GOVERNANCE IN THE SUDAN

OPTIONS FOR POLITICAL ACCOMMODATION IN THE REPUBLIC OF THE SUDAN

FEBRUARY 2014

CONFLICT DYNAMICS®
INTERNATIONAL

Authors: Tarig Hilal, Gerard Mc Hugh, and Albert Trithart

ROYAL NORWEGIAN
MINISTRY OF FOREIGN AFFAIRS

Executive summary

1. Introduction and objectives

The Republic of the Sudan is undergoing fundamental changes and facing profound challenges. The separation of the South, the coming of age of a new generation, and the political and economic transformations taking place regionally and globally are combining to recast the country's politics. At the same time, many challenges remain, conflict continues in the south and west of the country, and there is an urgent need for conciliation and accommodation of a range of communities' political interests.

Putting in place arrangements and processes that can achieve conciliation and accommodate the country's diverse interests and perspectives is necessary for the future peace and prosperity of the Sudan. The construct of political accommodation provides a set of frameworks and tools that can help achieve this.

The purpose of this briefing is to present the tools and frameworks of political accommodation and to outline a series of technical options for political accommodation within the Sudan.

2. Structured approach to political accommodation

The term *political accommodation* encompasses the objectives, arrangements, processes, or outcomes of mutual conciliation of people's competing political interests and perspectives. The essence of political accommodation is achieving conciliation of interests in situations where there is absence of comprehensive consensus but not a complete lack of consensus.

Political accommodation is a <u>methodology</u> to help people reconcile their political interests and viewpoints in governance arrangements with the aim of managing disputes and preventing violent conflict. By looking at different aspects of governance, the construct of political accommodation allows for a comprehensive approach that offers significant benefits over other approaches that have a more singular or disjointed focus.

The political accommodation approach includes a typology consisting of six 'Strands': political structure and decentralization, the electoral system, the executive, the legislative branch, public participation, and traditional and customary arrangements. These Strands can be used to assess and develop options for political accommodation at the national and subnational levels. Indicators of effective political accommodation include the effectiveness of mutual conciliation, equity of political representation, equity of political decision-making influence, and degree and effectiveness of public participation.

To apply these tools, Conflict Dynamics has developed a seven-step methodology that includes assessing existing arrangements, identifying and mapping political interests, identifying opportunity areas for political accommodation, developing considerations, developing options, conducting outreach to test the options, and implementation. This Briefing Paper explores each of these steps.

3. Opportunity areas for political accommodation

Assessment of existing and proposed provisions for political accommodation provides a foundation for exploring areas where there may be opportunities to achieve more effective accommodation of political interests and perspectives. Opportunities exist across all six Strands, as well as in several areas that cut across the Strands, including religion, diversity, and gender.

4. Options for political accommodation

Six categories of options for political accommodation have been developed through a process of research, brainstorming, and testing of possible configurations for the Sudanese context. These are:

> Option Category A: Unitary State with Devolution
>
> Option Category B: State-Based Federal System
>
> Option Category C: Regional Federal System
>
> Option Category D: Hybrid Federal System
>
> Option Category E: Free Association
>
> Option Category F: National Consensus Model

This Briefing Paper summarizes each of these six options. For each option, it also explores linkages among the six Strands and summarizes some of the potential advantages and disadvantages.

Option Category A: Unitary State with Devolution

Overview: The option category Unitary State with Devolution represents a range of options in which decentralization is achieved through devolution of authority from the national level to subnational territorial entities. The main difference between devolution and other forms of decentralization is that in a devolved system, responsibilities accorded to subnational units can be retrieved at the national level. One option within this category presented here is organized around regions rather than states (as constituent units). It includes three levels of government with highly decentralized revenue-raising responsibilities. The national executive consists of a president and two vice presidents; the president is elected through a run-off system with a double qualification requirement. The national legislature is unicameral, with members elected through a mixed majoritarian-proportional system.

Assessment: One of the main strengths of this model lies in its ability to flexibly address a diversity of interests and perspectives while maintaining some of the potential benefits of a centralized system, such as decisive legislative and executive offices and potentially lower costs of government. The asymmetric nature of the model proposed also recognizes that different types of interests may need to be accommodated within and between different constituent units and may therefore require different governance arrangements. The primary disadvantage of this option is that the national government has the power to withdraw responsibilities devolved to different levels of government, which could act as a disincentive for political actors to engage with the system.

Option Category B: State-Based Federal System

Overview: The option category State-Based Federal System is a model of governance in which the constituent units are states. Although this is the system of governance that has existed in the Sudan since the signing of the Comprehensive Peace Agreement (CPA) in 2005, this option contains subtle but important differences from existing governance arrangements. The model outlined here is structured with three levels of government: national, state, and local. Government responsibilities are highly decentralized, and the national government allocates a significant proportion of revenue to states. The national executive consists of a president elected through a run-off system. The national legislature is bicameral; the lower house is directly elected through a system of proportional representation, and two members are directly elected to the upper house from each state.

Assessment: Rather than proposing a radical change to governance, this model builds upon existing arrangements. An evolutionary approach to political accommodation recognizes the strengths of the current system if, as with any governance arrangements, appropriately implemented, and is a potentially easier and less costly approach to addressing issues of governance. One weakness is that this option may not represent enough change to address the perceived and actual lack of political accommodation under existing arrangements. For example, the model does not effectively take into account regional identities and interests.

Option Category C: Regional Federal System

Overview: The option category Regional Federal System includes a range of variants of federal systems – both symmetric and asymmetric – in which the primary constituent units are regions rather than states. The variants within this option all include national, regional, and local levels of governance arrangements. Variants within this category include a national executive that consists either of a directly-elected president or an Executive Federal Council elected by the upper house of the legislature to include one representative from each region. The national legislature is bicameral, with the lower house directly elected and the upper house indirectly elected by regional legislatures.

Assessment: The benefits of the regional federalism model are that it builds upon the Sudan's historical political structure and more directly takes into account regional political interests and perspectives, giving greater equity of political representation and decision-making influence to communities that exist across current state lines. The disadvantages of the model lie in the increased cost and complexity of governance structures and the increase in the number of layers between citizens and the national government.

Option Category D: Hybrid Federal System

Overview: The option category Hybrid Federal System is one made up of both states and regions. The combination of states and regions allows for asymmetry in the structure and responsibilities of subnational units, with regions having more responsibilities than states. In the system proposed

here, 'opt-in' arrangements allow states to come together to form regions. The national executive consists of both a president and a prime minister; the president is elected through a two-round system with a double qualification requirement, while the prime minister is elected by the legislature. The national legislature is tricameral, consisting of a lower house, upper house, and House of Elders for traditional and customary leaders.

Assessment: The asymmetry of the model takes into account the asymmetry of political interests and perspectives by recognizing that different interests may require different arrangements. Clear and structured arrangements for traditional and customary leaders take into account de facto governance systems in some parts of the country. The main disadvantage of this model is its complexity and potential cost, as well as the challenges of ensuring that traditional and customary leaders are genuinely representative of their constituencies. The asymmetry of the arrangements proposed also could make states feel disadvantaged by a model that encourages a regional basis of representation.

Option Category E: Free Association

Overview: The option category Free Association is built around the concept of units having the ability to associate – through their own free and voluntary choice – with an independent State. This is not necessarily a stand-alone option but one that could be integrated into other option categories. The free association model provides for considerable variation in the relationship between the principal State and associated entity. In the model described in this briefing, arrangements include a locally-elected legislative authority, locally-selected chief executive, and independent local judiciary. Defense and foreign policy remain in the hands of the principal State.

Assessment: The benefits of the free association model lie in its high degree of flexibility, its ability to adapt to a range of needs, and the high levels of devolution of representation and responsibilities. Its weakness is in its potential to undermine the authority and power of the principal State's national government.

Option Category F: National Consensus Model

Overview: The option category National Consensus Model reflects a model of governance that moves away from a predominantly territorial-based approach to structuring governance arrangements. Arrangements for political accommodation in this option category are intended to instill a sense of Sudanese national identity and to foster a national coming together of elements of Sudanese society across territorial, ethnic, and tribal cleavages. In this model, there are two levels of government: national and local. Most responsibilities lie at the national level, which provides substantial support to local governments.

The electoral system is based upon a combined majoritarian and proportional representation system, with half of the members of the legislature elected through single-seat constituencies and half through open party lists at the national level. The executive is formed by seven representatives drawn from the five parties that receive the greatest number of combined votes. The presi-

dent is elected by a majority of five of seven votes from the Executive Council. The legislature can be either unicameral or bicameral.

Assessment: The key advantage of this option is its potential for overcoming territorialism by eliminating governance arrangements that are structured around regions or states and instead focusing on accommodating communities of interest separately from their geographical presence. The simplicity of this governance structure may help to reduce the cost and complexity of governance and reduce the layers of bureaucracy between citizens and the national government.

The primary disadvantage of the model is also its structural simplicity, as reducing the layers of governance may also reduce the government's capacity to deliver services to citizens.

5. Conclusion

While each of the option categories outlined in this Briefing Paper has strengths and weaknesses, all six have been developed to address key political interests and perspectives in the Sudan. The options for governance, together with the methodology and typology, are designed to support the Sudanese people in their search for governance arrangements that achieve political accommodation.

Table of Contents

Figures and Tables

1. Introduction

1.1 Purpose

This Briefing Paper presents a framework, tools, and preliminary options to assist the people of the Sudan and their representatives in exploring, seeking consensus around, and implementing governance arrangements that can effectively reconcile people's competing political interests and perspectives.[1]

This Briefing Paper is one in a series of publications arising from extensive research, consultations, and outreach undertaken in the Sudan since 2008.[2] The primary objective of this underlying initiative – *Political Accommodation in the Sudan* – is to contribute substantively to peace and sustainable development throughout the Sudan. The initiative aims to achieve this by **sharing and supporting the use of frameworks and tools to explore, generate, and implement options to effectively accommodate – or achieve mutual conciliation of – people's political interests and perspectives**.

1.2 The need for political accommodation in the Sudan

Particularly in the context of the profound demographic, socioeconomic, and political changes the Sudan is undergoing (see *Annex III* for an overview of these changes), it is important to develop, agree upon, and implement arrangements for political accommodation. Political accommodation is important for several reasons.

First, the governance arrangements in place since the signing of the Comprehensive Peace Agreement (CPA) have arisen from the Sudan's inherent diversity (see *Annex IV* for an analysis of existing governance arrangements in the Sudan). Because people's interests and needs have not been genuinely accommodated, they have manifested themselves more aggressively in people's political interests and, frequently, through violent conflict. Examples of this lack of effective political accommodation in existing governance arrangements include the technical inability of the current electoral law to effectively translate voter preferences into equitable representation, the high level of decision making entrusted to unelected presidential advisors and assistants, the lack of an effective role for the Council of States, and the lack of effective and transparent fiscal allocation mechanisms.

Second, recent efforts to bring in interests and perspectives other than those of the recently dominant political actors – the National Congress Party (NCP) and some of the traditional opposi-

---

[1] The term "representatives" here includes political, community, traditional, and other representatives, whether elected or selected/ appointed through other means.

[2] Other publications include: Gerard Mc Hugh, *Envisioning the Future: Options for Political Accommodation between North and South Sudan following the Referendum*, Governance & Peacebuilding Series Briefing Paper No. 3 (Cambridge: Conflict Dynamics International, September 2010); Gerard Mc Hugh, *National Elections and Political Accommodation in the Sudan*, Governance & Peacebuilding Series Briefing Paper No. 2 (Cambridge: Conflict Dynamics International, June 2009). Available at: http://www.cdint.org.

tion parties – have focused on token participation without genuine representation and decision-making influence.

Third, much of the recent political debate within the Sudan on future governance arrangements has remained at the level of 'slogans' rather than exploring possible future arrangements in detail with a view to achieving conciliation of competing political interests and perspectives.

Fourth, many in the Sudan assert that the country's system of governance is satisfactory and that the problem actually lies in the failure to implement governance arrangements fully or in good faith. This view, however, underestimates the challenges posed by the design of existing governance arrangements, even if they were fully implemented.

Fifth, political discourse within the Sudan has progressed along separate and often disconnected tracks. This de facto 'piece-by-piece' approach to political dialogue has resulted in a variety of peace and political agreements, which have been implemented to varying degrees. This 'piece-by-piece' approach has caused further cleavages and made it more difficult to realize a set of arrangements that can provide incentives for taking on a Sudanese identity. The Sudan could potentially benefit from a more structured, more comprehensive approach to thinking about arrangements for accommodation of political interests and perspectives.

Current processes include the interactions between the Government of the Sudan and the Government of South Sudan on implementation of the 2012 Cooperation Agreements, facilitated by the African Union High-Level Implementation Panel for the Sudan and South Sudan (AUHIP);[3] the Darfur Political Process, which resulted in the July 2011 Doha Document for Peace in Darfur (DDPD); and the process of reviewing the Interim National Constitution, and a range of civil society dialogues inside and outside the Sudan. These processes – and the constitutional review process in particular – can be important vehicles or enablers for political accommodation and, in this regard, can be seen as a means to an end. Technical options and arrangements for political accommodation can assist in informing the political dialogue through these and other processes or forums.

Sixth, new actors, including youth groups and movements, are emerging in the Sudan and claiming a new political space. The emergence of these actors reflects profound demographic and economic changes, including the increase in youth as a percentage of the population and economic crisis since the independence of South Sudan. The actors emerging as a result of these changes have not previously been engaged in political dialogues, and their interests differ from those of previous generations. Future political dialogue processes and the governance arrangements they produce will need to accommodate the interests of these new actors.

---

[3] See "Shaping the Future: Prospects for Economic and Political Cooperation between South Sudan and the Sudan," Conflict Dynamics International, 2013.

1.3   How to use this Briefing Paper

The primary audience for this Briefing Paper is persons engaged or interested in efforts to achieve conciliation of political interests in the Sudan, including representatives of the Government of the Sudan at all levels and in all branches; political party representatives; opposition movements; civil society constituencies, including academics and representatives of civil society organizations, professional associations and unions, and women's and youth groups; international and regional supporting organizations and States; and other concerned groups and individuals.

This Briefing Paper is intended as a 'toolkit,' from which the reader can extract the concepts and practices that may contribute to efforts at political accommodation. For example, the reader could use the case studies to identify a particular technical attribute that could be of interest or draw upon the methodology, case studies, and options to design a new and unique model of political accommodation for the Sudan.

This Briefing Paper and the underlying approach intentionally use the terminology of 'options,' rather than 'solutions' or 'recommendations,' since actual effective arrangements for political accommodation can only be developed and decided upon by the people of the Sudan through genuinely inclusive and participatory political processes. The Briefing Paper does, however, present a series of ideas, carefully thought through and prepared, as a substantive input around which discussion and dialogue can take place, helping to provide relevant audiences with the tools necessary to identify or design their own solutions.

This Briefing Paper is organized into five sections. *Section 2* presents key concepts and a typology that provide a structured approach to considering areas of opportunity for political accommodation. *Section 3* presents opportunity areas for political accommodation. *Section 4* presents six categories of options for political accommodation, while *Section 5* presents some concluding remarks.

2. A structured approach to political accommodation

This section presents the key concepts and methods of political accommodation that can be used to explore options for future governance arrangements within the Republic of the Sudan. This methodology includes a typology of six 'Strands' for political accommodation, indicators relating to political accommodation, a step-by-step approach to applying the typology, and other tools.

2.1 The spirit of political accommodation

2.1.1 What is political accommodation?

An important consideration in how people govern themselves is how different political interests and perspectives can exist, be expressed and fulfilled in a balanced way, and be brought into harmony in a way that enables governance arrangements to function effectively. Especially when political views or interests are strongly divergent or in societies emerging from conflict or other crises, it is essential that people can develop arrangements and processes that allow them to achieve conciliation of their political interests and perspectives in ways of their own choosing.

Political accommodation is a construct and set of approaches that can help people reconcile their political interests and viewpoints in governance arrangements and political dialogue processes with a view to managing disputes and preventing violent conflict. It is about bringing in and taking fair account of people's political interests. The term *political accommodation* encompasses the objectives, arrangements, processes, or outcomes of mutual conciliation around people's competing political interests and perspectives.[4]

The essence of political accommodation is achieving conciliation of interests in situations where there is an absence of full consensus, but where consensus is not fully absent. As used here, political accommodation does not in any way infer or relate to appeasement or 'buying off' opponents through political largesse. The political theory of political accommodation is well evolved and is related to other constructs such as consociational democracy and consensus democracy.[5]

2.1.2 What are the benefits of political accommodation?

The methodology for political accommodation presented here affords significant benefits over other approaches to political interaction and governance for a number of reasons.

First, by using a number of interwoven 'Strands' (described below) and illuminating the linkages across them, political accommodation provides more opportunities to reconcile different and potentially competing political interests than a singular or disjointed focus on 'power sharing,' electoral system design, legislative decision-making procedures, or other areas.

