

1997 Peace Agreement

Preamble

We, the parties to the conflict in Sudan:

Deeply committed to an immediate end to the current armed conflict through peaceful and political means.

Aware that attainment of a just and lasting peace requires courage, statesmanship, political daring and challenging vision from the parties.

Aware that only a sustainable peace based on justice, equality, democracy, and freedom can lead to a meaningful development and progress which would assist in the solution of the fundamental problems of the people of the Sudan.

Fully cognizant of the fact that unity of the Sudan cannot be based on force or coercion, but on the free will of the people.

Hereby agree to make and abide by this agreement.

Chapter One: Definitions

In this agreement, unless the context otherwise, requires, the following words shall have the same meaning assigned to it:

“Southern States” means the ten Southern States arising from the former provinces of Bahr El-Ghazal, Equatoria and Upper Nile with their boundaries as stood on 1st January 1956.

“Interim Period” means the transitional period having the defined functions to this agreement, the end of which shall be the announcement of the referendum results.

“Constitution” means the Constitution of the Sudan, including such parts or articles of the agreement as shall be designated to be part thereof.

“Agreement” is this Peace Agreement signed on 21st April 1997 between the Sudan Government on the one hand and the USDF, SPLM, SSIG and EDF on the other.

“President of the Co-ordinating Council” refers to the person appointed by the President of the Republic of the Sudan to preside over the Co-ordinating Council.

“Custom” in the states of South Sudan means the African Custom.

General Principles

1. The general principles contained in the Political Charter signed in Khartoum on 10th April 1996 shall be part of this agreement and shall guide and explain its provisions.
2. During a four-year interim period, South Sudan shall enjoy a special status as defined in this peace agreement.
3. The interim arrangements shall be preceded by a declaration of permanent cease-fire and general amnesty proclamation.
5. The People of South Sudan shall exercise the right of self-determination through a referendum.
6. The problem of Abyei has been discussed and a final solution is deferred to a conference on Abyei that will be convened in the area within the interim period.

Chapter Two: Agreement

a. Parties to the Agreement

1. The Government of Sudan;
2. The South Sudan United Democratic Salvation Front (UDSF) comprising of:
 - a. The South Sudan Independence Movement (SSIM);
 - b. The Union of Sudan African Parties (USAP);
 - c. The Sudan People's Liberation Movement (SPLM);
 - d. The Equatoria Defence Force (EDF);
 - e. The South Sudan Independent's Group (SSIG).

All represented by the signatories thereunder.

Commencement of Agreement

1. This Agreement shall come into force as from the date of signature by the President of the Republic.
2. This Agreement shall be endorsed by the National Assembly and considered as an organic law which has the effect of a constitutional decree.

Chapter Three: Political Issues

Constitutional and Legal Matters

a. Religion and the State

1. Sudan is a multi-racial, multi-cultural and multi-religious society. Islam is the religion of the majority of the population and Christianity and the African creeds are followed by a considerable number of citizens. Nevertheless the basis of rights and duties in the Sudan shall be citizenship, and all Sudanese shall equally share in all aspects of life and political responsibilities on the basis of citizenship.

2. Freedom of religion, belief and worship shall be guaranteed.

3. A suitable atmosphere shall be maintained for practicing, worship, dawa, proselytisation and preaching.

4. No citizen shall be coerced to embrace any faith or religion.

5. There shall be no legislation which would adversely affect the religious rights of any citizen.

6. a. Sharia and Custom shall be sources of legislation.

b. On the issue of Sharia, the parties agreed on a formula under which laws of a general nature that are based on general principles common to the States shall have the right to enact any complementary legislation to Federal legislation on matters that are peculiar to them. This power shall be exercised in addition to the powers the States exercise on matters designated as falling within their jurisdiction, including the development of customary law.

b. The Constitutional Guarantees

1. The Supreme Court is the Custodian of the Constitution and is thus entrusted with the protection and interpretation of the Constitution.

2. The Constitution shall enshrine the following principles:

- a. There shall be punishment except as provided for by the law.
- b. Every person is presumed innocent until the contrary is proved.
- c. Litigation before courts is a right guaranteed for every person.
- d. The Constitution shall guarantee the equality of all citizens before the law without any discrimination; no immunity shall be without law.
- e. The Constitution shall guarantee the application of the rule of law.

