutional and legal architecture;
- ii. Reform to strengthen effective, transparent and accountable management of oil and non-oil revenue, expenditure including public procurement and payroll, granting of public concessions, public borrowing and debt management compliant with existing laws;
- iii. That clear lines of authority, public disclosure requirements, and reporting channels among the Ministry of Finance and Economic Planning, the Ministry of Petroleum and Mining, the Central Bank, Office of the President, line Ministries, and the National Legislature, as laid out by the laws, should be adhered to;
- iv. Ensure that the independence of the Audit Chamber is guaranteed, its operations facilitated to eliminate any political interference, with the National Legislature playing its oversight role in the fight against corruption;
- v. To enable the Anti-Corruption Commission to fully perform its functions (of protecting public property, investigating and prosecuting cases of corruption, combating administrative malpractices in public institutions, demanding that all persons holding public offices make confidential formal declarations of their income, assets and wealth) without prejudice to the powers of the Judiciary;

- vi. To bar political leaders who are found to have condoned or engaged in corrupt practices from public offices and punish them along with all citizens who have committed the same, in accordance with the Penal Code;
- vii. To develop a code of Ethics and Integrity for public officials;
- viii. A long-term EFM reform programme as an agenda for the Transitional Government and public sector management to be implemented with the existing institutional and legal architecture;
- ix. The reform shall help to establish effective, transparent and accountable management of oil and non-oil revenue, expenditure including public procurement and payroll, granting of public concessions, public borrowing and debt management compliant with existing laws;
- x. Clear lines of authority, public disclosure requirements, and reporting channels among the Ministry of Finance and Economic Planning, the Ministry of Petroleum, the Central Bank, the Presidency, line Ministries, and the National Legislature, as laid out by the laws should be adhered to;
- xi. The independence of the Audit Chamber is to be guaranteed, its operations empowered to eliminate any political interference, with the National Legislature playing its oversight role in the fight against corruption;
- xii. Enable the Anti-Corruption Commission to fully perform its functions (of protecting public property, investigating and prosecuting cases of corruption, combating administrative malpractices in public institutions, demanding that all persons holding public offices make confidential formal declarations of their income, assets and wealth) without prejudice to the powers of the Judiciary;
- xiii. To bar and punish all citizens, including political leaders, who are found to have condoned or engaged in corrupt practices, from public office in accordance with the Penal Code 2008
- xiv. To develop a code of Ethics and Integrity for public officials in accordance with the Penal Code 2008;
- xv. A long-term EFM reform program as an agenda for the Transitional Government and public sector management to be implemented with the existing institutional and legal architecture;
- xvi. The reform should help to establish effective, transparent and accountable management of oil and non-oil revenue, expenditure including public procurement and payroll, granting of public concessions, public borrowing and debt management compliant with existing laws;

- xvii. Clear lines of authority, public disclosure requirements, and reporting channels among the Ministry of Finance and Economic Planning, the Ministry of Petroleum and Mining, the Bank of South Sudan (BOSS), the Presidency, the line Ministries, and Parliament laid out by the laws shall be adhered to;
- xviii. The independence of the Audit Chamber to be guaranteed, its operations empowered to eliminate any political interference, with parliament playing its oversight role in the fight against corruption;
- xix. Enable the Anti-corruption Commission to fully perform its functions (of protecting public property, investigating and prosecuting cases of corruption, combating administrative malpractices in public institutions, demanding that all persons holding public offices to make confidential formal declarations of their income, assets and wealth) independently without prejudice to the powers of the Ministry of Justice ;
- xx. To bar and punish all citizens, including political leaders having condoned or engaged in corrupt practices from public office in accordance with the law;
- xxi. To develop a code of ethics and Integrity for public officials;
- xxii. Specifically, the following reforms shall be undertaken:
- a. Ministry of Finance and Economic Planning
 - i. Implementation of Public Financial Management and Accountability Act;
 - ii. Establishment of a National Revenue Authority;
 - iii. Establishment of a central Public Procurement Authority;
 - iv. Assessment and determination of the level of public debts and ascertain the correctness in procedures used;
 - v. Adoption of strict macroeconomic coordination between the fiscal and monetary arms of the economy;
 - vi. Adoption of strict measures to control uncoordinated borrowing and to ensure that all borrowing are in accordance with the law;
 - vii. Strict enforcement of financial discipline in budget execution;
 - b. Bank of South Sudan (BOSS)
- xxiii. In order to curb market inefficiencies and asymmetries, the (BOSS) shall:
- i. Restructure the Bank of South Sudan (BoSS) including the adoption of comprehensive reforms to improve its supervisory functions and prudential regulatory roles in order to stamp out widespread corruption in its operations;
 - ii. Take corrective measures to curb the misalignment and incessant exchange rate debacle inherent in the two parallel rates of the South Sudanese Pounds;

