



MAX PLANCK FOUNDATION
for International Peace and
the Rule of Law

**PUBLIC STATEMENT OF THE PARTICIPANTS OF THE WORKSHOP:
CONSTITUTIONAL DEVELOPMENT IN SUDAN:
ASSISTING TO ACHIEVE SUSTAINABLE CEASE-FIRE**

Organized by Max Planck Foundation
For International Peace & the Rule of Law

1st to 3rd October 2023 - Hilton Hotel, Addis Ababa, Ethiopia

PREAMBLE

INSPIRED by the struggle of the Sudanese people throughout its history against totalitarian and dictatorial regimes;

BELIEVING in the in the principles of the glorious December 2018 Revolution;

DEMONSTRATING loyalty to the souls of martyrs; and acknowledging the role of the women and youths in their active participation in fulfilling the aims of the Revolution;

ALARMED by the unprecedented wide violations, killings, rape, looting, confiscating of citizen's assets;;

Convinced that the Juba Peace Agreement is an important addition to the peace and stability of the country, and that it necessary to build on it to complete the missing peace, in particular the Al-Hilu and the Abdel Wahed group.

Acknowledging at the same time that the workshop had for objective to assemble representatives of various approaches of groups from Sudan concerning the most promising approach to overcome the political and military crisis which is haunting the civilian population severely. Also appreciating that the workshop is meant to be more than a platform at which the participants may exchange their views making use of the fact that this workshop is acting at an academic level. The task of the workshop is more ambitious. It intends to produce tangible results, which will be helpful in regaining peace and security in Sudan. Having the above into consideration and after intensive deliberations, the participants agreed on the following statement:



A. Efforts towards a sustainable peace and security

1. Urge the warring-parties to fully implement – in good faith - the terms of Jeddah Agreement to pave the way for permanent cease-fire, delivering of humanitarian assistance and launching of an inclusive political process through Sudanese-Sudanese dialogue;
2. The Importance of restoring peace & security in the whole Sudan.

B.Guiding Principles for the exercise of public authority in the post-war period

3. The participants of the workshop considered the following principles being of a basic nature and not negotiable:

- (a) The national sovereignty and the full territorial integrity of the Sudan shall have to be confirmed and defended;
- (b) The participants consented that no attempts should be made to establish a government outside Sudan (government in exile) and that all efforts should be undertaken that attempts to form such a government in exile be discouraged and would not receive international recognition.
- (c) The participants expressed the opinion that for a return to lasting peace it is mandatory to form a civilian government through a political process in which a broad majority of the Sudanese civilian forces will participate actively and which will set in motion a process of national reconciliation.
- (d) The participants agreed that the essence of the constitution-making process is to establish a democratic civil government based upon the rule of law and the respect for human rights.
- (e) That the cultural and ethnic plurality of the Sudan is to be preserved and to be reflected in the organization of the Sudan in the transitional period as well as under a future constitution guaranteed and reflected in the relevant organizational norms.
- (f) The Participants considered it mandatory that with the beginning of a cease-fire binding arrangements are being made to guarantee access of the population to humanitarian assistance without any administrative, fiscal or other limitations. It should be guaranteed that such humanitarian assistance would be distributed without discrimination of any kind.

4. The participants highlighted that arrangements for the postwar period require a participation of all Sudanese citizens. Appropriate procedures to that extent should be prepared as soon as possible. It is recommended to engage the local administration in this procedure as well as the traditional administration. The participants feel that such an approach is preferable considering the diversity between the Regions, respectively the States.
5. The participants consider it mandatory to pursue a comprehensive approach concerning peacebuilding, and in this context criticize the Juba Peace agreement which did not adequately



cover the concerns and aspirations of some groups or movements, particularly the States of East Sudan, Gedarf, Kasalla and Red Sea.

6. The participants request that measures, including any revision or supplementation of the Juba Peace Agreement, is to be initiated within the context of the overall efforts to restore peace and security in Sudan.