3. The bill of rights and freedoms shall be enshrined in the Constitution.

4. Any law or decision that contravenes the Constitution may be challenged in court by any aggrieved person.

5. All personal matters such as marriage, divorce, parentage and inheritance shall be governed by the religion and custom of those involved.

c. Fundamental Rights and Freedoms

Under the concept of the rule of law the following basic human rights and fundamental freedoms shall be guaranteed:

1. The right to life and inviolability of the human person.
2. The right to equal treatment irrespective of gender, race, color, religion or origin.
3. The right to family life and privacy.
4. The right to freedom of thought and conscience.
5. The right to property.
6. Freedom of expression.
7. Freedom of movement.
8. Freedom of the press.
9. Freedom of association and assembly as shall be regulated by the law.
10. Immunity from arbitrary arrest, detention and torture.
11. Freedom of religious worship, preaching, dawa, proselytisation and religious propagation.
12. Freedom of expression and development of cultures and languages.
13. All other basic rights and freedoms that are recognised by and guaranteed under the international conventions and protocols ratified by the Government of the Sudan.

d. The Judiciary

1. The Judiciary in the Sudan shall be independent and decentralised.

2. Every State shall have a judicial organ which is composed of a court of appeal, province courts, district courts and local courts.

3. Appeals from the Court of Appeal shall be submitted to the Supreme Court.

4. Administration of justice in the State shall be vested in the State Judicial Organ.

5. Judges at all levels shall be appointed by the President of the Republic on the recommendation of the High Judicial Council.

6. Matters related to qualification, emoluments, privileges, promotions, training, retirements, etc. shall be regulated by law.

e. Democracy

1. Participatory democracy shall be realised through congresses and national convention or conference.

2. In promotion of participatory democracy the congresses and national convention shall be organised:

- a. to accommodate forums for all citizens.
- b. to discourage all forms of intolerance and totalitarianism.

3. The parties to this Agreement shall be guaranteed full participation in the political and constitutional processes in Sudan.

Power Sharing

The following powers shall be exercised by the federal institutions:

1. Foreign affairs.

2. Armed forces and defence affairs.

3. Maritime shipping and navigation.

4. Currency, coinage and bills exchange.

5. Federal budget and federal planning.

6. External communications, external and inter-state postal and telecommunication service, civil aviation and operation and maintenance of international airports.

7. Judiciary.
8. Federal railways and inter-state highways.
9. Weights, measures and determination of time.
10. National census.
11. Fishing and fisheries in and determination of time.
12. Mining.
13. Inter-state waterways.
14. Federal Election Commission.
15. Customs.
16. External trade.
17. International boundaries and inter-state highways.
18. Meteorological services.
19. National security.
20. Federal legislation:
 - a. on matters within federal powers.
 - b. on matters common to the States.
21. Audit general.
22. Education planning.
23. Attorney General and advocacy.
24. National Electricity Network.
25. Federal taxation.
26. Passport, immigration, nationality and aliens' affairs.

27. Epidemic control.

28. Emergency jurisdiction.

State Powers

1. State security, public order and good governance.

2. Wildlife, tourism, hotels, inns, etc.

3. Land use and conservation without prejudice to the federal policies.

4. Local government.

5. State taxes.

6. Agriculture.

7. Promotion of languages, cultures, folklore, arts, etc.

8. State radio, tv, newspapers and printing press.

9. Quarrying.

10. Roads, water supply, hydro-electric power.

11. Irrigation and embankment, pastures and their development.

12. Animal health, animal husbandry and animal wealth.

13. Libraries and museums.

14. Industrial and commercial development.

15. Missionary activities, charities and endowments.

16. Specialized hospitals and clinics.

17. Establishment of banks in accordance with the Central Bank policies.

18. State public audit.

19. State Electricity Network.

20. State Attorney General.

21. State legislation:

- a. In matters within state powers.
- b. Complementary to federal laws in matters peculiar to the State.
- c. Customary laws.