- iii. Adopt tighter regulatory processes including the establishment of an Ombudsman body embedded in the Central Bank to keep watch on the regulators and play the role of guarding the guardians. This is important to mitigate the damning perversities such as malfeasance, bribery, and insider's dealing; conflict of interests and abetment of financial crimes by Bank officials.
- xxiv. Measures to combat corruption:
 - a. Political Leaders must demonstrate effective leadership and commitment in the fight against corruption and any leader found to have condoned or engaged in corrupt practices must be punished and barred from holding public office;
 - b. Parliament shall play effective oversight role in the fight against corruption;
 - c. Ensure strict compliance with Public Procurement and Disposal Law and Procedures;
 - d. Centralize public procurement and establish oversight institutions such as a Public Procurement Board;
 - e. Develop a Code of Ethics and Integrity for Public Officials emphasizing the values of honesty and integrity;
 - f. Protect the independence of the Anti-Corruption Commission and empower it to reject any political interferences with corruption cases whether at the investigation stage or at commencement of trial before courts of law;
 - g. Harmonize the role of the Anti corruption Commission with the Ministry of Justice and the Police;
 - h. Build investigative capacity of Anti-corruption Commission;
 - i. Investigate and prosecute all outstanding cases of corruption without fear or favour;
 - j. Strengthening of legal and institutional frameworks of the Anti Corruption Commission and to ensure their enforcement;
 - k. The Government shall accede to regional and international conventions on Corruption particularly the African Convention on Preventing and Combating Corruption (AUCPC) and the UN Convention Against Corruption (UNCAC);
 - l. Enforcement of Public Procurement laws and regulations;
 - m. Involvement of the Media in policy advocacy against corruption and raising public awareness to strengthen capacity of the public to resist and prevent corruption;
 - n. Expand the curriculum in the educational system to promote the values of honesty, integrity and respect for public property;
 - o. Create awareness on the evils of corruption among the population through civic education.
- xxv. *A long-term EFM reform programme as an agenda for the Transitional Government and public sector management to be implemented with the existing reformed institutional and legal architecture;*

- xxvi. *The reform should help to establish effective, transparent and accountable management of oil and non-oil revenue, expenditure including public procurement and payroll, granting of public concessions, public borrowing and debt management compliant in compliance with existing the laws;*
- xxvii. *Clear lines of authority, public disclosure requirements, and reporting channels among the Ministry of Finance and Economic Planning, the Ministry of Petroleum, the Central Bank, the Presidency, line Ministries, and the National Legislature Assembly, as laid out by the laws should be adhered to;*
- xxviii. *The independence of the Audit Chamber is to be guaranteed, its operations and it shall be empowered to eliminate any political interference, with the National Assembly playing its oversight role in the fight against corruption;*
- xxix. *Enable the Anti-Corruption Commission to fully perform its functions (of protecting public property, investigating and prosecuting cases of corruption, combating administrative malpractices in public institutions, demanding that all persons holding public offices make confidential formal declarations of their income, assets and wealth) without prejudice to the powers of the Judiciary;*
- xxx. *To bring to justice all cases of corruption as from 2005 to date.*
- xxxi. *To bar and punish all citizens, including political leaders, who are found to have condoned or engaged in corrupt practices, from public office in accordance with the Penal Code;*
- xxxii. *To develop a code of Ethics and Integrity for public officials;*

22. Establish during the Transitional Period, a competent and effective oversight mechanism to help oversee implementation of the reform programme and ensure transparency and efficiency in public financial management **[Protocol Principle 21]**.

- i. Establish a high level, competent and effective oversight mechanism that controls all incoming revenues, their allocation in broad terms through the budget and the effective spending for the planned purposes. The oversight mechanism should be made up of all key stakeholders, including representatives of civil society and from the international community selected through a transparent public vetting process without prejudice to 40% women representation;
- ii. To make sound financial choices during the transitional period, the oversight mechanism should foresee provision of technical and advisory resource commitments to economic governance by the international community.
- iii. *Establish a high level, competent and effective oversight mechanism that controls revenues, their allocation in broad terms through the budget and the effective spending for the planned purposes. The oversight mechanism shall be made up*

of all key stakeholders, including representatives of civil society and from the international community;

- iv. To make sound financial choices during the Transitional Period, the oversight mechanism should foresee provision of technical and advisory resource commitments to economic governance by the international community.*
- v. Establish a high level, competent and effective oversight mechanism that controls incoming revenues, their allocation in broad terms through the budget and the effective spending for the planned purposes. The oversight mechanism should be made up of all key stakeholders, including representatives of civil society and from the international community;*
- vi. To make sound financial choices during the transitional period, the oversight mechanism should shall foresee provision of technical and advisory resource commitments to economic governance by the international community.*
- vii. To establish a high level, competent and effective oversight mechanism that controls incoming revenues, their allocation in broad terms through the budget and the effective spending for the planned purposes. The oversight mechanism should be made up of all stakeholders;*
- viii. To make sound financial choices during the transitional period, the oversight mechanism may solicit, if deemed necessary, technical and advisory resource commitments to economic governance by from the international community.*