---

4   The definition of political accommodation provided here is adapted from that presented in: Brian Barry, "Political Accommodation and Consociational Democracy," *British Journal of Political Science* 5, no. 4 (1975): 477–505.
5   See, for example: Arend Lijphart, "Consociational Democracy," *World Politics* 21, no. 2 (1969), 207–225.

Second, by including considerations of accommodation through public participation as well as through traditional and customary arrangements, political accommodation goes beyond elite-based and institutional processes or mechanisms and offers opportunities for more ownership by the people of the resulting mechanisms or processes.

Third, political accommodation is not limited to any one form of governance structure, such as federal systems.

Fourth, because political accommodation focuses on processes and arrangements for people to reconcile their own political interests and perspectives, arrangements for political accommodation are more likely to be accepted and used than those that may be perceived as – or actually be imposed by – a limited segment of society or from outside.

2.2   The methodology of political accommodation

Political accommodation provides a structured approach to exploring options to achieve concili-ation of political interests and perspectives. The overall approach consists of two frameworks – one dealing with substance and one with process – as well as a series of steps to apply these frameworks to the development of options. The first framework relates to political processes that seek to build consensus on a way forward. The second framework relates to the substantive governance arrangements that political processes may produce. While political accommodation is dependent upon both process and substance, this Briefing Paper focuses on substantive governance arrangements.

2.2.1   Typology for political accommodation

A typology of six 'Strands' for political accommodation

Substantive governance arrangements can be explored through a typology consisting of six 'Strands', or focal areas, through which to accommodate political interests: (1) political structure and decentralization; (2) electoral system; (3) executive; (4) legislative branch; (5) public partici-pation; and (6) traditional and customary arrangements (see *Figure 1*).

Rather than revealing all-encompassing solutions across every Strand, this typology can be used as a tool in two ways. First, it can be used as a diagnostic tool to identify opportunities for effective political accommodation in the existing system of governance arrangements. Second, it facilitates and structures the exploration of options for governance arrangements that could enhance politi-cal accommodation in these opportunity areas. While focusing on a single Strand can enhance mutual conciliation, the typology offers a tool to weave the Strands into a 'rope' with greater strength to bring together plural interests.

This typology for political accommodation is applicable to political interactions within single enti-ties with international personality (e.g. States), as well as to political interactions between con-stituent units in multiple-entity configurations (e.g. formations of independent States interacting politically, economically, and in other ways). The typology is used later in this Briefing Paper to assess existing and proposed arrangements and provide a template for developing options for political accommodation.

Figure 1 – Six Strands for political accommodation

Political Accommodation

NATIONAL LEVEL

1. Political Structure and Decentralization
2. Electoral System
3. Executive
4. Legislative Branch
5. Public Participation
6. Traditional and Customary Arrangements

SUBNATIONAL LEVEL

1. Political Structure and Decentralization
2. Electoral System
3. Executive
4. Legislative Branch
5. Public Participation
6. Traditional and Customary Arrangements
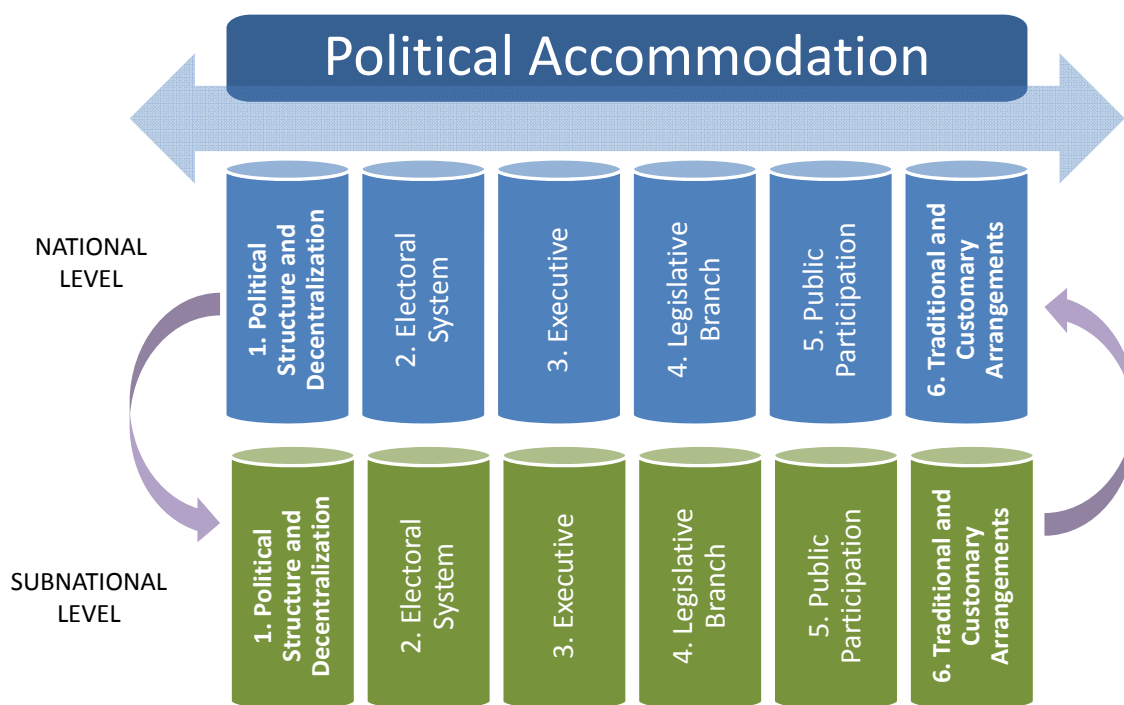
Political accommodation at two levels

The typology is used for assessing and developing options for political accommodation at two levels:

- **National level** (the whole of the Republic of the Sudan)
- **Subnational level** (e.g. constituent entities (units) within the Republic of the Sudan)

For example, for the state-based federal system that has existed since the adoption of the Sudan's Constitution of 1998, this typology looks at political accommodation not only at the national level but also within each of the constituent states (e.g. within South Darfur).

This two-level approach helps ensure that arrangements for political accommodation developed and implemented at the national level are consistent and 'fit' with arrangements developed at the level of subnational entities, whether regions, states, or other units.

Indicators for measuring effectiveness of political accommodation

Effective political accommodation requires more than giving different actors a seat at the table; it also requires giving them a fair say in decisions and issues that affect their lives and those of their constituencies. It further requires providing a means of ongoing public participation, which helps improve the quality of options developed and ensure widespread understanding of and buy-in to any proposed governance arrangements.

With these factors in mind, and in light of the core focus of political accommodation on conciliation

of political interests, several indicators can be measured to assess how effectively governance arrangements reflect various components of political accommodation. Examples of these indicators include:

- Effectiveness of mutual conciliation
- Equity of political representation[6]
- Equity of political decision-making influence
- Degree and effectiveness of public participation

While these indicators can help add precision to the assessment of governance arrangements and options for political accommodation, this Briefing Paper does not employ them directly. They are presented here as potential tools to help guide further assessment of these or other arrangements and options.

2.2.2 Applying the framework for political accommodation

The process for developing and implementing options for political accommodation consists of seven steps. This seven-step methodology was used in the process of developing the options presented later in this Briefing Paper, and can also be used to develop additional options.

The seven steps (described in more detail in *Annex I*), are presented here and shown in *Figure 2*.

1. **ASSESS EXISTING AND PROPOSED ARRANGEMENTS**
2. **IDENTIFY AND MAP POLITICAL INTERESTS**
3. **IDENTIFY OPPORTUNITY AREAS FOR POLITICAL ACCOMMODATION**
4. **DEVELOP CONSIDERATIONS FOR OPTION DEVELOPMENT**
5. **DEVELOP OPTIONS**
6. **CONDUCT OUTREACH TO TEST OPTIONS**
7. **IMPLEMENTATION**

This Briefing Paper focuses primarily on the first five steps of the process. The process of developing this Briefing Paper and the dissemination and uptake of its findings are directly in pursuit of Step 6.

---

[6] The term equity is used here to emphasize the importance of fairness rather than equality. Fairness is based on the impartial distribution of resources, power, or representation according to need, while equality is based on equal distribution to everyone regardless of individual need.

Figure 2 – Methodology for political accommodation

Methodology for political accommodation

START

STEP 1
ASSESS EXISTING /
PROPOSED MECHANISMS

These can be mechanisms associated with existing or proposed GOVERNANCE ARRANGEMENTS or PROCESSES

STEP 2
IDENTIFY, MAP POLITICAL INTERESTS

Consultations with broad range of interlocutors

STEP 3
IDENTIFY OPPORTUNITY AREAS FOR POLITICAL ACCOMMODATION

Outreach and consultations on options may identify new political interests

Considerations include interests and other factors (e.g. cost of arrangements, international experiences etc.)

STEP 4
DEVELOP CONSIDERATIONS FOR OPTION DEVELOPMENT

STEP 6
OUTREACH TO TEST OPTIONS

COMPILE TECHNICAL BUILDING BLOCKS

STEP 5
DEVELOP OPTIONS

Outreach and consultations within and across constituencies

AGREEMENT ON OPTIONS?

NO

YES

STEP 7
IMPLEMENTATION

3. Opportunity areas for political accommodation

3.1 Existing arrangements

A first step in considering opportunity areas and exploring options for political accommodation is to assess the potential for existing or proposed arrangements to accommodate political interests and perspectives. This is Step 1 of the seven-step methodology described in *Section 2* and *Figure 2*. Existing arrangements for political accommodation are specified in the amended Interim National Constitution (INC); a range of peace and political agreements, including the Doha Document for Peace in Darfur (DDPD) and Eastern Sudan Peace Agreement (ESPA); state constitutions; and national legislation, as well as in other texts.

A detailed analysis and assessment of existing arrangements is presented in *Annex IV*. This analysis indicates that existing arrangements in the Sudan have failed to accommodate the country's wide range of interests and perspectives. This failure is attributable both to shortcomings in the provisions laid out in existing texts, as well as shortcomings in the implementation of these provisions in practice. Moreover, existing provisions are spread out across several documents developed in separate processes, resulting in inconsistencies.

3.2 Interest mapping

The second step is to identify and map political interests. Political interests are interests pertaining to governance arrangements or political dialogue processes. Interest mapping is the collection of stakeholders' political interests and motivations in light of a particular context and the synthesis of this information to identify opportunity areas for political accommodation.

Conflict Dynamics has developed a range of interest mapping tools that can provide a structured approach to interest mapping, facilitate comparative analysis of multiple interests among multiple actors, and highlight opportunity areas. Although this Briefing Paper does not present these tools, Conflict Dynamics has conducted extensive consultations in the Sudan that have revealed a range of interests. Understanding of these interests has fed directly into the identification of opportunity areas and development of considerations and options.

3.3 Opportunity areas

Assessment of existing and proposed provisions for political accommodation (see *Annex IV*), together with identification and mapping of political interests, provides a foundation for exploring areas where there may be opportunities to achieve more effective accommodation of political interests and perspectives. This section presents some of these areas within and across the six 'Strands' that present opportunities to accommodate political interests and perspectives.

3.3.1 Political structure and decentralization

The *Political structure and decentralization* Strand affords opportunities for political accommodation across a spectrum of highly centralized to highly decentralized governance arrangements. Opportunities fall across three dimensions of centralization and decentralization: political, administrative, and fiscal (see *Box 1*).

Box 1 – Political, administrative, and fiscal decentralization[7]

Three interconnected dimensions of decentralization are political, administrative, and fiscal decentralization.

<u>Political decentralization</u> constitutes how the voice of citizens is integrated into policy decisions and how civil society can hold authorities and officials responsible for the consequences of their choices.

<u>Administrative decentralization</u> constitutes how policies and decisions are made and how these are turned into outcomes in terms of distribution of resources.

<u>Fiscal decentralization</u> constitutes assignment of expenditures, revenues, transfers, and subnational borrowing to subnational governments.

Opportunity areas for political accommodation in this Strand include:

▪ Increased decentralization of authority to subnational units, whether in a devolved unitary State or in a more highly decentralized federal system

▪ Different types of subnational units in a federal system (e.g. regions in addition to states) that may better accommodate political interests

▪ More effective fiscal decentralization to address the resource-related needs of the people in different parts of the country

▪ Asymmetric decentralization (whether across political, administrative, or fiscal dimensions) to reflect the differing needs of communities throughout the Sudan and to enable subnational units to take on responsibilities according to need and capacity

3.3.2 Electoral system

The *Electoral system* Strand affords opportunities for political accommodation across a spectrum from purely majoritarian to purely proportional systems. A variety of 'mixed' or hybrid systems lie between the ends of this spectrum.

Opportunity areas for political accommodation in this Strand include:

▪ Double qualification requirement for the presidential election (e.g. the requirement that the president win not only a majority of votes nationwide but also a certain percentage of votes in a majority of states)

---

7 See The World Bank, "Decentralization and Subnational Regional Economics," 2001, accessed October 16, 2013, http://www1.worldbank.org/publicsector/decentralization/what.htm.

- Proportional electoral system with multi-seat constituencies rather than a majoritarian electoral system with single-seat constituencies to increase the proportionality of translating votes to seats
- Direct election of members of the second chamber in the national legislature (currently the Council of States)
- Decrease in the minimum threshold to gain representation on the basis of votes cast for political party and women's lists
- Ability of political parties to present lists of candidates as coalitions (rather than as individual parties) on political party and women's lists

3.3.3 Executive

The *Executive* Strand affords opportunities for political accommodation through choices on the structure of the executive at different levels of government, as well as through the allocation of responsibilities and the use of certain consensus-based decision-making rules and procedures. The executive can consist of a single position with all or most executive authority (e.g. president), two positions that share executive authority (e.g. prime minister and president), a multi-member body (e.g. executive council), or other arrangements.

Opportunity areas for political accommodation in this Strand include:

- Use of a federal council to provide regional representation in the national executive
- Hybrid parliamentary-presidential system in which the national legislature elects the president
- Checks and balances for decision-making within the national executive
- Two vice presidents drawn on a rotational basis from different regions
- Regional governors forum to advise the presidency
- One presidential advisor from each region
- Council of ministers designed to reflect the country's diversity

3.3.4 Legislative branch

The *Legislative branch* Strand affords opportunities for political accommodation in relation to the composition, structure, and decision-making processes of the legislature.

Opportunity areas for political accommodation in this Strand include:

- Requirement of supermajority decision-making in the national legislature for key pieces of legislation
- Quotas for representation of certain marginalized groups and their interests
- Council of Regions to represent regional governments at the national level
- Ability of both chambers of the national legislature to initiate and amend legislation

3.3.5 Public participation

The *Public participation* Strand affords opportunities for political accommodation on issues of transparency and freedom of information, as well as mechanisms such as referendums and consultations.

Opportunity areas for political accommodation in this Strand include:

- Requirement for legislative committees to hold public hearings on proposed legislation
- Requirement for legislative committees to publish draft laws with a period for soliciting and considering written comments
- Freedom of information legislation
- Constitutionally-mandated or citizen-initiated referendums

3.3.6 Traditional and customary arrangements

The *Traditional and customary arrangements* Strand affords opportunities for political accommodation in relation to the role of traditional authorities at the national, state, and local levels.

Opportunity areas for political accommodation in this Strand include:

- Council of elders, religious leaders, or other influential community members at the national level
- Third chamber in a multi-cameral system (upper, lower, traditional) that represents traditional leaders
- Upper chamber in a bicameral system that represents traditional leaders
- Traditional leaders appointed as additional members of an elected chamber
- Traditional forums for community debate and decision making at the local level
- Advisory bodies or councils representing traditional leaders at the national, state, and local levels that parallel formal state structures

3.3.7 Opportunities across the six Strands

Choices in one Strand interrelate closely with choices across the other Strands. As a result, opportunities for political accommodation exist not only within each Strand but also across the Strands. For example, a federal system based on regions instead of states would open opportunities for a vice-presidency rotating among the regions or a Council of Regions to serve as the upper house of the national legislature. As another example, an executive branch consisting of a multi-member federal council would open the opportunity for a proportional rather than a majoritarian electoral system for the executive. Opportunity areas in one Strand can reveal opportunities in other Strands.

3.4 Cross-cutting issues

The six Strands provide a framework for assessing political accommodation, but some issues cut across these Strands, potentially affecting political accommodation in all six of them. Three important cross-cutting issues are religion, diversity, and gender.

3.4.1 Religion and governance

The role of religion in governance has been a contentious part of the Sudanese political discourse since independence. For example, the Communist Party was strongly opposed to the 1968 Islamic constitution, and the enactment of Sharia in 1983 led to a national debate. As recently as early 2013, the opposition-authored New Dawn Charter called for the separation of religious institutions from State institutions, provoking the editor of a prominent newspaper to counter with an Islamic Dawn Charter that insisted upon Islam and Sharia as the basis of governance in the Sudan.[8]

Identifying governance arrangements that provide for conciliation between the diverse interests and perspectives that shape the debate around religion and governance is a key challenge facing political actors in the Sudan, as in other countries. Political accommodation potentially offers the frameworks and tools to feed into the substance of a constructive debate.