22. State economic development and planning in accordance federal planning.

23. Recruitment of specialized technical expertise in various fields of development.

24. Health care and establishment of all types of medical institutions for treatment and training of qualified medical personnel.

25. Registration of birth and death, and marriages.

27. Statistics.

28. Scientific research and development.

29. Administration of meteorological services.

30. Education management, planing and training up to the university level within the frame work of national planing.

Residual Powers

1. The State shall exercise the residual powers without prejudice to the powers allocated to the Federal authorities.

2. The Federal authorities shall exercise the residual powers without infringing on powers allocated to the States.

3. In case of dispute over residual powers between the State and Federal authority, the dispute shall be referred to the Federal (Supreme) Court.

Wealth Powers

1. The Federal Government shall lay down a comprehensive economic and social plan to develop the country in general and to bridge the gap between the various states in particular, so

that within a definite period, a parity in provision of basic needs such as security, employment, water, food, education, health and housing could be reached.

2. In order to consolidate the economic policies:

- a. The economy in the Sudan shall be based on free market forces.
- b. The Federal Bank of the Sudan responsible for regulating internal and external value of the Sudanese currency.
- c. There shall be an independent Stock Exchange Bureau for settling and floating shares, bonds and premiums of companies and currency regulation to enhance free market economy.
- d. There shall be established development projects to promote and maintain peace and stability among the people of the Sudan.

3. Major federal development projects and big mining and oil projects shall be considered as national wealth and be managed on a national basis provided that:

- a. The Federal Government shall observe to allocate an equitable percentage of the returns to be fixed by the revenue Allocation Commission to the state where the project is located (see annex 3).
- b. Ensure participation of the states in the management of Sudan projects.
- c. Ensure recruitment and training of citizens of the state in order to participate in such projects.
- d. Any other fringe benefit.

4. Revenue Allocation Commission shall be established to recommend revenue sharing formula for the whole country. The Co-ordinating Council shall be represented.

5. The Federal Government shall observe the following for the purpose of distribution of national revenue among the States and for site selection of major development projects:

- a. Giving priority for the less developed States according to their state of underdevelopment.
- b. Economic feasibility of projects and their efficient functioning.
- c. Effect of the project in the realisation of self-sufficiency in the basic needs of the country.
- d. A balance relationship between development and density of population and environment.
- e. Establishment of special fund to take care of crash development programmes and maintenance of peace.

6. In the field of rehabilitation of the war affected areas, the following shall be observed:

- a. The Federal Government and the Co-ordinating Council shall work attract loans and aid from sisterly and friendly countries and international benevolent organizations to rehabilitate the economic projects which ceased to function or were damaged because of the war. It shall also work for the reconstruction of the war-affected areas and resettlement of returnees and displaced persons.
- b. The Federal Government and the Co-ordinating Council shall launch a plan and joint international appeal for the reconstruction, repatriation and development of the Southern States and other war affected areas.
- c. The Co-ordinating Council shall also establish a relief, resettlement, rehabilitation and reconstruction commission to manage and administer the resources acquired for the above purposes.

7. The sources of revenue of the Southern States shall consist of the following:

- a. State taxes and generated revenue.
- b. Fees, excise, duty and licenses.
- c. Revenue from commercial, industrial and agricultural projects based in the Southern States.
- d. Funds from the Federal treasury for established services in the States until such a time when they become self-reliant.
- e. Any development assistance and donations foreign sources.
- f. Revenue allocation from the Federal Government for socio-economic development.
- g. State share of Federal taxes levied on Federal projects and services functioning within the Southern States.
- h. Business profit tax.
- i. Corporate taxes on factories and agricultural enterprises in the State, other than Federal ones, established in Southern States.
- j. Property taxes.
- k. The share of fees on licenses for mineral and oil explorations (see annex 3).
- l. Profits accruing from the customs, airport services, roads, postal and telecommunication services and river transport in Southern States shall be allocated to the Rehabilitation, Reconstruction, Repatriation Commission.

8. The State Government shall prepare a budget to meet the expenditure on services, administration and development of the States to be submitted to the State Legislative Organ for approval.

9. No project adversely affecting the people, ecology and natural environment of State may be implemented without consulting the State concerned.