23. Agree to a resource sharing framework for the revenues from the extraction of natural resources that balances the needs for national development, service delivery and reconstruction of the country, and be allocated by a formula to be negotiated by the stakeholders in the negotiations [**Protocol Principle 22**];

- i. In order to promote sound economic and financial management systems, the transitional government shall be enabled to collect revenue efficiently, spend responsibly and be transparently accountable to its citizens as well as ensure equitable distribution of resources. This is necessary for promoting legitimacy and addressing unanswered grievances at the root of the conflict as one of the mechanisms for consolidating statehood.*
- ii. In order to promote sound and transparent Economic and Financial Management (EFM) and systems, the Transitional Government shall collect revenue efficiently, spend prudently and be transparent and accountable to the citizens. This is necessary for promoting legitimacy and addressing unanswered grievances at the root of the conflict as one of the mechanisms for consolidating statehood.*
- iii. In order to promote sound economic and financial management and systems, the transitional government will be enabled to collect revenue efficiently, spend responsibly and be transparently accountable to its citizens. This is necessary for*

promoting legitimacy and addressing unanswered grievances at the root of the conflict as one of the mechanisms for consolidating statehood.

- iv. In order to promote sound economic and financial management (EFM) and systems, the transitional government will collect revenue efficiently, spend responsibly and be transparently accountable to its citizens.

PLEASE SEE APPENDIX VII FOR THE SPLM/A (IO)'S FULL POSITION ON ECONOMIC AND FINANCIAL MANAGEMENT

IV. AGREED PRINCIPLES: TRANSITIONAL JUSTICE, RECONCILIATION, AND HEALING

24. Establish during the Transitional Period, a National Commission for Truth, Reconciliation and Healing, which will be hybrid in composition, to spearhead efforts to address the legacy of conflict in South Sudan; the terms and mandate of the Commission shall be negotiated by the stakeholders in the negotiations **[Protocol Principle 23];**

25. Establish during the Transitional Period, an independent judicial body to investigate and prosecute individuals bearing the greatest responsibility for violations of international humanitarian law, and/or applicable South Sudanese law, committed since 15 December 2013; the terms and mandate of this body shall be negotiated by the stakeholders in the negotiations **[Protocol Principle 24];**

- i. Cognizant that the people of South Sudan yearn for peace, justice, reconciliation and healing, the Parties agree to respect and uphold the rights set out in the Bill of Rights of the South Sudan Transitional Constitution, 2011 including the Right to access to justice.
- ii. The Parties agree to establish processes and mechanisms for accountability and reconciliation that shall include, but not limited to:
 - a. A National Commission for Truth, Reconciliation and Healing, which may be hybrid, domestic and regional in composition, to spearhead efforts to address the legacy of conflict in South Sudan through:
 - 1. establishing an accurate and impartial historical record of human rights violations, which shall include the identification of victims and perpetrators;
 - 2. recording the experiences of victims;
 - 3. investigating the causes of conflict and making recommendations to prevent the repetition of conflict;
 - 4. facilitating local and national reconciliation and healing.

- b. A judicial body to investigate and prosecute individuals bearing the greatest responsibility for violations of international humanitarian law, and/ or applicable South Sudanese law, committed since 15 December 2013. Such a body shall:
1. be established in cooperation with domestic and regional and international authorities particularly cooperate with the African Union Commission of Inquiry for South Sudan;
 2. be of a hybrid nature involving both local domestic and foreign regional investigators, prosecutors and judges;
 3. prioritize and fast-track the investigation and prosecution of those most responsible for violations of COH this peace agreement that constitute crimes under international humanitarian law, and/ or South Sudanese law;
 4. not be impeded or constrained by any statutes of limitations, immunities or amnesties in respect of the prosecution of serious violations of international humanitarian law and/or South Sudanese law;
 5. be required to leave a permanent legacy on the South Sudanese criminal justice system through training, mentoring and capacity building of local practitioners.
- c. Other bodies or processes to advance the rights referred to under this section, including statutory, customary and traditional mechanisms.
- iii. The Parties agree that national legislation shall be enacted within One (1) months of the establishment of the TGoNU, to set up the bodies referred to in sub-clauses 5.1 (a), (b) and (c);
- iv. The Parties agree that the specific mandates of the bodies created in terms of this clause shall be guided by consultations with the affected communities and shall:
- a) be independent and autonomous;
 - b) be fair and impartial;
 - c) employ members and staff who are suitably qualified, not implicated in the subject matter, broadly representative of society; and observe gender parity;
 - d) have the necessary investigative and other powers to complete their mandate;
 - e) protect the dignity, safety and wellbeing of victims and witnesses;

- i. Cognizant that the people of South Sudan yearn for peace, justice, reconciliation and healing, the stakeholders agree to respect and uphold the following rights set out in the Bill of Rights of the South Sudan Transitional Constitution, 2011 and in UN General Assembly resolution 60/147 as elaborated upon in the United Nations' Principles on Right to truth.
 - a) Right to access to justice.
 - b) Right to reparation and rehabilitation.
 - c) Right to 'never again' or the guarantees of non-repetition.