Using the six Strands of political accommodation and drawing upon the case studies to identify relevant experiences in other parts of the world, it is possible to generate options for governance that would accommodate a wide range of interests and perspectives as they relate to the questions of religion and governance. For example, Muslim-majority countries apply Sharia in a wide variety of ways, demonstrating the range of possible relationships between religious and state institutions. These can be drawn upon to provide concrete examples or as a means of inspiring new and innovative ideas tailored to the Sudanese context.[9]

3.4.2 Diversity and political accommodation

The Sudan is a country of significant geographical, cultural, and ethnic diversity. While diversity is not inherently negative – and can be positive – problems can emerge when political interests arising from this diversity are not accommodated. Successive Sudanese governments have failed to effectively design and implement governance arrangements that can manage the country's diversity through accommodating political interests and perspectives or through other means. Communities in all parts of the Sudan have at different times called for changes to governance arrangements to better account for the country's diversity. At the time of writing, governance reform to better reflect diversity is at the heart of the demands made by opposition movements and groups in the south and west. For example, some communities in Southern Kordofan have persistently called for governance arrangements that ensure respect for their cultural and linguistic rights.

The spirit of political accommodation and the frameworks and tools it provides are uniquely suited to developing governance arrangements that address the challenges the Sudan's diversity presents. The typology of political accommodation can provide avenues for analyzing what does and does not work in current arrangements and for exploring options that address those aspects of governance that are in need of reform.

---

8 New Dawn Charter, 2013; *Sudan Tribune*, "Islamists counter 'New Dawn' charter with 'Islamic Dawn,'" February 23, 2013, http://www.sudantribune.com/spip.php?article45629.
9   For example, in Nigeria, each st ate can decide whether or not to follow Sharia. In Malaysia, Sharia applies only to Muslims and only in the areas of personal law and religious observance. In Indonesia, Sharia law applies only in one autonomous area.

The options outlined in this document are all predicated upon the idea that fair and balanced conciliation between different political interests and perspectives is a central task of governance, and the case studies provide some examples of how this has been done elsewhere, either in whole or in part. Numerous arrangements that can achieve this conciliation, from electoral systems designed to ensure the representation of minority groups to decision-making processes geared toward consensus to governance structures that allow decisions to be made close to the communities affected.

Ultimately, as with the questions posed by religion and the State, the value of political accommodation lies in its capacity to enable its users to identify, explore, and develop their own governance arrangements.

3.4.3   Women and political accommodation

The Sudanese constitution provides women with equal rights, and the 2005 Comprehensive Peace Agreement (CPA) instituted a system of quotas for representation of women. However, gender inequality remains, and the challenge of ensuring women equitable representation and decision-making influence remains a point of debate and discussion.

While the options presented in this document do not directly address the issue of gender, the frameworks and tools of political accommodation can be used to address the challenges presented by the inequitable representation and decision-making influence of women. Opportunity areas extend beyond the quota system to all six Strands of political accommodation.[10]

3.5   Processes for political accommodation

In addition to the substantive provisions of the constitution, peace agreements, and other texts, a number of ongoing processes present opportunities for political accommodation. The processes mentioned below represent a small selection of processes that have taken place in the Sudan since 2010.

Political dialogue between the National Congress Party and other political parties

There have been a number of public attempts to initiate dialogue between the National Congress Party (NCP) and other political parties. Although there is no formal dialogue process in place at the time of writing, informal bilateral dialogues have taken place between the NCP and individual parties, including the National Umma Party (NUP) and Democratic Unionist Party (DUP). At times, these dialogues have resulted in the inclusion of opposition parties in the government, as when a faction of the DUP joined the government in 2011.

Political party and civil society dialogue processes

In the period between 2010 and 2013, at least five different political party and civil society initiatives emerged calling for a national dialogue around a future constitution and demanding a pro-

---

10 See "Women's Inclusion and Equity under the Transitional Constitution of the Republic of South Sudan, 2011," Conflict Dynamics International, 2013.

cess that is both inclusive and participatory.[11] Some of these initiatives have managed to reach out beyond Khartoum and to begin engaging members of the public in a conversation around the process of making a constitution and its possible content. These initiatives offer forums for discussing the substance of a constitution and expanding public engagement, both of which are critical to any effort to develop governance arrangements that can accommodate the Sudan's diverse interests and perspectives.

Dialogue between the SPLM-N and the Government of the Sudan

Regular dialogue has taken place between the Government of the Sudan and Sudan People's Liberation Movement – North (SPLM-N) on interim political and security arrangements for Blue Nile and Southern Kordofan states. This dialogue offers an entry point into a broader discussion on the political arrangements necessary to accommodate the interests and perspectives of these two border states. This discussion, in turn, has the potential to bridge into a discussion on governance arrangements more broadly, including at the national level. As of writing, the next round of talks was planned for January 2014.

Dialogue between Darfur opposition groups and the Government of the Sudan

Regular dialogue has also taken place between the Government of the Sudan and Darfur armed groups, including the Liberation and Justice Movement, Sudan Liberation Movement, and Justice and Equality Movement. These dialogues have included discussions on governance arrangements for Darfur, the status of Darfur as a region, and Darfur's representation in the national government and have resulted in some groups signing agreements with the government. Similar to dialogue between the Government of the Sudan and the SPLM-N, dialogue with Darfur armed groups offers an entry point into a broader discussion on governance arrangements in the Sudan.

National Constitutional Review Process

A constitutional process that is politically inclusive and provides for effective public participation could offer a forum for engaging key issues of political accommodation in the Sudan. In part drawing upon the CPA provision for an inclusive constitutional review process, a number of political parties and civil society organizations and coalitions have called for the launch of such a process. Some have begun public education and awareness programs, running workshops and publishing material on the principles and practice of constitutional processes. In July 2012, the government announced that a committee "made up of all parties, religious sects and Sufis" would be set up to draft a constitution that would be "100 percent Islamic."[12] The specific mandate and membership of this committee has yet to be agreed upon.

---

[11] These initiatives include the Sudan Initiative for Constitution Making, Al Ayyam Initiative, Hayat Ulama Al Muslimeen, Engendering the Constitution Initiative, Network Partnership Initiative, and the National Constitutional Review Commission.
[12] Reuters, "Sudan constitution to be '100 percent Islamic': Bashir," July 7, 2012, http://mobile.reuters.com/article/worldNews/idUS BRE8660IC20120707?feedType=RSS&feedName=worldNews.

4. Options for political accommodation

This section presents six categories of options for political accommodation in the Sudan. The possible arrangements to accommodate political interests and perspectives are presented in 'categories,' because the frameworks and tools for political accommodation can be used to generate more specific option variants not presented here.

These option categories were developed based on the assessment of existing provisions for political accommodation (*Section 3.1 and Annex IV*), identification of political interests (*Section 3.2*), and development of opportunity areas (*Section 3.3*), drawing on technical building blocks extracted from case studies and taking into account a number of considerations to guide development of options (*Section 4.1*). This section presents these considerations, which were developed based on a wide range of consultations undertaken as part of the research on prospects for political accommodation.

4.1 Case studies and considerations

4.1.1 Drawing technical building blocks from case studies

As part of the structured approach to political accommodation, a range of case studies were used to identify key characteristics or attributes of interest for political accommodation, with an emphasis on how those features could be of interest in the case of the Sudan. It is important to note that the case study contexts are not in any way considered to be analogous to the situation in the Sudan. Rather, the case studies are analyzed to extract technical building blocks that can then be used to configure options more suited to the Sudanese context. More than 20 case studies were analyzed to provide a pool of technical building blocks for political accommodation. *Table 1* summarizes technical features from several of these case studies that could be of interest for the Sudan.

Table 1 – Case studies and main technical features of interest

Case study	Examples of technical features of interest for the Sudan
Canada	• **Federal system** where provinces and territories have a high degree of autonomy, including authority to determine their own levels of spending, taxation, and borrowing • Aboriginal peoples have a **right to self-determination**, and constitutional conferences addressing aboriginal issues must include aboriginal participation
Ethiopia	• **Federal system** where regions are largely drawn along ethnic lines • Upper house of the legislature represents nations, nationalities, and peoples; it resolves disputes between levels of government and decides on matters of self-determination • All nations, nationalities, and peoples have the right to self-determination, including the **right to secede** from the Ethiopian State or secede from a region within Ethiopia

Case study	Examples of technical features of interest for the Sudan
Indonesia	• **Unitary State** with devolution of responsibilities to subnational levels but a high degree of national oversight and control • Two **autonomous areas** have greater fiscal and administrative autonomy, retain a greater share of income from natural resources, and integrate traditional and customary law into their political structures; one of these areas is the only part of the country that uses **Sharia**
Iran	• **Unitary State** with power highly centralized in the national government • Guardian Council composed of six religious leaders and six jurists can repeal any legislation that does not conform to both the constitution and Sharia
Iraq	• **Asymmetric federal system** where provinces can 'opt-in' or federate to form new regions, thereby gaining additional autonomy • The Kurdish region has special autonomous status; its laws have supremacy over national laws, and it controls oil revenue from its territory
Kenya	• **Unitary State** with significant devolution of responsibilities to counties • National legislature elected through a mixed system; in the lower house, 290 members are elected from single-member constituencies, 47 women are directly elected from the counties, and 12 members are nominated by parties in proportion to their share of the vote to represent youth, persons with disabilities, and workers • President elected through a two-round system; winning in the first round requires over 50 percent of the popular vote and over 25 percent in a majority of counties
Lebanon	• **Unitary State** with power highly centralized in the national government • Uses a **'confessional' system** whereby seats and government posts are allocated among Muslims, Christians, and religious minorities; voters choose candidates from their religious sect
Malaysia	• **Federal system** made up of states and territories • **Traditional hereditary rulers** in nine of the thirteen states are recognized as authorities on religious and customary tradition in their state • The national executive office (king) rotates among these nine hereditary rulers
Serbia and Montenegro	• Historically consisted of a **federal system with two member states**, Serbia and Montenegro, united under a national government (Serbia and Montenegro have since separated into independent States) • **Two autonomous provinces**, Vojvodina and Kosovo, were recognized within the state of Serbia; administration of Vojvodina was devolved to the Serbian legislature, while Kosovo was administered by the United Nations • Decision making in national parliament required overall majority and majority of representatives from each state
South Africa	• **Unitary State** with significant devolution of responsibilities to provinces • **Hybrid presidential-parliamentary system**, where the president has significant executive powers but is indirectly elected by the national legislature • Organized **network of traditional leaders** parallels the formal political system at all levels of government • **Public participation is required** in legislative process; without public participation on a specific piece of legislation, that legislation can be repealed

Case study	Examples of technical features of interest for the Sudan
Spain	• **Unitary State** with responsibilities devolved to provinces and autonomous communities • Provinces can form **autonomous communities** based on historical, cultural, and economic factors; nationalities and regions have the right to self-government
Switzerland	• **Federal system** where cantons have a high degree of autonomy • National executive consists of a **seven-member council** consisting of representatives from four political parties according to an agreed upon formula • **Referendums** are mandatory to ratify legislation on certain issues of national importance; citizens can initiate referendums through petitions
Tanzania	• **Unitary State** consisting of two governments, Union Government and Zanzibar Government, each with executive, judicial, and legislative organs • Union Government represents mainland Tanzania and the island of Zanzibar • Zanzibar Government represents only the island of Zanzibar and has authority over matters concerning Zanzibar except "union matters," which include but are not limited to foreign affairs and income tax
Turkey	• **Unitary State** with power highly centralized in the national government • **Secular** character of the nation is strictly protected by state organs like the judiciary • **Ten percent threshold** prevents small parties from obtaining national representation
United Arab Emirates (UAE)	• **Federal system** with seven emirates based upon traditional governance structures that emphasize the authority of emirate rulers; near sovereignty of each emirate and weak national government • Constituents can participate in government through open meetings or ***majlis***
United Kingdom	• **Unitary State** centered in England with three devolved regional areas: Scotland, Wales, and Northern Ireland; each regional area has a high degree of autonomy, including its own legislature • Upper house of the legislature is a **House of Lords** that has little power but represents traditional authorities and religious leaders

4.1.2 Using interests and considerations to develop options

Purely from a technical standpoint, it is possible to conceive of a large number of options for political accommodation, given the potential for variations of arrangements across the six 'Strands.' Ultimately, the most effective options for political accommodation reconcile and fulfill as many political interests and perspectives as possible in a balanced way. However, additional technical, political, historical, or other factors must also be taken into account, such as whether the particular governance arrangements are cost effective or whether they are appropriate in light of past experiences in the country. People may not always voice these factors when expressing their political interests.

People's political interests and the factors mentioned above are together referred to here as 'considerations.' Examples of possible considerations include the role of religion in governance,

safeguards for minorities, or territorial integrity. These considerations are essential for devising options that can effectively accommodate political interests. Development of these considerations is Step 4 of the methodology described in *Section 2.2.2*.

Using considerations to shape the development of options ensures that the resulting governance arrangements can 'link back' to the underlying interests; people will be able to see that their interests have been taken into account. The considerations presented below reflect the interests expressed and other factors identified through extensive consultations over a period of four years in the Sudan. The considerations are presented here in groups. In addition to the indicators discussed above, these considerations – or the interests that feed into them – can be used as a basis for assessing any options developed.

Considerations relating to the nature and role of the State

Maintaining the territorial integrity of the Republic of the Sudan: Contrary to the situation with Southern Sudan in the former (pre-secession) Republic of the Sudan, and with the exception of the process outlined in the Protocol to the Comprehensive Peace Agreement (CPA) concerning the Abyei Area, none of the ongoing or recent political dialogues within the Sudan have been based on the premise of separation of a territory from the Republic of the Sudan. However, as conflicts have continued or reached a stalemate in certain parts of the country, including in Southern Kordofan and Blue Nile states and in Darfur, some actors have begun to express separation as a political interest. Balancing these perspectives, an important consideration is to focus attention on options for the overall political structure in the context of a single entity with international personality.[13]

Addressing actual or perceived peripheral marginalization: Perceived or actual political, socio-economic, and financial or resource-related marginalization of the periphery of the Sudan has been acknowledged as a key factor driving successive conflicts in the country.[14] An important consideration is the extent to which options for political accommodation can address the perceived or actual marginalization of regions of the Sudan through accommodation of the political interests and perspectives of the people living in these regions. Moreover, effective options will need to ensure an equitable (rather than 'equal') allocation of resources, as well as equitable representation and decision-making influence for the different constituencies in the Sudan.

The evolving role of the State: In the Sudan and elsewhere, the role of the State and of the institutions of governance in particular, is changing; citizens may now prioritize practical needs (e.g. employment, access to health, education) over ideological interests. In addition, the relationship of citizens to the State is evolving because of increased access to information and means of communication.

---

13 For this reason, the spectrum for the options categories presented here does not extend to multiple entities (e.g. sovereign States) interacting together, as in the case of confederal arrangements.

14 See, for example, the Comprehensive Peace Agreement, 2005: "*Sensitive to historical injustices and inequalities in development between the different regions of the Sudan that need to be redressed…*"

Ensuring effective, responsive governance: Arrangements for political accommodation, and of the associated institutions of governance, must be able to respond to the needs of citizens, providing fair and equitable access to services and responding to their interests.

Considerations relating to diversity

Effective management of diversity: Options for future governance arrangements will have to be developed with consideration for how specific arrangements can accommodate the range of political interests and perspectives that may arise from ethnic, religious, ideological, linguistic, and other forms of diversity of the Sudan. This will require particular attention to accommodation of political interests and perspectives at the subnational level. While diversity itself does not automatically result in competing political interests and perspectives, it can do so when governance arrangements do not effectively manage and give space for diversity. Governance arrangements must manage this diversity across multiple dimensions and at multiple levels. For example, the Sudan is religiously diverse not only in that people adhere to different religions but also in that people have differing cultural practices within each religion. Moreover, many other forms of diversity, such as ethnic or ideological diversity, cut across the lines of religious diversity.

Case Study 1 – Accommodating diversity in **Lebanon**

Governance arrangements in Lebanon seek to accommodate the country's religious diversity in the executive branch of government. Customary agreement dating to 1989 dictates that the president, prime minister, and speaker of parliament come from particular religious groups. Lebanon's executive consists of the president, prime minister, and council of ministers. The allotment of executive posts among Lebanon's 17 religious groups is based on an agreement in which posts are divided approximately evenly between Christians and Muslims. Posts are further subdivided among Christian and Muslim sects based on their proportion of the population. The president is always a Christian Maronite, the prime minister a Sunni Muslim, and the speaker a Shia Muslim. The council of ministers is divided evenly between Christians and Muslims, with Maronite Christians, Greek Orthodox, Sunnis, and Shias all holding important ministries.