10. The Federal Government and the Co-ordinating Council shall encourage and promote foreign investment and procurement of development assistance for the Southern States and shall

encourage establishment of the branches public sector institutions, development corporations and specialized banks.

11. The Co-ordinating Council shall prepare a development budget for the Southern States and is to submit the same to the President.

Participation of the Southern Citizens in the Federal Institutions

1. Mindful of the present participation of the Southerners in the Federal institutions, this Agreement is putting forward further balanced representation in the Federal institutions.

2. The participation shall be based on values of efficiency, qualification, honesty, justice, responsibility and equality between all the citizens without discrimination.

3. The Southern citizens shall participate in all Federal, political and constitutional institutions in numbers commensurate to the demands of the interim period taking into consideration population size and provided that the criteria for eligibility are met.

4. The Southern citizens shall have the right to participate in the Federal institutions as follows:

- a. The Presidency.
- b. The Federal Council of Ministers.
- c. The National Legislative Assembly.
- d. The Federal Defence and Security Council.
- e. The Supreme Court.
- f. Federal planning institutions.
- g. The National Elections Commission.
- h. Foreign Affairs.
- i. The Federal Career Selection Commission.
- j. Federal universities and research institutions.
- k. The Armed Forces.
- l. Any other federal institutions.

5. The Federal Career Selection Commission (FCSC) shall have an office at the seat of the Co-ordinating Council.

Chapter Four: The Interim Period

1. The length of the interim period shall be four years. However, it may be shortened or extended if need arises by recommendation from the Co-ordinating Council to the President of the Republic.

2. The interim period shall commence as from the date of the formation of the Co-ordinating Council and shall end as soon as the referendum is accomplished and the results are declared.

3. The Co-ordinating Council shall carry out the following activities during the interim period:

- a. To assist repatriate, resettle and rehabilitate the displaced and the returnees.
- b. To reconstruct the war devastated areas.
- c. To remove effects of war by clearing minefields, opening up roads and waterways.
- d. To promote reconciliation, peace and confidence building amongst the Sudanese citizens.
- e. To draw development plans for the Southern States and solicit funds from national, regional and international bodies and institutions for implementation of the Peace Agreement.
- f. To draw political mobilisation plans to strengthen peace and unity in different parts of the country.
- g. To strengthen the Federal rule in the Southern States.
- h. To reassemble and train manpower in order to re-establish the public service in the Southern States.
- i. To strengthen the capacity building of the people in the Southern states to become self-reliant. In this regard plans shall be drawn to receive support for educational, health, food security and social services institutions.
- j. To educate and mobilise the people of Southern States on the process of referendum.
- k. To provide adequate security in the Southern States in order to create a conducive atmosphere for the referendum.
- l. To participate in conducting census in the Southern States.
- m. To assist register voters for the referendum.

Chapter Five: The Co-ordination Council of the Southern States

Definition

- i. In accordance with this Peace Agreement, there shall be established a Co-ordinating Council in Southern States during the interim period. The Co-ordinating Council shall be responsible for co-ordination, supervision, socio-economic planning, confidence building, peace nurturing, policy as well as political mobilisation.
- ii. The President of the Co-ordinating Council shall be accountable to the President of the Republic.
- iii. The President of the Republic in consultation with parties signatory to this Agreement shall appoint the President of the Co-ordinating Council.
- iv. The President of the Co-ordinating Council in consultation with Southern political forces shall recommend his cabinet including the Governors (Walis) to the President of the Republic for appointment.
- v. The ministers in the Co-ordinating Council shall enjoy status of Federal ministers.

- vi. The President of the Co-ordinating Council in consultation with Southern political forces in their respective States shall recommend appointment of members of their governments including Commissioners to the President of the Co-ordinating Council who shall pass the same to the President of the Republic.
- vii. Until the atmosphere is conducive for elections of State Assemblies to take place, the President of the Co-ordinating Council in consultation with the political forces shall recommend to the President of the Republic new members of legislative assemblies in the Southern States for appointment.
- viii. The Co-ordinating Council shall act as a link between the Federal Government and the Southern States.
- ix. The Co-ordinating Council has the right to choose its seat.