Impunity:

- ii. The Stakeholders agree to establish processes and mechanisms for justice, accountability and reconciliation that shall include, but will not be limited to:
 - a. A National Commission for Truth, Reconciliation and Healing, which may be hybrid in composition, to spearhead efforts to address the legacy of conflict in South Sudan through:
 - b. Establishing an accurate and impartial historical record of human rights violations, which shall include the identification of victims and perpetrators;
 - c. Recording the experiences of victims;
 - d. Investigating the causes of conflict and making recommendations to prevent repetition of conflict;
 - e. Facilitate local and national reconciliation and healing.
- iii. A body to investigate and prosecute individuals bearing the greatest responsibility for violation of international humanitarian law, and/or applicable South Sudanese law, committed since 15th December 2013. Such a body shall:
 - a. Be established in cooperation with regional and international authorities particularly cooperate with the African Union Commission of Inquiry for south Sudan;
 - b. Be of hybrid nature involving both local and foreign investigators, prosecutors and judges;
 - c. Prioritize and fast-track the investigation and prosecution of those most responsible for atrocities and gross violations that constitute crimes under international humanitarian law, and / or South Sudan law;
 - d. Not be impeded or constrained by prior statutes of limitations, immunities or amnesties in respect of the prosecution of serious violations of international humanitarian law;
 - e. Be required to leave a permanent legacy on the South Sudanese criminal justice system through training, mentoring and capacity building of local practitioners.

- iv. A Reparation Commission to assess the needs of victims, and develop and implement reparation programs consistent with the UN Basic Principles and Guidelines on the Right to Reparation.
- v. Other bodies or process to advance the rights referred to under this section, including statutory, customary and traditional mechanisms.
- vi. The Stakeholders agree that national legislation must be enacted within 6 months of the signing of this Agreement to establish the bodies referred to in sub-section 5.1 a) and b); and to operationalize such bodies within one month of the promulgation of such legislation.
- vii. The Stakeholders agree that the specific mandates of the bodies created in terms of this clause shall be guided by consultations with the affected communities and shall:
 - a) Be independent and autonomous;
 - b) Be fair and impartial;
 - c) Employ members and staff who are suitably qualified, not implicated in the subject matter, broadly representative of society; and observe gender parity;
 - d) Have the necessary investigative and other powers to complete their mandate; and that secrecy laws shall not apply to their investigations;
 - e) Protect the dignity, safety and wellbeing of victims and witnesses.
 - f) In addition to the above, the Transitional/ Interim Government shall undertake the following measures:
 - 1 Launch programs for National reconciliation and Healing at national and state levels;
 - 2 Involve Traditional Leaders in programs of reconciliation and healing;
 - 3 Draw lessons from other experiences: local, regional and international;
 - 4 Take measures to combat hate speech, derogatory ethnic slurs and stereotypes that tend to perpetuate ethnic hatred and undermine social cohesion of the people of South Sudan;
 - 5 Prohibit and punish individuals or groups including government owned and private media outlets who engage in incitement of hatred and propagating ethnic disharmony.
- viii. Cognizant that the people of South Sudan yearn for peace, justice, reconciliation and healing, the Parties agree to respect and uphold the following rights set out in the international covenants, treaties, and conventions and in UN General Assembly resolution 60/147 as elaborated upon in the United Nations' Principles on Impunity:
 - a. Right to truth.
 - b. Right to access to justice.
 - c. Right to reparation, compensation and rehabilitation.
 - d. Principle of 'never again' or the guarantees of non-repetition.

The Parties agree to:

- ix. Establish processes and mechanisms for accountability and reconciliation that shall include, but will not be limited to:
 - a. A National Commission for Truth, Reconciliation and Healing, which may be hybrid in composition, to spearhead efforts to address the legacy of conflict in South Sudan through:
 - 1. establishing an accurate and impartial historical record of human rights violations, which shall include the identification of victims and perpetrators;
 - 2. recording the experiences of victims;
 - 3. investigating the causes of conflict and making recommendations to prevent the repetition of conflict;
 - 4. facilitating local and national reconciliation and healing.
 - b. A judicial body to investigate and prosecute individuals bearing the responsibility for violations of international humanitarian law, and/ or applicable South Sudanese law, committed since 15 December 2013. Such a body shall:
 - 1. be established in cooperation with regional and international authorities particularly cooperate with the African Union Commission of Inquiry for South Sudan;
 - 2. be of a hybrid nature involving both local and foreign investigators, prosecutors and judges or International Criminal Court (ICC);
 - 3. prioritize and fast-track the investigation and prosecution of those most responsible for violations in the conflict that constitute crimes under international humanitarian law, and/ or South Sudanese law;
 - 4. not be impeded or constrained by any statutes of limitations, immunities or amnesties in respect of the prosecution of serious violations of international humanitarian law;
 - 5. be required to leave a permanent legacy on the South Sudanese criminal justice system through training, mentoring and capacity building of local practitioners.
 - c. A Reparations Commission to assess the needs of victims, and develop and implement reparation programmes, including urgent reparations, consistent with the UN Basic Principles and Guidelines on the Right to

Reparation. The government shall be required to fund the reparations programmes and to seek assistance from the international community in respect of any shortfalls.

- d. Other bodies or processes to advance the rights referred to under this section, including statutory, customary and traditional mechanisms.
- x. The transitional national legislature shall enact a legislation within six (6) months of the signing of the Agreement and to establish the bodies referred to in sub-clauses 6.1 (a), (b) and (c); and to operationalize such bodies within one (1) months of the promulgation of such legislation.
- xi. that the specific mandates of the bodies created in terms of this clause shall be guided by consultations with the affected communities and shall:
 - a. be independent and autonomous;
 - b. be fair and impartial;
 - c. employ members and staff who are suitably qualified, not implicated in the subject matter, broadly representative of society; and observe gender parity;
 - 1 have the necessary investigative and other powers to complete their mandate; and that secrecy laws shall not apply to their investigations;
 - 2 protect the dignity, safety and wellbeing of victims and witnesses;
- xii. *Cognizant that the people of South Sudan yearn for peace, justice, reconciliation and healing, the Stakeholders agree to respect and uphold the following rights set out in the Bill of Rights of the South Sudan Transitional Constitution, 2011 and in UN General Assembly resolution 60/147 as elaborated upon in the United Nations' Principles on Impunity:*
 - a. *Right to truth.*
 - b. *Right to access to justice.*
 - c. *Right to reparation and rehabilitation.*
 - d. *Right to 'never again' or the guarantees of non-repetition.*
- xiii. *The Stakeholders agree to establish processes and mechanisms for accountability and reconciliation that shall include, but will not be limited to:*
 - a. *A National Commission for Truth, Reconciliation and Healing, which may be hybrid in composition, to spearhead efforts to address the legacy of conflict in South Sudan through:*
 - 1. *establishing an accurate and impartial historical record of human rights violations, which shall include the identification of victims and perpetrators;*
 - 2. *recording the experiences of victims;*

3. *investigating the causes of conflict and making recommendations to prevent the repetition of conflict;*
 4. *facilitating local and national reconciliation and healing.*
- b. *A judicial body to investigate and prosecute individuals bearing the greatest responsibility for violations of international humanitarian law, and/ or applicable South Sudanese law, committed since 15 December 2013. Such a body shall:*
1. *be established in cooperation with regional and international authorities particularly cooperate with the African Union Commission of Inquiry for South Sudan;*
 2. *be of a hybrid nature involving both local and foreign investigators, prosecutors and judges;*
 3. *prioritize and fast-track the investigation and prosecution of those most responsible for violations of this peace agreement that constitute crimes under international humanitarian law, and/ or South Sudanese law;*
 4. *not be impeded or constrained by any statutes of limitations, immunities or amnesties in respect of the prosecution of serious violations of international humanitarian law;*
 5. *be required to leave a permanent legacy on the South Sudanese criminal justice system through training, mentoring and capacity building of local practitioners.*
- c. *A Reparations Commission to assess the needs of victims, and develop and implement reparation programmes, including urgent reparations, consistent with the UN Basic Principles and Guidelines on the Right to Reparation. The government shall be required to fund the reparations programmes and to seek assistance from the international community in respect of any shortfalls.*
- d. *Other bodies or processes to advance the rights referred to under this section, including statutory, customary and traditional mechanisms.*
- xiv. *The Stakeholders agree that national legislation must be enacted within six (6) months of the signing of this Agreement to establish the bodies referred to in sub-clauses 5.1 (a), (b) and (c); and to operationalize such bodies within two (2) months of the promulgation of such legislation.*
- xv. *The Stakeholders agree that the specific mandates of the bodies created in terms of this clause shall be guided by consultations with the affected communities and shall:*

- a. be independent and autonomous;*
 - b. be fair and impartial;*
 - c. employ members and staff who are suitably qualified, not implicated in the subject matter, broadly representative of society; and observe gender parity representation;*
 - d. have the necessary investigative and other powers to complete their mandate; and that secrecy laws shall not apply to their investigations;*
 - e. protect the dignity, safety and wellbeing of victims and witnesses;*

- xvi. Cognizant that the people of South Sudan yearn for peace, justice, reconciliation and healing, the Stakeholders agree to respect and uphold the following rights set out in the Bill of Rights of the South Sudan Transitional Constitution, 2011 and in UN General Assembly resolution 60/147 as elaborated upon in the United Nations' Principles on Impunity:
 - a) Right to truth.
 - b) Right to access to justice.
 - c) Right to reparation and rehabilitation.
 - d) Principle of to 'never again' or the guarantees of non-repetition.