The president is the head of state, commander of the armed forces, and "symbol of the nation's unity." In practice, however, the Lebanese presidency is largely a ceremonial post. The prime minister is the head of government, head of the council of ministers, and holds most executive power. The council of ministers can propose legislation along with parliament. All decisions except appointing the prime minister and accepting the resignation of the council of ministers must be signed by the president, prime minister, and other ministers concerned.

Case Study 2 – Accommodating diversity in **Switzerland**

Switzerland's multi-member executive reflects its cultural, linguistic, and religious diversity, demonstrating how the executive branch can accommodate a wide range of interests. Switzerland has four main language groups: a German-speaking majority, minorities speaking French and Italian, and a very small minority speaking Romansch. It has religious diversity with significant Catholic and Protestant populations, and historically, religion was an important source of tension and violence.

Switzerland's 1848 constitution established a Federal Council as the national executive. This Council has seven members who share power equally among the country's seven administrative departments (foreign affairs, finance, etc.). Parliament elects a president and vice-president from among the seven Council members to serve as its chair for a one-year term. The Council president does not have more power than the other Council members and mainly chairs meetings and assumes special representational duties. The presidency typically rotates among Council members based on seniority. The two houses of parliament indirectly elect members of the Federal Council following each general election. The Council generally reflects Switzerland's diversity in terms of political ideology, region, language, and gender. Religion was historically also a criterion but has recently declined in importance.

Safeguards for minorities: Development of arrangements to accommodate political interests and perspectives will need to take into consideration how best to protect political, ethnic, and religious minorities in the Sudan.

Case Study 3 – Safeguards for minorities in **India**

India is one of the most demographically diverse countries in the world, and its political system thus contains a variety of safeguards for linguistic, ethnic, religious, and tribal minorities. India's 1949 constitution established a federal structure, currently consisting of 28 states. These states each encompass one of the country's main linguistic groups and can each determine their own official languages. Because India's linguistic and ethnic minorities are concentrated in specific constituencies, its majoritarian electoral system allows a diverse range of groups to obtain representation in the House of the People. The constitution reserves seats in the House of the People and in state and local legislatures for historically disadvantaged castes and tribes approximately equivalent to their proportion of the population. Currently, about 7.5 percent of seats in the House of the People are reserved for scheduled tribes and 15 percent are reserved for scheduled castes. While the constitution does not reserve national parliamentary seats for women, it reserves them one-third of seats in local legislatures.

In addition to national, state, and local legislative seats, India reserves certain castes and tribes civil service posts and admission into state-funded educational institutions. For linguistic minorities, the constitution not only allows states to choose their own official languages but also protects and requires states to fund education in minority languages. Some religious minorities, including Muslims, Christians, and Jews, are allowed to follow their own laws for personal matters such as marriage, inheritance, and adoption. India also recognizes some regions as autonomous areas governed by tribal councils under traditional laws. For example, the autonomous district of Bodoland has an autonomous council whose laws have precedence over laws passed by the state. The autonomous council of Bodoland can pass laws in a wide range of areas, including education, health, and land use, and acts as a court of appeal for cases from traditional village courts.

Reasonable checks and balances in decision making: In generating options for political accommodation, consideration will have to be given to balancing between ensuring reasonable checks and balances within and between governance institutions, on the one hand, and preventing gridlock or unreasonable veto power for minority groups, on the other.

Socioeconomic considerations

The role and importance of religion in governance: The relationship between religion and the State has been at the heart of political discourse in the Sudan since independence. The nature of this relationship remains a critical consideration in shaping accommodating arrangements for governance throughout the Sudan. More specifically, governance arrangements will have to accommodate the different political interests stemming from different religious viewpoints. One important consideration relates to the role of Islam and Sharia in society and governance and how to accommodate the interests of constituencies with differing views on this issue.

Case Study 4 – Traditional and customary arrangements and religion in **Ethiopia**

The constitution of Ethiopia officially recognizes religious and customary courts and empowers the national House of Peoples' Representatives and all regional legislatures to officially recognize other such courts. The national and regional legislatures have used this provision to recognize many customary courts. These courts are mainly active in rural areas and carry out customary tribal justice pertaining to family law and personal disputes.

Ethiopia has an extensive system of Sharia courts that parallels the national and regional system of civil courts. At the national level, Sharia courts include the Federal First-Instance Court of Sharia, Federal High Court of Sharia, and Federal Supreme Court of Sharia. All of Ethiopia's regions also recognize and fund regional Sharia courts. These courts operate under the same rules of procedures as regular courts. For Ethiopia's Muslims, Sharia courts have jurisdiction over questions of marriage, family, and inheritance, as long as all parties to the dispute consent to this jurisdiction.

The role of women: The role of women in governance arrangements to reconcile political interests and perspectives requires careful consideration. Any new arrangements will have to accommodate women's specific interests or issues that are of particular importance to women, such as land ownership and women's rights. In addition, governance arrangements will need to go beyond the quotas for representation introduced by the Interim National Constitution (INC) in 2005 to include arrangements across the six Strands of political accommodation.

Development inequalities: De facto development inequalities in the Sudan, whether geographic or community-based, mean that arrangements for political accommodation will have to be developed with consideration of how governance arrangements can address these inequalities, for example, through wealth allocations, potentially including equalization grants.

Case Study 5 – Fiscal decentralization in **Canada**

Canada's system of fiscal decentralization demonstrates one way for the national government to transfer wealth to subnational governments. Canada consists of ten provinces and three territories, some of which possess valuable natural resources. The federal system gives significant responsibilities to provincial and territorial governments, including education and healthcare. However, provinces and territories do not have sufficient revenue to provide these services, and different provinces and territories have different revenue capacities, creating the potential

for unequal standards of service across the country. The Canadian national government has developed a set of fiscal measures to rectify these inequalities and mitigate tensions that arise from the differing fiscal capacities of subnational units.

To ensure provinces and territories have sufficient revenue to provide services, the national government introduced the Canada Health Transfer and Canada Social Transfer programs. These programs transfer block grants from the national government to provinces and territories for the purpose of maintaining a national standard for health and social programs. To ensure standards of service are consistent across the country, the national government introduced the Equalization Program of Canada, which uses national fiscal transfers to enable less wealthy provinces to provide their populations with comparable public services at comparable levels of taxation. This program is funded by unconditional block grants from the national government through an 'equalization formula,' which approximates how much revenue per person each province is able to raise against a national standard based on the average incomes of all ten provinces.

Affordability of different options: A key consideration in developing options for political accommodation in the Sudan is the cost associated with various governance arrangements. In general, additional layers or levels of government or bureaucracy result in higher cost. In light of the economic challenges facing the Government of the Sudan, cost effective arrangements will have to be developed

Drawing on Sudan's own experiences of accommodation

Existing arrangements for political accommodation: Development of new governance arrangements in the Sudan will not start from a blank slate and will need to recognize existing arrangements for political accommodation. Existing arrangements designed to achieve political accommodation include agreements in eastern Sudan and Darfur and a special protocol related to Blue Nile and Southern Kordofan states. In addition, the INC has a number of features designed to promote political accommodation (see *Annex IV*). These existing arrangements must be taken into consideration in developing new arrangements.

Enabling effective public participation: Effective public participation is an essential feature of political accommodation. Developing the mechanisms and systems that enable people to participate in decision making is an important component of effective accommodation.

Case Study 6 – Public participation in **South Africa**

South Africa's governance arrangements incorporate numerous mechanisms for public participation, particularly in the legislative process. South Africa's 1996 constitution explicitly requires public involvement in the legislative process at the national and subnational levels. As defined in the constitution, public participation includes more than the right to vote in periodic elections; citizens must also be able to communicate directly with legislative bodies and have their views seriously considered. The Constitutional Court has upheld and bolstered this requirement by ruling in 2006 that if parliament does not meaningfully engage ordinary citizens in developing a piece of legislation, that legislation can be found unconstitutional and struck down.

Participatory mechanisms include public hearings, submission of oral and written comments, and mock parliaments. The rules of parliament require that all bills (except those related to money and constitutional amendments) be published in the government gazette prior to being introduced in parliament. The bills must be published with an explanatory summary and invitation for public comment (either written or oral). The task of facilitating public comment, including public hearings, falls to the parliamentary committees. At the provincial level, each legislature has its own set of rules governing participation, but public hearings are required for most provincial bills and "important national bills," and provincial legislatures are required to consider all public comments.

Considerations relating to the Sudan's recent political history

Recognizing historical experiences: The Sudan has a rich history of attempts at political accommodation, including six different constitutions.[15] Reflecting on their successes and failures should be part of considerations for any new arrangements. In addition, these arrangements must take into consideration the underlying historical causes of the ongoing conflicts in Darfur, Abyei, and Blue Nile and Southern Kordofan states.

Learning from international and regional experiences

International experiences: There are many examples of successful and unsuccessful political accommodation from around the world. International best practice, examples of successful accommodation, and lessons learned from unsuccessful accommodation should be considered in developing governing arrangements for the Sudan.

4.2   Six categories of options for political accommodation

Based on the above considerations and their related interests, six categories of options for political accommodation in the Sudan have been developed. These six categories are:

OPTION CATEGORY A:	**Unitary State with Devolution**
OPTION CATEGORY B:	**State-Based Federal System**
OPTION CATEGORY C:	**Regional Federal System**
OPTION CATEGORY D:	**Hybrid Federal System**
OPTION CATEGORY E:	**Free Association**
OPTION CATEGORY F:	**National Consensus Model**

These option categories span the spectrum of political interaction within a single entity with international personality, as well as political interactions involving autonomous non-State entities. For each option category the details of the arrangements are presented according to the six Strands, along with the option category's technical advantages and disadvantages. Short case studies within each option category illustrate where some of the technical features of the category have been used elsewhere.

---

15 These include the Sudan's 1956, 1964, 1973, 1985, 1998, and 2005 constitutions.

It is important to emphasize that these option categories <u>do not represent recommended governance arrangements</u>. They merely serve as illustrations of the political accommodation approach. A wide range of other combinations of options are conceivable, and each will have different advantages and disadvantages for political accommodation.

■ **Option Category A: Unitary State with Devolution**

The option category *Unitary State with Devolution* represents a range of options in which decentralization is achieved through devolution of authority from the national level to subnational territorial entities or constituencies. The main difference between devolution and other forms of decentralization is that in a devolved system, the responsibilities can be taken back or 'retrieved' at the national level. Retrieving responsibilities in a federal system generally requires an amendment to the constitution or founding texts. Devolution, as with other forms of decentralization, can be symmetric or asymmetric (see *Box 2*).

Box 2 – Symmetric and asymmetric decentralization

Decentralization of authority and decision making can be symmetric or asymmetric along two dimensions: structure and responsibilities.

<u>Structure:</u> Symmetric or asymmetric decentralization in the structure of the State means that the frameworks or arrangements between different levels of government can be the same (symmetric) or different (asymmetric). For example, the current structure of the Sudan is symmetric, as the states all have the same institutions and frameworks for interaction with the national government. The Sudan would have an asymmetric structure if Darfur were to become a single region (as a result of the referendum mandated in the Doha Document for Peace in Darfur) and all the other entities that make up the Republic of the Sudan remained states.

<u>Responsibilities:</u> Decentralization along the political, administrative, and fiscal dimensions can be achieved by according or offering (through devolution or other means) responsibilities to the different constituent entities of the State (states, regions, districts, etc.). Asymmetric decentralization occurs when different entities have different responsibilities. For example, some constituent entities may have more responsibilities in the areas of education and language, while others may have more responsibilities related to the management of natural resources.

Under this category, the State is structured with three levels of government: national, regional, and local. Certain political, administrative, and fiscal responsibilities are devolved from the national to the regional level of government in an asymmetric manner (different regions can take on different responsibilities). Fiscal responsibilities devolved to the regional level include revenue-raising authority and management of land, investment and other economic activities, and natural resources. The national government retains important responsibilities, including those relating to national defense, the national budget, and national resource allocation. Responsibilities are devolved to the regional governments on an 'as ready' basis.

Fiscal decentralization is an important aspect of options in this category. The national government addresses vertical fiscal imbalances (between the national and regional governments) by allo-

cating a high proportion of total national revenue to regional governments. The national government addresses horizontal fiscal imbalances (among regional governments) by allocating wealth among regions based on criteria including level of development, regional history, demographics, geography, and revenue-raising potential.

The national executive consists of a president, who appoints two vice presidents, a council of ministers, assistants, and advisors. The president is elected through a run-off system with a 'double qualification' requirement: to be elected in the first round, a candidate must receive not only a majority of the vote nationwide but also at least 30 percent of the vote in a majority of the regions. Regional executives consist of governors elected through a run-off system.

The national legislature is unicameral and consists of 350 members elected from single-seat geographical constituencies. These constituencies are defined by an independent boundary delimitation commission no more than three years after every regular census. The recommendations of the commission must be approved by a two-thirds majority of the members of the national legislature. Regional legislatures consist of 80-member regional assemblies elected from single-seat constituencies.

This option category provides for public participation through referendums. Referendums are required for key pieces of legislation, including constitutional amendments, and any referendum supported by a majority of voters takes precedence over all other legislation. This option category does not incorporate traditional and customary arrangements into formal governance structures.

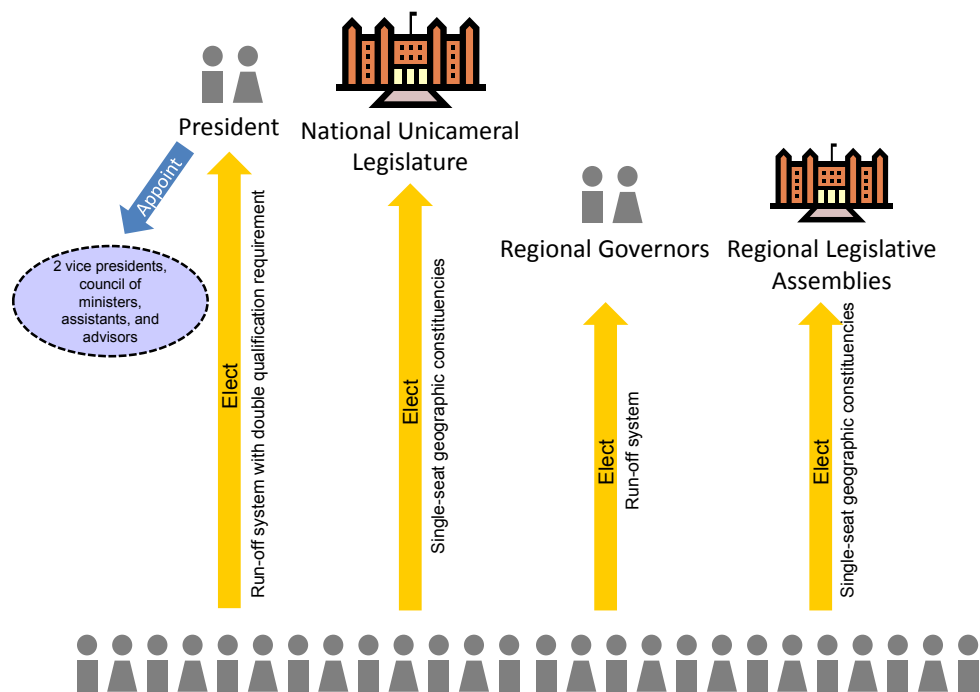Figure 3 - Option Category A: Unitary State with Devolution

Table 2 – Key attributes for political accommodation, Option Category A

Political structure & decentralization	• <u>Unitary State structure</u>: asymmetric decentralization of authority; region-based; three levels (national, regional, local) • <u>Responsibility distribution</u>: national government has all responsibilities related to core functions of government; regional governments have significant responsibilities related to revenue raising and management of land, economic activity, and natural resources; distribution of responsibilities is asymmetric across regions • <u>Resource distribution</u>: wealth allocation from the national to regional level is based on a high percentage of overall national revenue; formula for equitable wealth allocation among regions is based on criteria including population, recent economic development, and revenue-raising capacity
Electoral system	• <u>Selection of national executive</u>: two-round system with double qualification requirement • <u>Selection of regional executives</u>: two-round system with no double qualification requirement • <u>Selection of national legislature</u>: majoritarian system with single-seat constituencies • <u>Selection of regional legislatures</u>: majoritarian system with single-seat constituencies
Executive	• <u>National executive</u>: president accorded wide powers on national issues; can appoint and dismiss two vice presidents, council of ministers, assistants, and advisors • <u>Regional executives</u>: regional governors • <u>Decision making</u>: council of ministers decides by simple majority; presidential assent required to enact legislation
Legislative branch	• <u>National legislature</u>: unicameral legislature has 350 members • <u>Regional legislatures</u>: regional legislative assemblies have 80 members • <u>Decision making</u>: national legislature decides by simple majority
Public participation	• Mandatory referendums; referendums have authority over all other legislation
Traditional & customary arrangements	• No formal traditional and customary arrangements

<u>Interplay between Strands</u>

In Option Category A, relationships among the Strands provide for a system that is highly centralized. The unitary State structure, majoritarian electoral system, strong executive, unicameral legislature, and absence of traditional and customary arrangements all promote the centralization of power at the national level and in the hands of a small number of parties and individuals. However, centralization does not equate with less effective political accommodation. The double qualification requirement for presidential elections encourages candidates to have nationwide appeal, asymmetric decentralization provides the opportunity for certain regions to have greater autonomy through which to accommodate their political interests, and mechanisms for public participation provide the people with a direct say in how they are governed.