7. The Participants also consider it necessary that future arrangement concerning the restoration of peace and security take into account international treaties such as well as international human rights treaties.

8. The participants consider that the Bill of Rights as originally contained in the 2005 Constitut and reiterated in substance in the 2019 Constitutional Document are fully applicable binding all organs yielding public power in Sudan. They request that all efforts are to be undertaken to strengthen the implementation of the rights contained in the Constitution of 2005, respectively the Constitutional Document.

9. The participants emphasize that every exercise of public authority is bound by the principle of the rule of law.

C. Establishing a postwar internal Order for Sudan

10. The participants are aware that the actors of the civil society disagree on whether the military may or should participate in the development of the post-war internal order.

11. The Participants discussed whether if it would help to overcome present political controversies to deal with the two factors (namely establishing a cease-fire and a lasting peace on the one side and the establishment of a civilian system of governance) in two forums having a differing composition –.The former forum dealing with the establishment of a cease-fire and the issue of ensuring peace should include the waring forces whereas the establishment of the post-war transitionalgovernment should only be negotiated and established by civilian groups. Without the military forces being involved.

12. The views concerning the participation of the military forces in the deliberations concerning the future of the governmental structure of Sudan were mixed. Several differing views were expressed:

- a) The present government should continue;
- b) A new government should be established, in cooperation with the military forces and should include members of the armed forces;
- c) The present military government should, after a sustainable cease-fire has been achieved, hand over its powers to a civilian led government within 6 Months (interim period). The composition of this new government transitory government, should not include representatives or members of military forces.



13. A majority of the participants saw some value in distinguishing between an initial period in which the military had to be involved and transitional period which was directed and managed by the civilian forces.

14. The participants considered it to be essential that the procedure of establishing a transitional government as well as the functions attributed to it were supported by an overwhelming majority of the societal forces.

15. The participants called upon all societal forces to set aside their particular interests and to be driven by the interest to keep the State of Sudan together and to establish an expert driven transitional government.

D. Internal Order of the Sudan after a sustainable cease-fire has been achieved

16. The participants consented that the future internal order of the Sudan shall be based upon the principle of the rule of law, justice, the equality of men and women and human rights as laid down in the 2019 constitutional document.

17. Participants consented that the transitional governmental order should not exceed 24 months. They also considered and accepted that the functions of the transitional government should be tailored considering the limited period of its existence.

E. Functions of the transitional government

18. The participants considered that the functions of the transitional government should be:
- a) to establish its internal order of functioning;
 - b) to foster the process of peacebuilding and by negotiating with all movements to join the peace process;
 - c) to set in motion the process for the convocation of a constitutional Assembly and for the election of its members;
 - d) to establish a constitutional Commission composed of experts to prepare a first draft of a permanent constitution to be submitted to the Constitutional Assembly;
 - e) to establish cooperative relations with the neighboring States;
 - f) to set in motion a process of healing in the society;
 - g) to establish a process of compensation for the loss of property and for other damages;
 - h) to establish a process of investigating the reasons for the war and to establish precautionary measures to ensure that such a conflict may not occur again;
 - i) to set in motion a procedure investigating the crimes committed in the past;
 - j) to reestablish and guarantee a depoliticized professional and functioning judiciary ;
 - k) to establish unified Sudanese professional Armed Forces;
 - l) Political parties must not use armed forces or involve them in political affairs.



G. Economic Arrangements

19. As a matter of priority the participants considered it essential that sustainable measures should be undertaken to heal the wounds of the armed conflict, to rebuilt the economic infrastructure of all parts of Sudan.
20. To create an inducive environment for investment.
21. To establish state control over companies affiliated with former or present and government institutions and over natural mineral resources (such as oil and gas or mineral resources).
22. The local administration should be strengthened as far as its legislative and executive functions are concerned. The local administration should be vested with funds commensurate with its functions
23. All economic measures shall be designed to meet the principle of sustainable development, they shall be socially balanced and be designed to minimize the social and economic differences between all parts of Sudan.
24. The export of mineral resources and the selling of land to non-Sudanese persons, entities or foreign states should be controlled by the federal government. No land should be sold to non-Sudanese entities, or foreign States without the population having historic rights on the utilization of such land having been consulted.