- xvii. The parties and Stakeholders agree to establish processes and mechanisms for accountability and reconciliation that shall include, but will not be limited to:
 - a A National Commission for Truth, Justice, Reconciliation and Healing, which will be hybrid in composition, to spearhead efforts to address the legacy of conflict in South Sudan through:
 - 1. Establishing an accurate and impartial historical record of human rights violations, which shall include the identification of victims and perpetrators;
 - 2. Recording the experiences of victims;
 - 3. Investigating the causes of conflict and making recommendations to prevent the repetition of conflict;
 - 4. Investigate sexual and gender based violence and causes of the conflict
 - 5. Facilitating local and national reconciliation and healing.

 - b A judicial body to investigate and prosecute individuals bearing the greatest responsibility for violations of international humanitarian law, and/ or applicable South Sudanese law, committed since 15 December 2013. Such a body shall:
 - 1. Be established in cooperation with regional and international authorities;
 - 2. Be of a hybrid nature involving both local and foreign investigators, prosecutors and judges;
 - 3. Prioritize and fast-track the investigation and prosecution of those most responsible for violations of this peace agreement

- that constitute crimes under international humanitarian law, and/ or South Sudanese law;
 - 4. Not be impeded or constrained by any statutes of limitations, immunities or amnesties in respect of the prosecution of serious violations of international humanitarian law;
 - 5. Be required to leave a permanent legacy on the South Sudanese criminal justice system through training, mentoring and capacity building of local practitioners.
 - c. A representative National Reparations Commission to assess the needs of victims, and develop and implement reparation programmes, including urgent reparations, consistent with the UN Basic Principles and Guidelines on the Right to Reparation. The government shall be required to fund the reparations programmes and to seek assistance from the international community in respect of any shortfalls.
 - d. Other bodies or processes to advance the rights referred to under this section, including statutory, customary and traditional mechanisms.
- xviii. The Stakeholders agree that national legislation must be enacted within three months of the signing of this Agreement to establish the bodies referred to in sub-clauses 5.1 (a), (b) and (c); and to operationalize such bodies within two months of the promulgation of such legislation.
- xix. The Stakeholders agree that the specific mandates of the bodies created in terms of this clause shall be guided by consultations with the affected communities and shall:
 - a. be independent and autonomous;
 - b. be fair and impartial;
 - c. employ members and staff who are suitably qualified, not implicated in the subject matter, broadly representative of society; and observe gender parity;
 - d. have the necessary investigative and other powers to complete their mandate; and that secrecy laws shall not apply to their investigations; protect the dignity, safety and wellbeing of victims and witnesses

V. AGREED PRINCIPLES: HUMANITARIAN CONCERNS

26. Given the impending threat of war-induced-famine, the Government and SPLM/A (IO), as a matter of urgency, immediately and jointly agree to fully support the international call for humanitarian assistance to South Sudan, and agree to facilitate the necessary humanitarian access assessment and assistance initiatives **[Protocol Principle 25]**;

27. Agree to urgently institute programmes of relief, repatriation, resettlement, reintegration and rehabilitation of IDPs and returnees, and in particular, provide programmes for war/conflict affected persons (children, orphans, women,

widows, war wounded, etc.), including reconstruction of war-affected areas, the terms and scope of which shall be negotiated by the stakeholders in the negotiations [**Protocol Principle 26**];