Advantages and disadvantages of Option Category A

Option Category A is associated with a variety of advantages and disadvantages. **This represents only a sample of possible advantages and disadvantages and is not meant to be comprehensive.**

Advantages of Option Category A	Disadvantages of Option Category A
Possibility to retrieve responsibilities could provide incentives for accommodation The possibility for the national government to retrieve responsibitilies devolved to the subnational level could provide incentives for political accommodation and cooperation between the national and subnational levels.	**Possibility to retrieve responsibilities could create tension** The possibility for the retrieval of responsibilities could lead regional and local governments to distrust the national government, fearing that it could withdraw their responsibilities at any point.
Devolution could address local and regional aspirations for self-rule Regional governments with numerous, substantial devolved responsibilities would have a significant degree of autonomy.	**Centralized governance could distance decision making from the people** In a centralized system where most important decisions are made at the national level, the public could be farther removed from the decision-making process.
Centralized national government could minimize fragmentation A national government that retains most key responsibilities and includes a powerful presidency could minimize fears that decentralization would increase fragmentation.	**History of centralized governance could increase opposition to a unitary structure** Historically, governance in the Sudan has been centralized, and dissatisfied groups have demanded increased subnational autonomy. A unitary State structure could heighten fears of continued or increased centralization.
Asymmetric devolution could be adapted to diverse interests and needs Asymmetric systems of devolution can be designed to accommodate specific political interests in different areas of the country or among different constituencies. An asymmetric system can thus address multiple political interests and evolve over time to address new interests that emerge.	**Political structure could limit the number of interests represented at the national level** A unitary State structure, combined with a presidency and unicameral national legislature, places power in the hands of a relatively small number of people at the national level. In addition, the majoritarian electoral system increases the likelihood that these people represent the interests of the majority.
Flexible timeframes for devolution could facilitate a smooth transition Subnational units could take on additional responsibilities gradually as their administrative and institutional capacity permits, allowing for a smooth transition.	
Wealth allocations could facilitate more equitable development A formula for wealth allocations based on criteria including economic development and revenue-raising capacity could increase transfers to historically marginalized regions and facilitate more equitable development.	

Case Study 7 – Unitary State with devolution in the **United Kingdom**

Political structure: The United Kingdom – a constitutional monarchy with a parliamentary government – is a unitary State in which responsibilities are devolved asymmetrically to regional administrations in Scotland, Wales, and Northern Ireland. Devolved responsibilities vary by region but include education, health, agriculture, environment, economic development, local government, and justice. National responsibilities include the national legislative and justice systems, international relations and trade, defense, fiscal and monetary policy, and immigration. The national government administers regions not given autonomous responsibilities, including England.

Fiscal centralization: The national government manages 95 percent of tax revenue, including business taxes, which are collected by local governments and transferred to the national government for reallocation. Transfers from the national government account for over 60 percent of total local government funds; local governments (distinct from devolved governments) raise the remainder of funds via property taxes and other fees. The national government allocates financial resources to regional administrations primarily on the basis of population.

Case Study 8 – Unitary State with devolution in **Kenya**

Political structure: According to its 2010 constitution, Kenya has a decentralized system with responsibilities devolved to 47 counties. It has a presidential system with a bicameral legislature. Responsibilities devolved to county governments include agriculture, county health services, and housing. The national government retains responsibilities not specifically allocated to county governments, including education, defense, and police services. The national government transfers at least 15 percent of its revenue to county governments, and counties have the exclusive authority to tax property and collect entertainment taxes. Kenya's political structure is reflected in its national legislature, where the upper house (Senate) represents the counties; the Senate consists of two representatives directly elected from each county.

Electoral system: Kenya's parliament consists of the National Assembly (representing the people) and Senate (representing the counties). National Assembly members are elected through a mixed system, with 290 members elected from single-seat constituencies, 47 women elected from single-seat constituencies corresponding with counties, and 12 members elected from party lists nominated by parliament to represent minorities, youth, and persons with disabilities. Senate members are also elected through a mixed system, with 47 members elected from single-seat county constituencies and 16 women, two youth, and two persons with disabilities elected from party lists. The president is elected through a run-off system with a 'double qualification' requirement, where the winning candidate must receive over 50 percent of the overall vote and more than 25 percent of the vote in at least half the counties to win in the first round.

■   **Option Category B: State-Based Federal System**

The option category *State-Based Federal System* comprises a federal system where the constituent units are states. The INC of 2005 and Constitution of 1998 both provide for such a state-based system. However, this option category includes several subtle differences compared to the system specified in the amended INC.

As with Option Category A, subnational entities – in this case, states – have significant responsibilities, including fiscal responsibilities, although these responsibilities are symmetric among states. Compared to Option Category A and the existing system, this option category enhances the role of the Fiscal Financial and Monitoring Commission (FFAMC). The FFAMC is reconfigured to become a fully independent body consisting of experienced and appropriately qualified members who develop technical formulas for wealth allocation and monitor the implementation of these formulas to ensure equitable allocations to the states. These formulas are based on criteria including the level of state development, recent historical experiences, the impacts of conflicts on the state, environmental conditions, revenue-raising ability, and existing services. Both chambers of the national legislature must endorse the technical recommendations of the FFAMC by a two-thirds majority. In addition, the FFAMC is charged with publication of information on the actual allocations to each state through relevant media. All states are guaranteed 50 percent of revenue generated from local natural resources.

The national executive consists of a president who appoints a council of ministers. The council of ministers is required to reflect the diversity of the country and to consist of at least 30 percent women. The president is elected through a run-off system where a second round takes place between the two candidates with the most votes if no candidate wins an outright majority of votes in the first round. State executives consist of governors also elected through a run-off system.

The national legislature consists of two chambers: a National Assembly (representing the people) and a Council of States (representing the states). Members of the National Assembly are elected through a proportional representation system using a combination of political party lists in geographical constituencies and a national political party list on which women must account for 30 percent of candidates. Decision-making in the National Assembly is by simple majority.

The Council of States consists of two members directly elected from each state. Voters in each state can vote for two candidates, and the two candidates with the highest number of votes are elected. Decision making in the Council of States is by two-thirds qualified majority: legislation must be passed not only by two-thirds of members but also by members from a majority of the states. Legislation can be initiated by either chamber of the national legislature and requires approval by both chambers. State legislatures consist of unicameral state legislative assemblies elected through proportional representation.

This option category allows the president or national legislature to initiate referendums. Referendums passed by a majority of voters have authority over any other legislation.

Arrangements for traditional and customary arrangements include a system of traditional courts that operates in parallel to the civil courts. Councils of elders at the national and state levels oversee these courts. In addition, all levels of government must amend land laws to incorporate customary laws, practices, and local heritage.

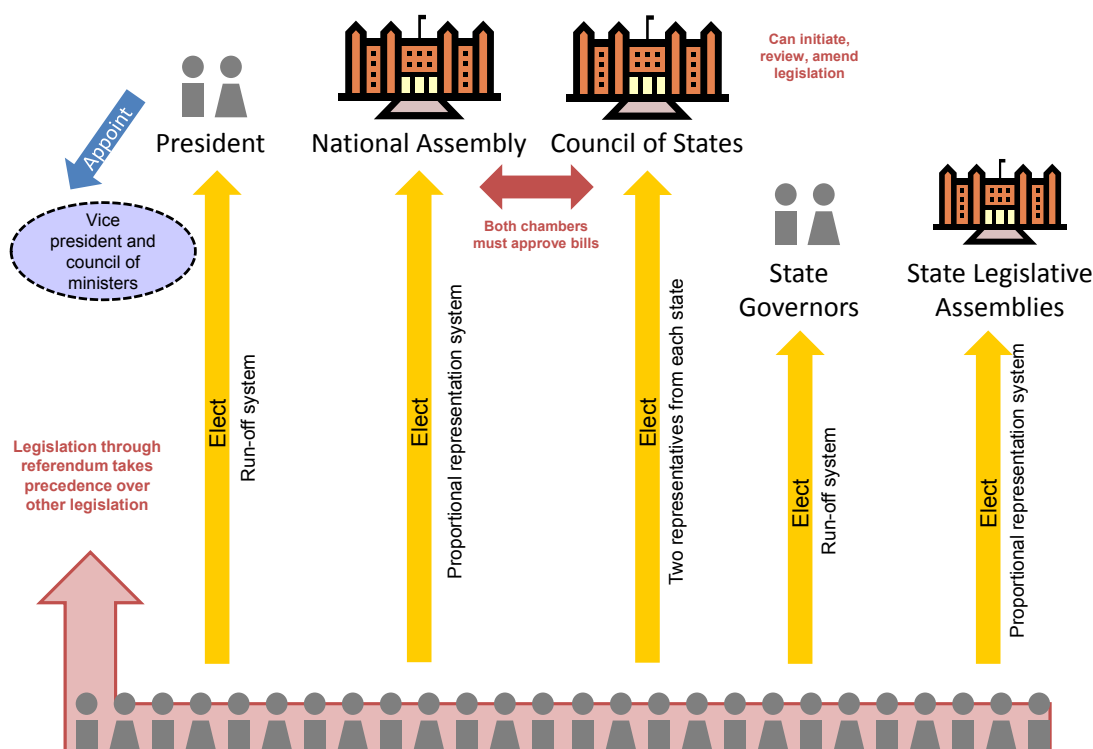Figure 4 - Option Category B: State-Based Federal System

Appoint

President

National Assembly

Council of States

Can initiate, review, amend legislation

Vice president and council of ministers

Both chambers must approve bills

State Governors

State Legislative Assemblies

Legislation through referendum takes precedence over other legislation

Elect
Run-off system

Elect
Proportional representation system

Elect
Two representatives from each state

Elect
Run-off system

Elect
Proportional representation system

Table 3 – Key attributes for political accommodation, Option Category B

Political structure & decentralization	• <u>Federal State structure</u>: state-based; three levels (national, state, local) • <u>Responsibility distribution</u>: national government has all responsibilities related to core functions of government; state governments have significant responsibilities related to revenue-raising; distribution of responsibilities is symmetric across states • <u>Resource distribution</u>: wealth allocations are defined by an independent commission, and the national legislature must approve the recommendations of this commission; states are guaranteed 50 percent of revenue derived from any natural resources in the states
Electoral system	• <u>Selection of national executive</u>: two-round system • <u>Selection of state executives</u>: two-round system • <u>Selection of national legislature</u>: National Assembly elected through proportional system with subnational and national party lists (30 percent quota for women candidates on national party list); two members of Council of States elected from each state • <u>Selection of state legislatures</u>: proportional system
Executive	• <u>National executive</u>: president can appoint and dismiss one vice president and a council of ministers; council of ministers must reflect geographic diversity and be 30 percent women • <u>State executives</u>: state governors

Executive cont.	• **Decision making**: council of ministers decides by simple majority; presidential assent required to enact legislation
Legislative branch	• **National legislature:** bicameral legislature; all states have equal representation in the upper house (Council of States), with representation in the lower house (National Assembly) proportional to state population • **State legislatures:** unicameral state legislative assemblies • **Decision making:** National Assembly makes decisions by simple majority; Council of States makes decisions by two-thirds qualified majority
Public participation	• President and national legislature can initiate referendums; referendums have authority over any other legislation
Traditional & customary arrangements	• Councils of elders at the national and state levels oversee system of traditional courts • All levels of government must incorporate customary practices into land laws

Interplay between Strands

In Option Category B, the relationship between the political structure, legislative branch, and electoral system has the potential to promote political accommodation in the national legislature. The lower house of the legislature is elected through a proportional system with both national and subnational lists, increasing the likelihood of a legislature that represents political parties proportionally and composed of members representing both national and subnational interests. In addition, the upper house of the legislature reflects the federal structure of the State, providing national-level representation and decision-making influence to representatives of state-level interests.

Advantages and disadvantages of Option Category B

Some of the advantages and disadvantages of Option Category B are presented in the following table.

Advantages of Option Category B	Disadvantages of Option Category B
Similarity to existing system (2013) would entail few costs resulting from changes This system represents an incremental change to the system established under the CPA and reflected in the INC, with some changes made to achieve more effective political accommodation. Therefore, it would be easier and less costly to implement than some of the options that may require more extensive modifications or implementation of new arrangements. **Council of States could represent state interests at the national level** The representation of states at the national level in the Council of States could accommodate the political interests and perspectives of people living in different parts of the country.	**State-based system could limit regional decision-making influence** With a state-based federal system, any one state has limited decision-making influence on the national level. By contrast, a region-based system results in a smaller number of subnational entities, giving each entity greater decision-making influence. **Emphasis on state representation could ignore diversity within states** Focusing on states as the main unit of representation ignores the fact that many competing interests exist within states. A state-based system may not provide all these interests representation.

Advantages of Option Category B	Disadvantages of Option Category B
State share of resource revenues could increase state autonomy	**State share of resource revenues could foster inequitable development**
When they retain 50 percent of their revenue from natural resources, resource-rich states will be less dependent on transfers from the national government.	When states retain 50 percent of their revenue from natural resources, resource-rich states may have greater capacity to finance their development than resource-poor states.

Case Study 9 – Federal system in **the UAE**

Political structure: The United Arab Emirates (UAE) is a federation of seven emirates. The UAE's political structure provides substantial authority to the emirates, particularly to the political representatives of Abu Dhabi and Dubai. The national government's responsibilities include foreign policy, defense and security, education, and public health. The emirates' responsibilities include all matters not explicitly granted to the national government. The constitution additionally provides the emirates with complete authority over natural resources and wealth within their respective borders. There is no national tax system, and the emirate of Abu Dhabi allocates its substantial oil revenues to the less wealthy emirates. The political structure is thus characterized by limited national-level responsibilities and a high degree of autonomy for the constituent emirates.

Religion and the State: Islam is the official religion of the UAE. Islamic law and custom play a role in shaping legislation, and Sharia courts are integrated into the legal system of every emirate and have exclusive jurisdiction over family disputes, including divorce, inheritance, child custody, and other civil matters between Muslims.

Case Study 10 – Federal system in **Canada**

Political structure: Canada is a decentralized federation that grants a wide range of devolved responsibilities to its ten provinces and three territories. National government responsibilities include matters that affect all Canadians, such as national defense, foreign policy, and trade and commerce. Provinces have a wide range of responsibilities and significant control over their day-to-day decision making. The sparsely populated territories have less authority than the provinces, particularly regarding management of public lands and natural resources. The constitution protects the responsibilities of provinces but not of territories. The Council of the Federation, composed of the provincial and territorial executives, allows subnational governments to interact with the national government on critical issues.

Public participation: The national government of Canada must provide access to information about policies, programs, services, and initiatives. Access initiatives allow individuals to express their opinions on certain subjects and, on some occasions, to participate in the policy-making process.

■   **Option Category C: Regional Federal System**

The option category *Regional Federal System* includes a range of federal systems in which the primary constituent units are regions rather than states, which have been the basis for the system established under the CPA and INC. The options in this category aim to reconcile the state-based

approach of recent systems with the region-based approach of recent political agreements and deals, such as those concerning the region of Darfur. Under this category, the State is structured with three levels of government: national, regional, and local. The distribution of responsibilities among regions is either symmetric (Option C-1) or asymmetric (Option C-2), with responsibilities gradually decentralized on an 'as ready' basis. Therefore, under Option C-2, not all regions begin with the full range of responsibilities they could potentially have but adopt additional responsibilities as they are ready to do so. For example, some regions have control over their education system, while the national government manages education in other regions. The national government allocates resources to the regions as it allocates it to the states in Option Category B. See *Figure 6* for a number of possible regional configurations for the Sudan.

The national executive consists of either a president, who appoints a vice president and council of ministers (Option C-1), or a Federal Executive Council (Option C-2). The executive is elected by the Council of Regions. In the option with the Federal Executive Council, the Council consists of one member of the Council of Regions from each region of the country. The presidency of the Council rotates among its members with one-year terms, and the Council makes decisions by consensus. The regional executives consist of governors elected through a run-off system.

The national legislature consists of two chambers: the National Assembly (representing the people) and the Council of Regions (representing the regions). The Council of Regions consists of two members directly elected from each region. The Council of Regions makes decision by qualified majority voting, meaning that decisions must not only be approved by a majority of regions, but those regions must constitute 60 percent of the overall population of the country. Regional legislatures consist of unicameral legislative assemblies. The electoral systems and decision-making procedures for the national and subnational legislatures are the same as in Option Category B.