H. Relationship with marginalized areas

25. The relationship towards the marginalized areas shall be guided by the principle of co-existence and cohesion. Their cultural and traditional particularities shall be respected.
26. It is necessary to establish mechanism between the region of Darfur; Kordofan, Blue Nile and the three States of Eastern Sudan to discuss and ameliorate any disagreement which may arise between them.
27. The deliberations in this mechanism shall be guided by mutual respect and understanding for the benefit for the Sudan as a whole.
28. The participants believe it mandatory to assist the governments of Blue Nile and South Kordofan to develop for the minority groups mechanisms to protect and preserve their religious and cultural particularities.

I. Armed Forces

29. The participants firmly believe that the State of Sudan shall have the monopoly on establishing, organizing and controlling the armed forces.
30. The Army shall not be used against the Sudanese people, nor shall they interfere in political affairs.
31. The Transitional Government shall develop a reform program for the integrated Sudanese Army



32. Such integration shall be undertaken in a way which respects overarching principles such as the rule of law and the principle of justice.

33. The Sudanese Army shall be committed to the constitutional order, respect for the rule of law, democratic civil government, human rights, the country's sovereignty, and protection of its borders against any external aggression.

34. It will be the function of the army to defend the borders of Sudan against any threat from the outside and to implement the security arrangements stipulated in the Juba Peace Agreement in Sudan and in any agreements that come later.

35. In the view of the participants of the workshop the transitional constitution shall prohibit to form or to sustain military or paramilitary militias.

36. In view of the participants it should also be prohibited for the armed forces to engage in investment and commercial activities, except for those related to military manufacturing and military tasks, in accordance with the policy followed by the transitional government, and these activities are subject to the jurisdiction of the Ministry of Finance and the rules of economic governance.

37. In view of the participants the Armed Forces shall consist of the various components of the Sudanese people, taking into account their place of origin, balance, and representation without discrimination or exclusion. They shall be subject to the institutions of the transitional authority, and shall not be used against the Sudanese people, nor shall they interfere in political affairs.

J. The Police Forces

38. The Police Forces shall be the national, regular forces for law enforcement. They shall be concerned with maintaining the security and safety of the society and shall be subject to the policies and decisions of the Executive Authority in accordance with law;

39. The Law on the Police Forces and the Law on the Armed Forces shall govern their [respective] relationships with the Sovereign Authority [i.e. the Sovereignty Council].

K. Land and Border Issues

40. The participants agree that a sustainable regime on the utilization of the land and on the exploitation of mineral resources is one of the preconditions for a lasting peace, sustainable development of the Sudan as a whole, providing for social justice and the establishment of an adequate regime may be important for investments.

41. The participants are aware that in different parts of Sudan different systems for the administration of land and its utilization are in place. The traditional land use may be progressively developed to meet modern demands with the full consent of the local population.



42. The participants request that renewed efforts are to be made to develop a framework law by the national government which should render the Juba Peace Agreement more concrete. The States and the Regions should be entrusted by Legislature of the National Government within the transitional period to issue the laws requested by the Juba Peace Agreement in this respect.

43. As far as the exploration and exploitation of mineral resources (this term includes oil, gas as well as resources as gold) are concerned the participants acknowledge that these underground resources belong to the Sudan and should be administered according to the Juba Peace Agreement.

44. The participants consider it as mandatory that the exploitation of the resources referred to will be used for the benefit of the Sudan as whole. However, they equally consider it mandatory that no such exploitation may be undertaken against the objection of the local communities concerned.

45. Recognizing the traditional rights to the ownership of tribal lands and the need to prioritize demarcating borders of Sudan regions and to review land settlement and registration taking local norms into consideration, via the National Borders Commission.