- i. The Parties recognize the destructive impact of the war, acknowledge the massive displacement of the South Sudanese people, and are aware of the disastrous economic, political and social consequences of the conflict for South Sudan and the region; and realize the devastation, loss of life and instability the conflict has caused to South Sudan. The Parties hereby agree to address the following:
 - a. Humanitarian issues resulting from the conflict;
 - b. Ensure unhindered humanitarian access and relief intervention to all conflict-affected areas;
 - c. Institute programmes of relief, repatriation, resettlement, reintegration and rehabilitation of IDPs and returnees. In particular, to provide special programmes for war/conflict affected persons (children, orphans, women, widows, war wounded, etc.), including reconstruction of war-affected areas.
- ii. *The Stakeholders recognize the destructive impact of the war, acknowledge the massive displacement of the South Sudanese people, and are aware of the disastrous economic, political and social consequences of the conflict for South Sudan and the region; and realize the devastation, loss of life and instability the conflict has caused to South Sudan. The stakeholders hereby agree to address the following:*
 - a. *Humanitarian issues resulting from the conflict;*
 - b. *Ensure unhindered humanitarian access and relief intervention to all conflict-affected areas;*
 - c. *Institute programmes of relief, repatriation, resettlement, reintegration and rehabilitation of IDPs and returnees. In particular, to provide special programmes for war/conflict affected persons (children, orphans, women, widows, war wounded, etc.), including reconstruction of war-affected areas.*
- iii. The Stakeholders recognize the destructive impact of the war; acknowledge the massive displacement of the South Sudanese people; are aware of the disastrous economic, political and social consequences of the conflict for South Sudan and the region; and realize the devastation, loss of life and property; and instability the conflict has caused to South Sudan. The Stakeholders thereby agree to address the following:
 - a. Humanitarian issues resulting from the conflict;
 - b. Ensure unhindered humanitarian access and relief intervention to all conflict-affected areas;
 - c. Institute programs for relief, repatriation, resettlement, reintegration and rehabilitation of IDPs and returnees. In particular provide special

programs for war/conflict-affected persons (children, orphans, women, widows, wounded, etc.) including reconstruction of war-affected areas.

iv. The TGONU shall undertake the following:

- a. Ensure unhindered access for relief intervention to all areas by removing cumbersome red tape and instituting special fast track procedures for clearing relief materials and handling immigration procedures;
- b. Appeal to UN agencies and other international agencies to provide emergency humanitarian assistance to the affected population;
- c. Establish special fund for the relief, rehabilitation, repatriation and resettlement of IDPs and Refugees within three months of its establishment;
- d. Initiate and implement special programs for conflict affected areas.

v. The Stakeholders recognize the destructive impact of the war, acknowledge the massive displacement of the South Sudanese people, and are aware of the disastrous economic, political and social consequences of the conflict for South Sudan and the region; and realize the devastation, loss of life and instability the conflict has caused to South Sudan. The stakeholders hereby agree to address the following:

- a. Humanitarian issues resulting from the conflict;
- b. Ensure unhindered humanitarian access and relief intervention to all conflict- affected areas;
- c. Institute programmes of relief, repatriation, resettlement, reintegration and rehabilitation of IDPs and returnees. In particular, to provide special programmes for war/conflict affected persons (children, orphans, women, widows, war wounded, etc., including reconstruction of war-affected areas.

vi. The parties recognize the destructive impact of the war; acknowledge the massive displacement of the South Sudanese people; aware of the disastrous economic, political, and social consequences of the conflict for South Sudan and the region; realize the devastation, loss of life and instability the conflict has caused to South Sudan and thereby the Parties agree to address the following:

- a. Humanitarian Issues dealing with the aftermath of the conflict;
- b. Unhindered access for humanitarian intervention to all areas;
- c. Institute Programs of relief, rehabilitation, repatriation, reintegration and resettlement of IDPs and refugees. Special programs for war/conflict affected areas and persons (children, orphans, widows, wounded etc.) including compensation and reparation.

VI. AGREED PRINCIPLES: PARAMETERS FOR A PERMANENT CONSTITUTION PROCESS

28. The TGONU to initiate and oversee a permanent constitution-making process, during the Transitional Period, based on the principles of federalism and taking into account unity in diversity, and to devolve more power to the states. The terms and parameters of this process shall be negotiated by the stakeholders in the negotiations **[Protocol Principle 27];**

- i. To give effect to the Principles set out in Part 1, the Stakeholders hereby agree on the following parameters to guide a people-driven national constitution-making process. The on-going Constitutional Review Process shall be reinvigorated to ensure inclusiveness and representation.

The stakeholders shall decide:

- a. A process for producing an initial draft constitution including mechanisms for determining the leadership and other membership and decision making processes of the body that produces the initial draft;
- b. The role of the TGoNU in the constitution-making process;
- c. The composition, leadership, decision making processes and functions of the national body that will deliberate upon and endorse the draft national constitution;
- d. The timeframe for each phase of the constitution making process and mechanisms for ensuring that the time frame is maintained and the process is completed before the end of the Transitional Period;
- e. The method of promulgation of the national Constitution; and
- f. Key issues to be debated and decided upon in the constitution making process including the values and principles underpinning the Republic, structure of the state (national government, states and local government), the system of government (presidential/parliamentary, unitary/federal), good governance (ethics, integrity, public financial management, independent institutions, etc.), and security (civilian control).
- g. The mechanisms for ensuring civic education and consultations throughout the constitution-making process. A law shall set out the details of the constitution making process and shall include provisions securing an inclusive process, transparency, and consensus building.

PARAMETERS FOR A PERMANENT CONSTITUTION

- ii. To give effect to the Principles set out in Part 1, the Parties hereby agree on the following parameters to guide a people-driven permanent constitution-making process.