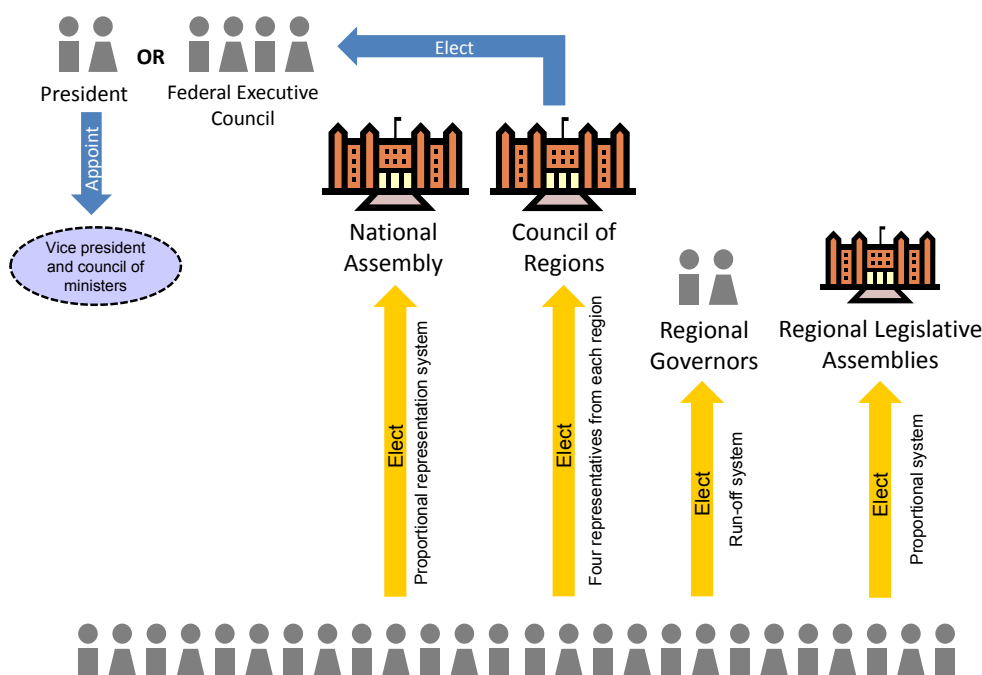Figure 5 - Option Category C: Regional Federal System

Table 4 – Key attributes for political accommodation, Option Category C

	Option C-1	Option C-2
Political structure & decentralization	• <u>Federal State structure</u>: symmetric; region-based; three levels (national, regional, local) • <u>Responsibility distribution</u>: national government has all responsibilities related to core functions of government; regional governments have significant responsibilities over revenue-raising; distribution of responsibilities is symmetric across regions • <u>Resource distribution</u>: *same as Option Category B*	• <u>Federal State structure</u>: asymmetric; region-based; three levels (national, regional, local) • <u>Responsibility distribution</u>: national government has all responsibilities related to core functions of government; regional governments have significant responsibilities over revenue-raising; distribution of responsibilities is asymmetric across regions • <u>Resource distribution</u>: *same as Option Category B*
Electoral system	• <u>Selection of national executive</u>: elected by Council of Regions • <u>Selection of regional executives</u>: two-round system • <u>Selection of national legislature</u>: National Assembly elected through proportional system with subnational and national party lists (30 percent quota for women candidates on national party list); two members of Council of Regions elected from each region • <u>Selection of regional legislatures</u>: *same as Option Category B*	• *Same as Option C-1*
Executive	• <u>National executive</u>: president can appoint and dismiss a vice president and council of ministers • <u>Regional executives</u>: regional governors • <u>Decision-making</u>: *same as Option Category B*	• <u>National executive</u>: Executive Federal Council consisting of one member of the Council of Regions from each region of the country with a rotating presidency • <u>Regional executives</u>: regional governors • <u>Decision making</u>: Executive Federal Council decides by consensus
Legislative branch	• <u>National legislature</u>: bicameral legislature; all regions have equal representation in the upper house (Council of Regions), with representation in the lower house (National Assembly) proportional to regional population • <u>Regional legislatures</u>: unicameral state legislative assemblies	• *Same as Option C-1*

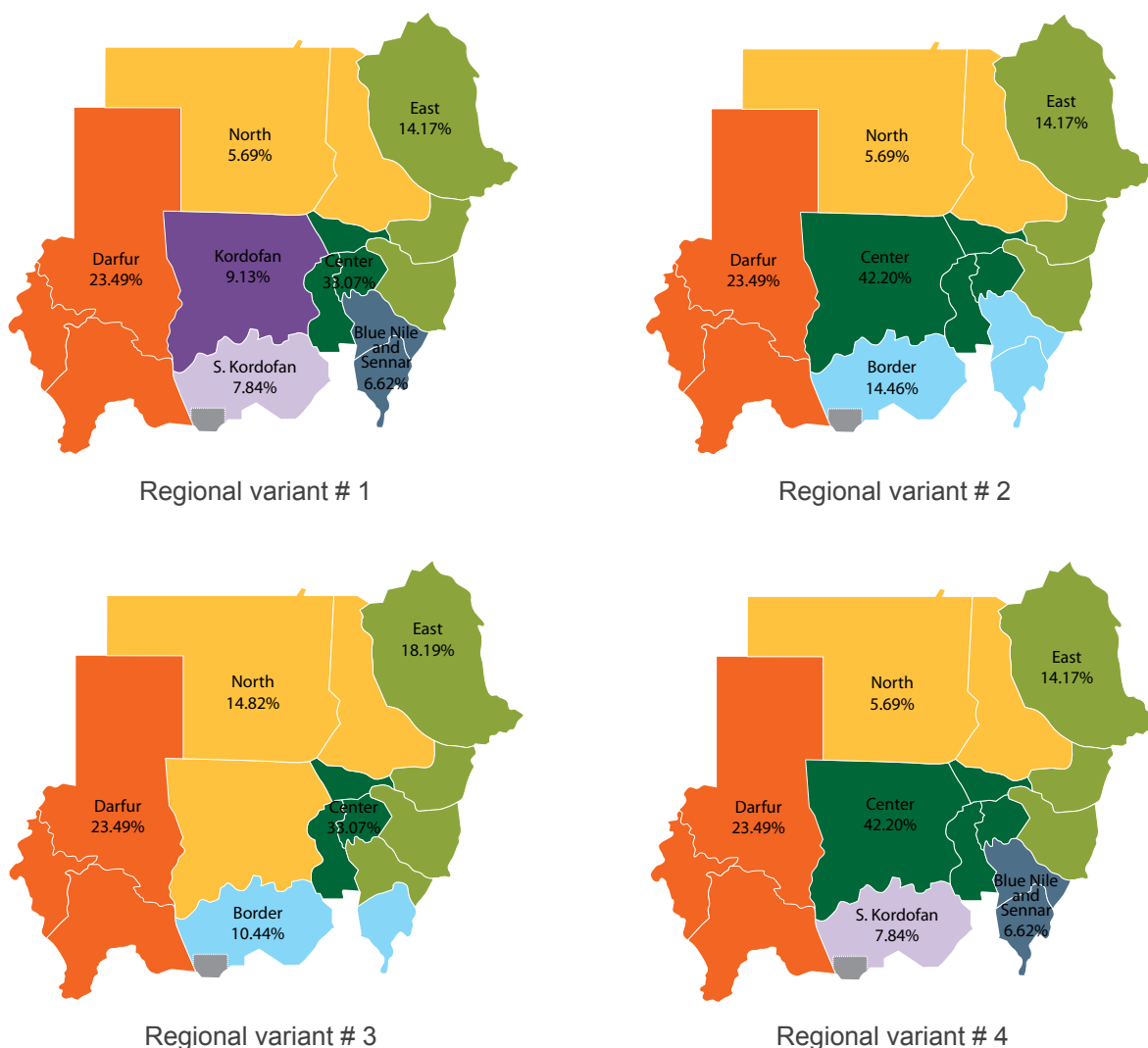|	Option C-1	Option C-2
Legislative branch cont.	• <u>Decision making</u>: *same as Option Category B*	• *Same as Option C-1*
Public participation	• *Same as Option Category B*	• *Same as Option Category B*
Traditional & customary arrangements	• *Same as Option Category B*	• *Same as Option Category B*

<u>Interplay between Strands</u>

In Option Category C, the political structure, electoral system, executive, and legislative branch interrelate in a way that promotes the interests of regions. Regions are the top-level subnational unit, and this regional structure is reflected in the electoral system for the executive and legislative branches. The upper house of the national legislature – the Council of Regions – provides representation and decision-making influence to regional interests at the national level. Moreover, the president represents the regions either indirectly (in Option C-1, where the Council of Regions elects the president) or directly (in Option C-2, where the executive consists of an Executive Federal Council with a presidency that rotates among the regions).

<u>Advantages and disadvantages of Option Category C</u>

Some of the advantages and disadvantages of Option Category C are presented in the following table.

Advantages of Option Category C	Disadvantages of Option Category C
Regional configurations could reflect historical political regions Regional configurations could acknowledge and reflect the historical political structure of what was then Northern Sudan at and immediately following independence, which consisted of six regions. **Regional basis could bridge gap between state-based system and region-based agreements** There is currently a gap between the Sudan's state-based federal system and the regional basis of recent agreements (e.g. Darfur agreements). Basing the federal system on regions could help bridge this gap. **Council of Regions could represent regional interests at the national level** The representation of regions at the national level in the Council of Regions could accommodate the political interests and perspectives of people living in different parts of the country.	**Emphasis on regional representation could ignore diversity within regions** Focusing on regions as the main unit of representation ignores the fact that many competing interests exist within regions. A region-based system may not provide all these interests representation. However, in this option, as in others, arrangements within subnational units would need to be elaborated and could potentially mitigate this potential disadvantage. **Additional complexity and cost of governance structures** If the regional level of government is established in addition to national, state, and local levels, it could increase the complexity and cost of governance and could place more 'layers' of government between citizens and their representatives.

Figure 6 – Four notional regional configurations and population percentages

Regional variant # 1

Regional variant # 2

Regional variant # 3

Regional variant # 4

■ **Option Category D: Hybrid Federal System**

Option categories B and C envision federal systems made up of states and regions, respectively. It is also possible to conceive of a 'hybrid' federal model with different types of constituent units (e.g. a combination of states and regions). Such hybrid federal systems have structural asymmetry, sometimes also accompanied by asymmetry in the responsibilities delegated to constituent entities. States can take on progressively more responsibilities as and when they are ready to do so. Wealth allocations are not dependent on the type of unit. States can also 'opt-in' to arrangements with other states to form regions (see *Box 3*).

The national government has all responsibilities related to core functions of governance, including foreign policy, national defense, and financial management, but significant authority and responsibilities are devolved to regional and, to a lesser extent, state governments. Regional govern-

ments have the autonomy to draft their own constitutions and define their own internal political and administrative structures. They also have more authority over revenues, expenditures, and natural resource management than state governments. Nonetheless, state governments have significant responsibilities, including some tax-raising authority and control over local police. As in Option Category B, a reconfigured FFAMC defines wealth allocations to regional and state governments. The recommendations of the FFAMC require approval by two-thirds of the upper and lower houses of the national legislature, as well as a majority of representatives from each state and region.

The national executive consists of a president and a prime minister. The president serves as head of state and commander of the armed forces. Presidential approval is required for the passage of legislation, but the legislature can override a presidential veto with a two-thirds majority. The president is elected through a run-off system with a 'double qualification' requirement: to be elected in the first round, a candidate must receive not only a majority of the vote nationwide but also at least 30 percent of the vote in a majority of the states and regions. The prime minister is elected by the national legislature and appoints a council of ministers (with legislative approval).

Subnational executives consist of regional and state governors elected through run-off systems with a super-majority requirement: to be elected in the first round, a candidate must receive over 60 percent of the vote. In addition, elections for regional governors have a double qualification requirement: to be elected in the first round, a candidate must receive not only a majority of the vote region-wide but also at least 30 percent of the vote in a majority of the states. Regional governors oversee regional security, approve regional legislation, and appoint a regional council of ministers. State governors fulfill these same functions at the state level.

The national legislature consists of three chambers: a lower house, upper house, and House of Elders. The 350 members of the lower house are elected from single-member geographic constituencies, and the 200 members of the upper house are elected through a proportional representation system based on multi-member geographic constituencies with a four percent threshold for receiving representation. Geographic constituencies are redrawn after each census by an 42 independent boundary delimitation commission. Distribution of seats in both the lower and upper houses is proportional to the population of each region and state, and both chambers make decisions by simple majority.

The 300 members of the House of Elders are appointed by regional and state governors and are all traditional leaders. The House of Elders must approve all legislation related to land, natural resources, and culture, although a second majority vote in the upper and lower houses can override the House of Elders. Subnational legislatures consist of unicameral regional and state legislative assemblies elected through a proportional representation system with a three percent threshold.

This option category requires regional and state governments to engage the public through forums for participation. As in Option Category B, a system of traditional courts operates in parallel to the civil courts. Councils of elders at the national and state levels oversee these courts. In addition, all levels of government must amend land laws to incorporate customary laws, practices, and local heritage.

Box 3 – 'Opt-in' federalism

The term 'opt-in' federalism is used to refer to systems and arrangements where an established territorial entity – whether an independent, sovereign State or a subnational unit within a State – can choose to join (or 'opt-in' to) a federal arrangement. An important aspect of 'opt-in' federalism is the voluntary nature of the territorial entity's decision to enter into the federal arrangement; the territory itself decides whether and when to join the federation.

'Opt-in' federalism can mean different things. As conceived in this category, it entails territorial entities voluntarily coming together to federate because they see the advantages that federation in a region can deliver (e.g. Iraq, Somalia). This includes situations where subnational units decide to federate to form larger regions and where independent States agree to join together as part of a single federal unit.
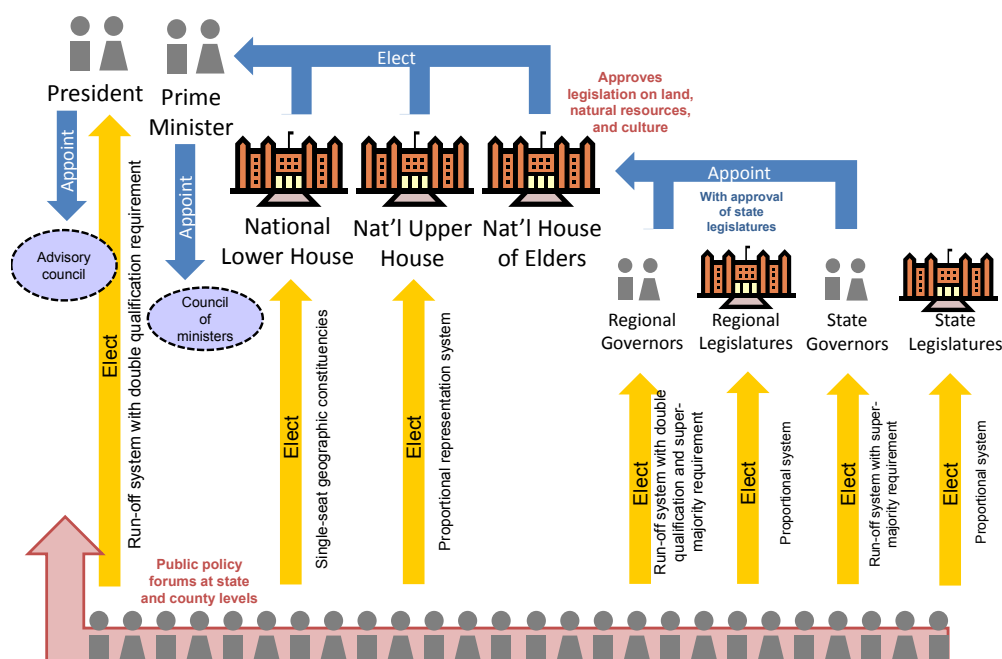
Figure 7 - Option Category D: Hybrid Federal System

Table 5 – Key attributes for political accommodation, Option Category D

Political structure & decentralization	• <u>Federal State structure</u>: four levels (national, regional, state, local) • <u>Responsibility distribution</u>: national government has all responsibilities related to core functions of government, including foreign policy, national defense, and financial management; regional governments have broad authority, including the right to draft their own constitutions and define their own political and administrative structure and significant authority over revenue/expenditure and resources; state governments have some tax-raising authority and control over local police • <u>Resource distribution</u>: wealth allocations are defined by an independent commission, and the national legislature, and a majority of representatives from each state and region in the national legislature must approve the recommendations of this commission

Electoral system	• <u>Selection of national executive</u>: two-round system with double qualification requirement (winning in the first round requires a majority of the vote nationwide and at least 30 percent of the vote in a majority of the states and regions) • <u>Selection of regional/state executives</u>: two-round system for regional and state governors, with a double qualification requirement for regional governors and a super-majority requirement for state governors • <u>Selection of national legislature</u>: lower house is elected from single-member geographic constituencies defined after each census by an independent commission; upper house is elected through proportional representation; House of Elders is elected by regional and state governors with the approval of state legislatures • <u>Selection of regional/state legislatures</u>: regional and state legislatures elected through proportional system
Executive	• <u>National executive</u>: president is head of state and commander of the armed forces and appoints an advisory council; prime minister is head of government and appoints a council of ministers; president and prime minister must both sign all decrees and treaties • <u>Regional/state executives</u>: regional and state governors oversee security, approve legislation, and appoint a council of ministers • <u>Decision making</u>: president approves legislation (legislature can override a veto with a two-thirds majority); council of ministers makes decision by simple majority with approval of the prime minister
Legislative branch	• <u>National legislature</u>: tricameral legislature; lower house has 350 members and upper house has 200 members, all distributed proportionally based on the population of each region/state; House of Elders has 300 members, all traditional leaders • <u>Regional/state legislatures</u>: unicameral regional and state legislative assemblies • <u>Decision making</u>: upper and lower houses make decisions by simple majority; legislation related to land, natural resources, and culture must be approved by House of Elders; second majority vote in upper and lower houses overrides House of Elders
Public participation	• Forums for public participation required at the regional and state levels
Traditional & customary arrangements	• Councils of elders at the national and regional levels oversee system of traditional courts • All levels of government must incorporate customary practices into land laws

<u>Interplay between Strands</u>

In Option Category D, relationships among the electoral system, executive, legislative branch, and traditional and customary arrangements encourage numerous levels of checks and balances. The electoral system increases the likelihood that the legislature is representative of a wide range of interests, with members of the three chambers elected through proportional representation, elected from single-member constituencies, and appointed by subnational executives. All three chambers, each representing distinct constituencies, have decision-making authority, including the third chamber, which integrates traditional and customary arrangements into the legislative branch.