Functions of the Co-ordinating Council

The Co-ordinating Council shall have the following functions:

1. General supervision of the implementation of this Peace Agreement as well as all peace matters.
2. Voluntary repatriation of the returnees, and the displaced, rehabilitation and reconstruction of war affected areas in the southern States.
3. Ensuring confidence building measures among the Sudanese citizens.
4. To embark on mobilisation of the people therein for referendum.
5. Legislative functions:
 - a. The Co-ordinating Council shall establish an advisory council for perfection of the legislative process.
 - b. The Co-ordinating Council shall Co-ordinate legislation with the Southern States Legislative Assemblies in matters common to these States.
 - c. The Co-ordinating Council may request adjournment of any legislation tabled in the National Assembly if deemed to adversely affect the interests of the Southern States until such a time the Co-ordinating Council presents its opinion.
6. Encourage establishment and supervision of foreign consulates, UN agencies and NGOs in South Sudan in Co-ordination with the Federal organs concerned.

Powers of the Co-ordinating Council

The Co-ordinating Council shall exercise the following powers:

Devolved Powers.

- a. Education planning up to university in accordance with national policies.
- b. Planning and supervision of Southern States security, public order and good governance.
- c. Economic development and planning in accordance with national policies.
- d. Planning and programming for electricity network and other public utilities in the Southern States.
- e. Organization of scientific research, technological, industrial and commercial development.
- f. To conduct international agreements on culture, trade including border trade, and technical co-operation, the procurement of foreign capital investment and development assistance from governmental and non-governmental organization (NGOs) in co-ordination with the Federal organs concerned.

Concurrent Powers.

1. The Co-ordinating Council shall exercise the following powers concurrent with the Federal organs:

- a. Planning for survey and land disposition.
- b. Planning and supervision of the public service in the Southern States.
- c. Organization of state elections and census.
- d. Drawing environmental conservation policies.
- e. Cultural planning and regulation, supervision of radio, tv, newspapers and printing press.
- f. Supervision of trade union disputes.
- g. Audit within the Audit General.
- h. Establishment of banks.
- i. Air, land and river transport, postal services and telecommunication.
- j. Copyrights, patents and publishers rights.

2. In addition to the above devolved and concurrent powers, the President of the Republic and any Federal Organ may delegate powers to the Co-ordinating Council for policy, planning and general supervision in the Southern States.

3. The Co-ordinating Council shall receive regular reports from the Governments and other institutions of the Southern States and shall report to the President of Republic.

4. The Co-ordinating Council shall take over the responsibilities and functions of the Supreme Council for Peace and its organs.

Composition of the Co-ordinating Council

The Co-ordinating Council membership shall be as follows:

1. The President of the Co-ordinating Council.
 2. The vice-president of the Co-ordinating Council and minister of local government affairs and public security.
 3. Minister for cabinet affairs.
 4. Minister for economic planning and financial affairs.
 5. Minister of education and instruction affairs.
 6. Minister of legal affairs.
 7. Minister of public service and labor.
 8. Minister for information, culture and social affairs.
 9. Minister of agriculture and natural resources.
 10. Minister of health affairs.
 11. Minister for peace and political mobilization.
 12. Minister for wildlife conservation, tourism and environmental control.
 13. Minister for engineering affairs and public utilities.
 14. Minister for humanitarian affairs and rehabilitation.
 15. Minister for commerce, supplies and industry.
- i. Besides the members mentioned above, Governors (Walis) of the Southern States shall be members in the Co-ordinating Council by virtue of their post.
 - ii. There shall be established in the Southern States a Relief, Rehabilitation, Resettlement, Repatriation Commission (SSRRRRC) which shall be supervised by the minister for humanitarian affairs.
 - iii. The Co-ordinating Council shall prepare its annual budget to be submitted to the President of the Republic.
 - iv. The Co-ordinating Council shall issue regulations to direct its activities and specify functions, duties and roles of its various departments.
 - v. The President of the Co-ordinating Council shall recommend to the president of the Republic relief from office, acceptance or rejection of any member of the Co-ordinating Council including the Governors.

- vi. The State governors shall recommend to the President of the Co-ordinating Council relief from office, acceptance or rejection of resignation of any member of the State Governments including Commissioners. The President of the Co-ordinating Council shall pass the same to the President of the Republic for approval.