The Parties shall decide:

- a. On how the on-going Constitutional Review Process shall be reinvigorated to ensure inclusiveness and representation.
- b. The TGoNU shall oversee the constitution-making process;
- c. The timeframe for each phase of the constitution making process and mechanisms for ensuring that the time frame is maintained and the process is completed before the end of the Transitional Period;
- d. The method of promulgation of the Permanent Constitution; and
- e. Key issues to be debated and decided upon in the constitution making process including the values and principles underpinning the Republic, structure of the state (national government, states and local government), the system of governance (presidential/parliamentary), good governance (ethics, integrity, public financial management, independent institutions, etc.), and security (civilian control).
- f. The mechanisms for ensuring public education and consultations throughout the constitution-making process.

PERMANENT CONSTITUTION – PARAMETERS

- i. To give effect to the principles set out in part 1, the Stakeholders hereby agree on the following parameters to guide a people-driven permanent constitution-making process. The ongoing Constitutional Review Process shall be reinvigorated to ensure inclusiveness and representation.
- ii. A process for producing an initial draft constitution including mechanisms for determining the leadership and other membership and decision making processes of the body that produces the initial draft shall be as follows:
 - a. A commission is appointed by the Executive after consultation with the political parties, civil society organizations and faith based groups for their views to prepare a draft constitutional text;
 - b. The commission makes wide consultation with the people and conducts civic education;
 - c. The commission then presents the draft Constitutional Text to the Executive accompanied by a report;
 - d. The draft constitutional text presented by the commission to the executive is then presented to the national constitutional conference for deliberation, modification and adoption;
 - e. The adopted constitutional text by the constitutional conference is then presented by the Executive to the National Legislature or a Constituent Assembly for deliberation and adoption;

f. The TGONU shall enact legislation to govern the constitutional making process in consultation with the stakeholders. The legislation shall embody inter alia the following;

- (1) Composition, leadership, decision making processes and functions;
- (2) Timeframe for the phases of the constitution making process and mechanisms;
- (3) Method of promulgation of the Permanent Constitution;
- (4) Key issues to be deliberated upon by the Conference;
- (5) Mechanisms for ensuring public education and consultation.

Principles and objectives:

iii. The process shall have the objective of achieving a new constitution that addresses the following:

- a) Guaranteeing peace, national unity and territorial integrity of the Republic of South Sudan to safeguard the wellbeing of the people;
- b) Establishing a federal and democratic system of government that reflects the character of South Sudan in its various institutions taken together, guarantees good governance, constitutionalism, rule of law, human rights, gender equity and affirmative action;
- c) Promoting the people's participation in the governance of the country through democratic, free and fair elections and the devolution and exercise of power;
- d) Respecting ethnic and regional diversity and communal rights including the right of communities to organize and participate in cultural activities and expression of their identities;
- e) Ensuring the provision of the basic needs of the people through the establishment of a framework for fair and even economic growth and equitable access to national resources and services;
- f) Promoting and facilitating regional and international cooperation to ensure economic development, peace and stability, and to support democracy and human rights;
- g) Strengthening and safeguarding national unity;
- h) Creating conditions for free exchange of ideas;
- i) Committing the people of South Sudan to peaceful resolution of national issues through dialogue.

PARAMETERS FOR A PERMANENT CONSTITUTION

ii. *To give effect to the Principles set out in Part 1, the Stakeholders hereby agree on the following parameters to guide a people-driven permanent constitution-making process.*

The stakeholders shall decide:

- a. *A process for producing an initial draft constitution (National Constitutional Conference or Constituent Assembly) including mechanisms for determining the leadership and other membership and decision making processes of the body that produces the initial draft;*
- b. *The role of the TGoNU in the constitution-making process;*
- c. *The composition, leadership, decision making processes and functions of the national body that will deliberate upon and endorse the draft permanent constitution;*
- d. *The timeframe for each phase of the constitution making process and mechanisms for ensuring that the time frame is maintained and the process is completed before the end of the Transitional Period;*
- e. *The method of promulgation of the Permanent Constitution; and*
- f. *Key issues to be debated and decided upon in the constitution making process including the values and principles underpinning the Republic, structure of the state (federal, decentralized or unitary), the system of government (presidential/ parliamentary), good governance (ethics, integrity, public financial management, independent institutions, etc.), and security (civilian control).*
- g. *The mechanisms for ensuring public education and consultations throughout the constitution-making process. A law shall set out the details of the constitution making process and shall include provisions securing an inclusive process, transparency, and consensus building.*

Rights and Citizenship

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

VII: TIMETABLE TO COMPLETE NEGOTIATIONS

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| <p>28. That upon the signing of this Protocol, the stakeholders commit to negotiate and complete the agreement within a period of 45 days [Protocol Principle 28];</p> |
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