Advantages and disadvantages of Option Category D

Some of the advantages and disadvantages of Option Category D are presented in the following table.

Advantages of Option Category D	Disadvantages of Option Category D
'Opt-in' federalism could allow for the gradual evolution of the system	**Additional layers of government could make allocation of responsibilities unclear**
The opportunity for states to 'opt-in' to federate if they believe they have mutual interests that could be advanced as a region could allow the system to evolve gradually over time. For example, it could allow the five states of Darfur to join together into a single region of Darfur.	The number of government entities and layers of government increase the risk that the allocation of responsibilities will not be clear. For example, the system would require clear allocation of responsibilities between the regional and state governments to avoid overlap.
'Opt-in' federalism could strengthen regional cohesion	**Additional layers of government could increase complexity and cost**
The increased authority and financial autonomy of regions could provide an incentive for states to cooperate with neighboring states with a view to forming a single region in the future.	With three chambers in the national and regional legislatures and both regional and state governments, the system could be complex and expensive.
Multiple levels of government could accommodate a wider range of interests	**Regional governments could marginalize states**
Having multiple levels of subnational government creates opportunities for using a mixture of electoral systems and district magnitudes that could facilitate the representation of a wider range of interests.	States could feel that they are marginalized or disadvantaged by a system that encourages regional governance.
House of Elders could accommodate the interests related to traditional and customary issues	**System for selecting traditional leaders could be unrepresentative**
The national and regional Houses of Elders, by representing traditional leaders at the national and regional levels, could accommodate interests related to traditional and customary issues, including land, natural resources, and culture.	Systems for selecting traditional leaders could result in a House of Elders that is not representative and not viewed as legitimate.
Checks and balances could promote the adoption of politically accommodating legislation	
The distribution of power between the president and prime minister promotes checks and balances within the executive, and the distribution of power between three chambers promotes checks and balances within the legislature. In addition, the prime minister is accountable to the legislature, and the legislature can overturn presidential vetoes. This system of checks and balances could promote a deliberative legislative process that encourages the adoption of legislation that accommodates a wide range of interests.	

Political structure: Iraq is a decentralized parliamentary republic composed of 18 governorates and the semi-autonomous region of Kurdistan (which encompasses three of the 18 governorates). Governance responsibilities are asymmetrically divided between the national government, regions, and governorates. One or more governorates may 'opt-in' and form a federal region via referendum, as Kurdistan has done. Regions are federal units while governorates are considered administrative divisions of the national government. Exclusive responsibilities reserved for the national government include foreign policy, national security, and fiscal and customs policy. Regions have semi-autonomous status and can establish their own constitutions, implement taxes, organize their own security forces, and veto constitutional amendments concerning matters under regional or shared jurisdiction. Within regions, regional law is superior to national law, and the Kurdish legislature possesses the authority to amend national legislation not exclusively within the national government's jurisdiction. While the constitution seems to suggest that governorates, like regions, possess authority over any area not exclusively under national jurisdiction, in actuality the national government has severely restricted their financial and administrative authority.

Resource and revenue distribution: Oil-producing governorates possess joint authority with the national government over the management of oil and gas. The constitution mandates that oil revenues be shared throughout the country and that the allocation of these revenues favor previously marginalized areas. However, it leaves implementation to future legislation, which has been deadlocked since 2007. Kurdistan has passed a regional oil and gas law that allows it to sign international oil contracts (and thus receive and manage revenue) directly. The constitution also requires the equitable distribution of other revenue to allow subnational governments to adequately discharge their responsibilities. The constitution calls for the establishment of a public commission to oversee revenue allocation, but this commission has yet to be established. Despite receiving a share of the national government's general budget, Kurdistan has financial autonomy, including control over taxes, investments, and grants within the region.

Political structure: Indonesia is a decentralized unitary State with regional governments and two autonomous regions. Responsibilities are devolved to the regional, district, and local levels of government. However, the president and bicameral parliament maintain significant control and oversight over the regions. In contrast, the autonomous regions of Aceh and Papua exercise a greater degree of fiscal and administrative autonomy and retain a greater share of income from their natural resources. Responsibilities reserved for the national government include foreign policy, defense, security, the judiciary, monetary and fiscal policy, religion, national development planning, and natural resource exploration. Regional governments are fiscally dependent upon the national government, and the national government controls the revenue collection and allocation processes.

Regional traditional and customary arrangements: The Papua People's Assembly, the unicameral legislative body of the autonomous region of Papua, is comprised of indigenous Papuans. Representatives are members of customary communities, religious communities, and women,

with each group comprising one-third of the membership. The Assembly's duties include legislating, upholding adat (traditional customary law), and protecting the rights of Papua natives. Aceh is the only region in Indonesia completely governed by Sharia, and it also recognizes adat, provided that it is in accordance with Sharia. The Wali Nanggroe, an Aceh head of state, embodies the history and traditions of the region and has the power to oversee and implement adat institutions and affairs.

■   **Option Category E: Free Association**

The option category Free Association is based on the concept of units having the ability to associate – through their own free and voluntary choice – with an independent State.[16] **Free association is not necessarily a stand-alone governance option; it could be integrated into arrangements under option categories A, B, C, or D.**

Free association can serve to accommodate political interests where sovereignty is contested or aspired to, as a middle ground between independence and integration. While independence and integration allow relatively little variation, free association can provide significant variability in the relationship between a principal sovereign State and an associated state, which can lead to wide-ranging degrees of autonomy.

Negotiations between the principal State and associated state determine the level of autonomy and specific responsibilities that constitute a free association arrangement. Typically, these arrangements include a locally elected legislature with independent legal authority that the principal State can only veto if the local legislature exceeds its responsibilities. They also typically include a locally selected chief executive with responsibility for administering local and national laws and an independent local judiciary with full responsibility for interpreting local laws. In most cases, defense and foreign policy remain in the hands of the principal State.[17]

Free association allows for significant autonomy while leaving some responsibilities with the principal State. Such an arrangement requires cooperation between the principal State and associated state, particularly in coordinating which responsibilities remain with the principal State, are transferred to the associated state, or are shared between the entities.

Free association agreements also include explicit or implicit provisions for the subsequent choice of the associated state to remain in the association. Associated states may enter into economic and other agreements with other States, as long as those agreements do not hamper its relations with the principal State or otherwise interfere with the principal State's foreign relations.

---

[16] The notion of free association was established by the United Nations General Assembly Resolution 1541 (XV) Principle VI. Although the idea of free association emerged from decolonization efforts, arrangements incorporating free association–like provisions do not require formal recognition by the United Nations.

[17] Samuel J. Spector, "Negotiating Free Association between Western Sahara and Morocco: A Comparative Legal Analysis of Formulas for Self-Determination," *International Negotiation* 16 (2011), 115.

Interplay between Strands

Option Category E does not present specific options for each Strand, but the relationships among these Strands remain important. The electoral system, executive, and legislative branch relate to the political structure in affording a high degree of autonomy to the associated state, which has its own locally elected legislative authority and chief executive.

Advantages and disadvantages of Option Category E

Some of the advantages and disadvantages of Option Category E are presented in the following table.

Advantages of Option Category E	Disadvantages of Option Category E
Autonomy of associated state would be significantly protected Under a free association arrangement, the principal State's government has very little capacity to exercise authority over the associated state. This division of responsibilities can be enshrined in the constitution and thereby protected from revision, requiring support from the associated state. **Delayed sovereignty could allow time for a smooth transition** Free association arrangements often include mechanisms for achieving sovereignty following a delay (e.g. a vote on remaining in the association is postponed for several years or until specific benchmarks are achieved). Delayed sovereignty could be a useful tool in the Sudan by allowing time to establish stability and develop Sudanese institutions before addressing the question of sovereignty of associated entities. **Arrangements could be flexible and cost-efficient** The free association model is highly flexible and can be adapted to meet diverse needs. The division of responsibilities can take any form and may produce efficient cost-sharing. For example, it may be beneficial to the associated state and principal State to share costs associated with security and armed forces.	**Abundant associations could weaken national governance** If several subnational entities pursue the free association option, it could unduly weaken the principal State, particularly if the associated states possess major sources of revenue (e.g. natural resources, commercial trade). In the worst case, the principal State could become underfunded and irrelevant. **Delayed full sovereignty could fail to materialize** By delaying full sovereignty, an associated state risks the possibility that a referendum for independence could be significantly delayed or fail to materialize due to political or other constraints. **Lack of power-sharing mechanisms could reduce the influence of the associated state** While free association provides an associated state with greater autonomy, there is less emphasis on power-sharing mechanisms compared to some of the other options. This lack of power-sharing mechanisms could result in less influence for the associated state over the exclusive responsibilities of the principal State, such as defense and foreign affairs.

Case Study 13 – Free association between **Bougainville and Papua New Guinea**

Bougainville is an autonomous region freely associated with Papua New Guinea. A peace agreement in 2001 established the free association arrangement, providing Bougainville with the right to assume increasing control over governance responsibilities. Bougainville adopted a constitution in 2004 to determine its autonomous governance structures and serve as supreme law for matters within Bougainville's jurisdiction. Most governance responsibilities have been

devolved to Bougainville, including education, health services, agriculture, and police. Papua New Guinea maintains responsibilities including defense, security, foreign relations, and management of the national economy. Additional responsibilities may be transferred or shared over time. Bougainville is responsible for its revenue collection and is required to contribute funds to Papua New Guinea. The agreement allows for Bougainville to become financially self-reliant and sets out a grants system to support Bougainville until it is self-reliant.

The free association arrangements allow Bougainville to form its own government, including a unicameral legislature, executive council, and court system. The constitution allows for the creation of other levels of government and recognizes the pre-existing Council of Elders as a level of formal government. Members of the legislature are directly elected, with seats reserved for women and former combatants. The executive council consists of an elected president and appointed vice president, a woman member of the legislature appointed by the president, and other appointed members, some representing specific regions.

The constitution allows for plebiscites and other procedures for public participation in law making. Bougainville may hold a referendum for independence 10 to 15 years following the establishment of its autonomous government. The constitution recognizes the clan structure and customary leadership of Bougainville's communities, as well as the roles, responsibilities, and authority of traditional chiefs.

Case Study 14 – Free association between **New Caledonia and France**

New Caledonia is a special collectivity of France whose status was established by the 1998 Noumea Accord after various independence movements. The agreement progressively transfers governance responsibilities from the French government to the government of New Caledonia over a period of 15 years. A referendum on self-determination may be held 15 to 20 years after the establishment of a New Caledonian government, with the possibility of the "emancipation of the territory." France maintains responsibilities including international relations, justice, public order, defense, finance, currency, and secondary and higher education unless self-determination is approved through a referendum. New Caledonia may join international and regional organizations as an observer. Once legislative powers have been transferred, France may not reclaim them.

The French president is considered the head of state. An 11-member executive committee is the highest executive power within New Caledonia, and a high commissioner represents the French government in New Caledonia. The legislature is bicameral with a 54-member Assembly and a Senate composed of 16 customary chiefs who are consulted on matters relating to the identity of New Caledonia's indigenous inhabitants. The executive committee is appointed by the legislature, and the legislature is indirectly elected through a proportional representation system. New Caledonia maintains two representatives and one senator in the French National Assembly.

A referendum was held on the Noumea Accord in 1998. The Accord was approved by approximately 72 percent of the population of New Caledonia. New Caledonians continue to vote in French National Assembly elections, French presidential elections, and for the European Parliament. The Noumea Accord creates a New Caledonian "citizenship" distinct from French "nationality."

■ **Option Category F: National Consensus Model**

The option categories presented so far reflect a degree of decentralization based on territorial areas or units. The option category *National Consensus Model* reflects a series of options that move away from a predominantly territorial-based approach to structuring governance arrangements and allocating responsibilities in a form of consociation. As used here, 'consociation' refers to an arrangement in which various constituencies come together to associate in a way that accommodates different constituencies' political interests and perspectives.

Arrangements for political accommodation in this option category across the six Strands are intended to instill a sense of Sudanese national identity and to foster a national coming together of elements of Sudanese society across territorial, ethnic, and tribal cleavages. As one way to promote this sense of national identity, members of the civil service are trained and deployed in regions other than their home area.

In this option category there are two levels of government: national and local. The national level determines wealth allocation based on criteria including human development, local revenue potential, natural resources, and other factors at the level of the locality. Local governments are responsible for implementing government programs and providing services and are heavily supported by national institutions and resources.

The national executive consists of a seven-member National Executive Council. The members of this Council are appointed by the five parties with the greatest number of votes nationwide (two representatives from each of the two parties with the most votes, and one from each of the next three parties with the most votes). The Council elects a president for a two-year term by consensus or with a minimum of five of seven votes and makes most decisions by simple majority vote. Certain 'scheduled' decisions (identified in the constitution) require at least five out of seven votes.

The national legislature consists of either one chamber (Option F-1) or two chambers (Option F-2). The lower house (or single house) is called the National Assembly. The 424 members of the National Assembly are elected through a mixed majoritarian-proportional system: half are elected from single-seat geographical constituencies and half from open political party lists presented at the national level. The party lists have a 30 percent quota for women, and voters can express their preference for individual candidates on the list. The legislature makes decision by consensus if possible or by simple majority. For Option F-2, where there are two chambers, the upper chamber of the legislature is a Council on Traditional Administration. The 34 members of the Council are appointed based on a system determined at the preceding nationwide Traditional Administration Conference. The Council on Traditional Administration consults the National Assembly on legislation, but its approval is not required for the passage of legislation.

This option category has limited opportunities for public participation, such as through popular consultation on legislation.