Chapter Six: Security Arrangements

During the Interim Period:

1. The South Sudan Defence Force (SSDF) shall remain separate from the national army and be stationed in their locations under their command.
2. Police, prisons, wildlife, civil defence, fire brigade, and public security in the Southern States shall be drawn from the people of Southern Sudan.
3. The size of the Sudanese armed forces in South Sudan shall be reduced to a peace time level once peace is established.
4. A joint technical military committee of equal members shall be constituted from the Sudanese and forces on the one hand and the SSDF on the other for the purpose of supervision and implementation of the security arrangements in this Agreement (see annex 1).
5. The joint technical military committee shall oversee and supervise the activities of the cease-fire commission and the peace keeping observers.
6. The joint technical military committee shall Co-ordinate with the army general HQs provision of supplies, training, armament, emoluments and other facilities for the SSDF.
7. A joint technical military cease-fire commission shall be established to monitor cease-fire violations and the disengagement of troops in the Southern States (annex 1).
8. The movement of the armed parties shall be Co-ordinated and controlled by the joint technical military committee and its sub-committees (annex 1).
9. In accordance with this Agreement the President of the Republic of Sudan shall declare a general amnesty to members of SSDF from any criminal or civil culpability relating to acts committed during the date of signing this Peace Agreement (see annex 2).
10. There shall be established a joint amnesty commission to follow up the implementation of the general amnesty proclamation (see annex 2).
11. There shall be established a joint amnesty tribunal to receive, examine and determine cases which are covered by this amnesty proclamation (see annex 2).

12. War wounded, widows, orphans and other war victims shall be rehabilitated with assistance from national, regional and international humanitarian agencies.

13. The annexes are considered as guidelines with a degree of flexibility to the said committees/commissions.

Chapter Seven: Referendum

1. By this Agreement the right of the people of Southern Sudan to determine their political aspirations and to pursue their economic, social and cultural development is hereby affirmed.

2. The people of Southern Sudan shall exercise this right in a referendum before the end of the interim period.

3. Options in the referendum shall be:

- a. Unity.
- b. Secession.

4. The Referendum shall be free, fair and be conducted by a Special Referendum Commission (SRC) to be formed by a presidential decree in consultation with the Co-ordinating Council.

5. Eligible voters for the referendum shall be Southern Sudanese people who attained the age of eighteen years and above residing inside and outside Southern Sudan.

6. The vote shall be by secret vote.

7. To endure free and fair conduct of the referendum, the SRC shall invite observers as follows:

- a. OAU, Arab League, UN, Religious bodies, IGAD, National and foreign NGOs and any other countries.
- b. National and international media and journalists.
- c. The parties agree to respect, abide by and implement in good faith the result of the referendum.

Chapter Eight : Final Provisions

a. Language

Arabic is the official language of the Sudan, English is the second language in the Sudan. The Government shall endeavour to develop other languages.

b. Amendment of Agreement.

No amendment bill on this Agreement shall be presented to the National Assembly without consulting the Co-ordinating Council.

For amendment on this Agreement the Co-ordinating Council may present its petition to the President of the Republic provided that such a bill is passed in the Co-ordinating Council by a two-thirds majority.

Signed in Khartoum , 21 April 1997.

For the Sudan Government:

Lt. General El Zubeir Mohammed Saleh, Vice-President

For United Democratic Salvation Front (USDF) and South Sudan Independence Movement/Army (SSIM/A)

Cdr. Dr. Riak Machar Teny D.
Chairman & C-in-C (SSIM/A)

For Sudan People's Liberation Movement (SPLM/A)

Cdr. Kerubino Kuanyin Bol
Chairman C-in-C (SSIM/A)

For South Sudan Independents Group (SSIG)

Cdr. Kewac Makwei
Chairman C-in-C (SSIG/A)

For Equatoria Defence Force (EDF)

Dr Thiopholus Ochang Loti
Chairman C-in-C (EDF)

For Union of Sudanese African Parties (USAP)

Samuel Aru Bol
Chairman (USAP)

For Bor Group

Arok Thon Arok
Chairman.