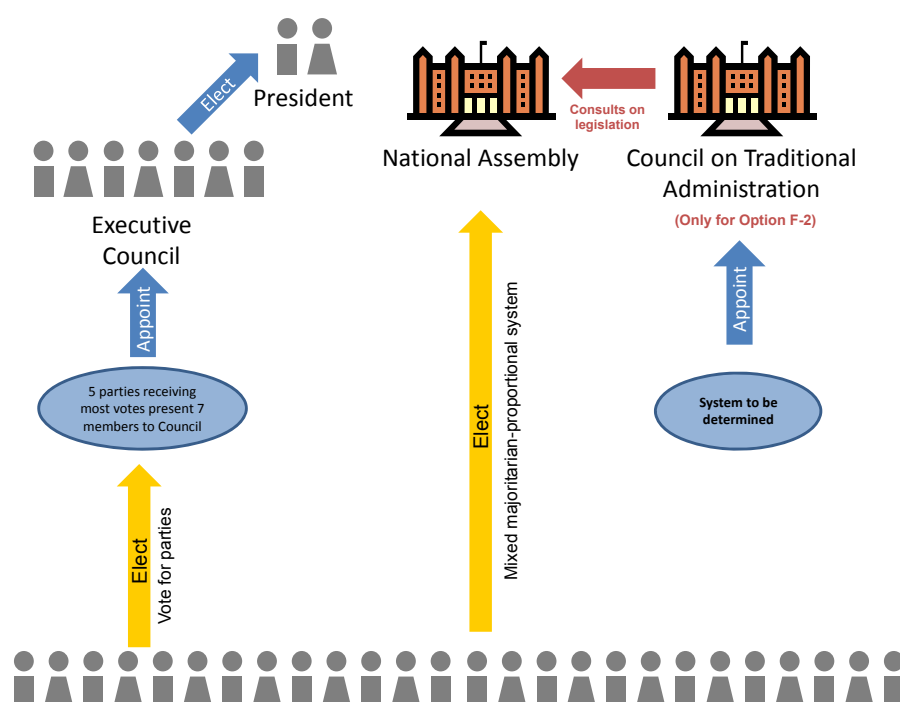Figure 8 – Option Category F: National Consensus Model

Table 6 – Key attributes for political accommodation, Option Category F

	Option F-1	**Option F-2**
Political structure & decentralization	• <u>Non-territorial-based consociation</u>: two levels (national, local) • <u>Responsibility distribution</u>: national government has most responsibilities and heavily supports local governments • <u>Resource distribution</u>: national government determines wealth allocations to local governments	• *Same as Option F-1*
Electoral system	• <u>Selection of national executive</u>: National Executive Council is selected by the five parties with the greatest number of votes nationwide; president is elected by the National Executive Council for a two-year term by consensus or a minimum of five of seven votes • <u>Selection of national legislature</u>: National Assembly is elected half from single-member geographic constituencies, half from open party lists with a 30 percent quota for women	• <u>Selection of national executive</u>: *Same as Option F-1* • <u>Selection of national legislature</u>: *National Assembly same as Option F-1*; Council on Traditional Administration is appointed based on a system to be determined at the preceding Traditional Administration Conference

	Option F-1	Option F-2
Executive	• National executive: seven-member National Executive Council represents the five parties that received the greatest number of combined votes (based on the formula 2-2-1-1-1) • Decision making: National Executive Council decides by simple majority; 'scheduled' decisions require a minimum of five out of seven votes	• *Same as Option F-1*
Legislative branch	• National legislature: unicameral legislature with 424 members • Decision making: legislature decides by consensus if possible or by simple majority	• National legislature: bicameral legislature; lower house (National Assembly) has 424 members; upper house (Council on Traditional Administration) has 34 members • Decision making: *same as Option F-1*
Public participation	• Limited opportunities for public participation, such as through popular consultation on legislation	• *Same as Option F-1*
Traditional & customary arrangements	• No formal traditional and customary arrangements	• Traditional leaders represented in the Council on Traditional Administration

Interplay between Strands

In Option Category F, although power is highly centralized in the national government, relationships between the electoral system, executive, legislative branch, and traditional and customary arrangements provide opportunities for political accommodation. The electoral system for the national executive ensures that the National Executive Council reflects a wide range of political interests. Under Option F-2, the national legislature incorporates traditional and customary arrangements through the Council on Traditional Administration.

Advantages and disadvantages of Option Category F

Some of the advantages and disadvantages of Option Category F are presented in the following table.

Advantages of Option Category F	Disadvantages of Option Category F
Non-territorial basis would de-emphasize territorialism Options in this category would assist in overcoming territorialism in the Sudan by eliminating governance arrangements structured according to regions or states. These options could encourage and nurture a national Sudanese identity.	**Absence of lower levels of government could pose a challenge to service delivery** The absence of levels of government between the national and local levels could present a challenge to effective service delivery, particularly in areas that have had inequitable access in the past.

Advantages of Option Category F	Disadvantages of Option Category F
Multi-member executive could encourage consensus The model for the National Executive Council could promote political accommodation among five political parties that receive the most votes, as some decisions of the National Executive Council require five of seven members to concur. **Multi-member executive could represent wider range of interests** The multi-member National Executive Council could allow the national executive to represent individuals representing multiple interests at the same time, affording greater opportunities for political accommodation than typical one- or two-member executives. **Electoral system would be simple** The system of electing the president from within the Executive Council simplifies the electoral system. **Council on Traditional Administration could restore confidence in traditional leaders** The use of a bicameral system with a Council on Traditional Administration could assist in restoring and rebuilding confidence in traditional leaders, even if these leaders only have a consultative and advisory role.	

Case Study 15 – Non-territorial-based consociation in **Lebanon**

Lebanon is a highly centralized unitary state divided into six administrative zones called governorates. The governorates, aside from Beirut, are divided into districts, which are subdivided into municipalities. The national government maintains close control over the operations of local government. Both administrative and fiscal decentralization are defined by a striking contrast between the authority that municipalities technically possess through law and that which they have in practice. The state operates under a system known as confessionalism. Confessionalism seeks to accommodate the many and varied sectarian interests of Lebanon's population, which is a mixture of Christian sects, Sunni Muslims, Shia Muslims, Druze, and other religious minorities, by proportioning government positions and important public offices along religious lines.

The executive branch of government comprises the president, prime minister, and council of ministers. The prime minister, who is appointed by the president, is a Maronite Christian, and the president, who is elected by the legislature, is a Sunni Muslim. The ministries are divided among the various sects. Executive power is vested in the prime minister, who appoints and heads the council of ministers. The president is primarily figurative. Each of the six governorates is administered by a governor appointed by the council of ministers.

Lebanon has a unicameral legislature known as the Chamber of Deputies. The legislature is divided equally between Christians and Muslims. The seats are then sub-divided among eleven confessional groups. Candidates for the legislature must run as representatives of one of these eleven confessional groups. Voting is conducted through a 'bloc vote' system in multi-member electoral districts. The speaker of parliament, a Shia Muslim, has the authority to appoint all parliamentary staff, delay legislative proposals, call parliament to session for a vote, and refer bills to specific committees.

5. Conclusion

5.1   New horizons for political accommodation and peace

This paper has presented six categories of options for political accommodation in the Republic of the Sudan. While each option category has advantages and disadvantages, all six have been designed to take into account key interests and perspectives, as well as broader considerations, such as geography and historical legacy. The methodology presented and options developed aim to stimulate and feed into discussions around future governance arrangements in the Sudan and can be used wholly or in part as a way of designing governance structures that achieve political accommodation and effect mutual conciliation.

5.2   Enabling processes for political accommodation

The options for political accommodation presented in this Briefing Paper relate to technical governance arrangements (the 'substance' of governance arrangements). At the outset of this document, political accommodation was identified as a construct that encompasses not only substantive governance arrangement but also processes through which to achieve mutual conciliation of people's political interests and perspectives. A separate series of documents will elaborate the process component of the methodology and process options to accommodate political interests and perspectives.

However, the frameworks and technical options presented here can usefully provide a common mediating substance across several of the separate political dialogue processes ongoing in the Sudan as of January 2014. The analysis of existing arrangements for political accommodation, presented in *Annex IV*, has demonstrated that the legacy of a 'piece-by-piece' approach to political discourse and evolution of governance arrangements in the Sudan has been governance arrangements that are at times inconsistent and that do not effectively accommodate political interests.

By providing this common substance across several political processes, the frameworks and options for political accommodation can (i) provide a common set of tools and vocabulary to assist in bringing the different dialogue processes into a 'whole of Sudan' approach, (ii) provide inputs to a national dialogue on how best to accommodate political interests and perspectives, and (iii) help to eliminate inconsistencies across governance arrangements at national and subnational levels.

5.3   Areas for further research

Further research in a number of areas could continue to support Sudanese efforts to explore, build consensus around, and implement arrangements for political accommodation. Areas identified during research and consultations underlying this Briefing Paper include:

- Elaboration of preliminary options for processes that can assist in accommodating political interests and perspectives and that can move toward a 'whole of Sudan' approach (following further consultations)

- Development of more detailed options for political accommodation related to the executive, legislative branch, and electoral system
- Further research into traditional and customary arrangements
- Exploration of the interlinkages between Islam and political accommodation

Annex I: Methodology for political accommodation

Section 2 presented seven steps that comprise the methodology for applying the frameworks for political accommodation. This annex describes the seven steps in more detail.

STEP 1: ASSESS EXISTING ARRANGEMENTS

The first step in considering options for political accommodation is to assess what arrangements currently exist or are being proposed and how effective they are at achieving conciliation of political interests. If the existing or proposed arrangements are widely viewed as effective, then there may be little reason to change these arrangements.

As an initial starting point, the assessment of existing arrangements looks at the governance arrangements across the six 'Strands,' the interlinkages between these Strands, and how these arrangements are being implemented in practice. That is, it is important to consider the system design as well as its implementation. *Annex IV* of this Briefing Paper presents the results from this step.

STEP 2: IDENTIFY AND MAP POLITICAL INTERESTS

Since political accommodation is concerned with reconciling political interests and perspectives, it is important to identify and map the range of political interests to be accommodated. This can be undertaken through extensive bilateral, small group, and multilateral consultations.

STEP 3: IDENTIFY OPPORTUNITY AREAS FOR POLITICAL ACCOMODATION

The assessment of existing arrangements for political accommodation and the mapping of political interests help to illuminate some areas that present opportunities for political accommodation. At this stage it is also important to identify existing or planned political or dialogue processes, since political accommodation is equally related to the ultimate governance arrangements for accommodation and to the processes by which these arrangements can be realized.

STEP 4: DEVELOP CONSIDERATIONS FOR OPTION DEVELOPMENT

With six Strands in the typology and many possible variations on the arrangements within each Strand, there may be a large number of possible options that can accommodate political interests and perspectives. To assist in focusing more closely on a small number of categories of options, a range of considerations can be identified. These are the factors that should be considered when developing options. These considerations include the clusters of political interests and perspectives that will have been gathered. However, it is also important to use other factors when considering options, including, for example, the cost of the governance arrangements and international experiences of the way in which certain combinations have worked.

STEP 5: DEVELOP OPTIONS

Using the considerations mentioned above, the next step is to develop a range of options for political accommodation. This range of options should generally include a variety of arrangements that 'speak to' the interests of the people. Not all options will effectively accommodate all interests. One important component of developing the options is to use the indicators for political accommodation to assist in assessing the effectiveness of the various options.

STEP 6: CONDUCT OUTREACH TO TEST OPTIONS

Options that have been developed using this methodology can be tested (to see if they will indeed accommodate political interests and perspectives) through outreach with a broad range of constituencies. This can include the people and constituencies who were initially consulted to learn more about their political interests in Step 2.

Feedback from this outreach step will assist in refining or even redesigning the options for political accommodation.

STEP 7: IMPLEMENTATION

The final step in the process is implementation of the options around which it has been possible to build sufficient consensus

Annex II: Political accommodation terms A-Z

Asymmetric decentralization: The unequal distribution of authority and responsibility for public functions from the national government to subordinate or quasi-independent government organizations. This may be done constitutionally or through ordinary laws, and results in different administrative arrangements or financing structures. Constitutional provisions might also provide for subnational units to 'opt-in' or 'opt-out' of particular relationships with the national government, or for different categories of subnational units, such that some have arrangements for special autonomy.

Bicameral legislature: A legislature comprising two legislative or parliamentary chambers, with each playing a role, not necessarily equally, in consenting to proposed laws.

Consociational democracy or consociationalism (rather than consociation): A form of government involving guaranteed inclusion of political leaders and parties representing different groups. It has been promoted as a way of managing conflict in deeply divided societies, of sharing power between rival communities divided by ethnicity, language, religion, or other factors and where majoritarianism, or single-party government, is deemed to be unworkable. The term was developed by the Dutch political scientist Arend Lijphart.

Federalism: A political system in which there are two or more constitutionally established levels of government, each directly elected and with some autonomy from the other, and where the governments at each level are primarily accountable to their respective electorates. This in in contrast to a unitary system where there is a single central source of political and legal authority.

First past the post: A voting system in single-member districts under which the candidate who gains the most votes is elected. Only a simple majority, not an absolute majority, is required to win the contested seat. In this system, voters vote for candidates rather than political parties.

Fiscal allocations: The manner in which expenditures, revenues, transfers, and borrowing is distributed among national and subnational governments.

Geographic constituency: A geographically-defined electorate that determines a representative to be sent to a national parliament, or other elected legislature or assembly.

Lower house: In a bicameral legislature, the chamber that generally has a larger elected membership and is thereby more representative. Typically, it is the more powerful of the two chambers if power is unequal between them.

Minimum threshold: The minimum level of support (often a percentage of valid votes cast) that a political party must receive in order to be eligible to compete for a seat. These may be either written into the electoral law ('formal thresholds') or merely mathematically de facto ('effective thresholds').

Multi-cameral system: A system comprising two or more legislative or parliamentary chambers. Most multi-cameral systems remain bicameral.

Multi-seat constituency: An electoral district from which more than one representative is elected to a legislature or elected body. Under proportional representation, parties win seats in close proportion to their share of the votes. The use of multi-seat constituencies can potentially accommodate representatives from communities that may not constitute the majority but that still have significant support.

Mutual conciliation: A process of assisting multiple parties with competing interests to find compatible interests and/or reach an agreement.

Opt-in provision: A constitutional or other legal clause that allows a subnational unit to choose whether to abide by the specific provision or not.

Opt-in federalism: A system where an established territorial entity – whether an independent, sovereign State or a subnational unit within a State – can choose to join (or 'opt-in' to) a federal arrangement.

Parallel consent: Types of decision-making procedures that require concurrent simple- or super-majorities within two or more communities in order for certain types of decisions to be adopted. This form of decision making has been used in the legislative assemblies of Northern Ireland and the State Union of Serbia and Montenegro (2003–2006), among other contexts.

Plurality/Majority system: A system based on the principle that a candidate(s) or party with a plurality of votes (i.e. more than any other) or a majority of votes (i.e. 50 percent + 1 – an absolute majority) is/are declared the winner(s).

Political accommodation: The objectives, processes, or outcome of mutual conciliation around competing political interests and perspectives. It is more inclusive than power sharing or consociationalism in that it does not limit itself to mutual conciliation only of the political elites.

Political party list: A list of candidates selected by a political party to seek election under the party name and proposed for an electoral district under a list system.

Power sharing: A governing arrangement consisting of a coalition of two or more political parties and resulting from either pre- or post-election bargaining between or among the parties.

Proportional representation: An electoral system based on the principle that the people chosen to act or make public decisions on behalf of a population are proportionate in number and allegiance to the social groupings that comprise the population. All proportional representation systems require the use of multi-member districts. Also known as full representation.

Party list proportional representation: A system in which each party or grouping presents a list of candidates for a multi-member district. The voters vote for a party, and the seats are filled from the lists according to each party's overall share of the vote. In a closed list system, winning candidates are taken from the lists in order of their position on the lists. In an open list system, voters can influence the order of the candidates by marking individual preferences.

Responsive government (rather than governance): A government that is ready and able to respond rapidly to societal changes, to take into account the expectations of civil society in identifying the general public interest, and to critically examine its actions and policies.

Single-seat constituency: An electoral district from which only one representative is elected to a legislature or elected body. The candidate or political party receiving the highest number of votes secures the seat, excluding other parties from representation in that constituency.

Super majority decision making: Any decision-making process that requires more than a simple majority (50 percent + 1) of the votes to ratify a decision. Common examples are two-thirds or three-quarters majority rules and unanimity. Compared to a plurality or simple majority process, this process makes it more difficult to upset the status quo. Also known as qualified majority rule.

Unicameral legislature: A legislature comprising only one legislative chamber.

Unitary State: A State with a single center of sovereign political authority as opposed to a federal State. It can be centralized or decentralized, but decentralized regional or local governments do not have constitutionally protected status.

Upper house: One of the two chambers in a bicameral legislature, often seen as containing 'the representatives of regions/federal states' or as 'a chamber of review.' Generally, the upper house is the less powerful chamber when the powers of the two chambers are unequal.

Women's list: An independent list of woman candidates for an electoral district under a list system.

Common words with specific meaning in the political accommodation Briefing Paper

Building blocks: The option components, or complementary choices, across Strands for assembling coherent options for political accommodation.

Considerations: Clusters of people's political interests derived from needs, perspectives, and aspirations, as well as other factors that need to be considered when developing options.

Electoral system: The method of converting votes into seats in an elected body, including forms of representation (majoritarian and proportional), systems for translating raw vote totals into electoral outcomes to decide who will hold public office for the term, and the electoral institutions and processes (including the resolution of electoral disputes) that can make elections an effective tool of political accommodation.

Executive branch: One of the three branches of government, consisting of its head of state, head of government, and/or other organs that assist in overseeing the implementation of national policies, especially the offices that make up the executive (e.g. president and prime minister) and the power divided between the executive and the legislative branch.

Framework: A basic conceptual structure or system.

Legislative branch: One of the three branches of government, most commonly classified as unicameral (one chamber) or bicameral (two chambers). It is responsible for the creation and changing of laws, and the approval of the national budget.

Opportunity area: Potential arrangements or choices within a specific Strand with the potential to enhance political accommodation.

Option (rather than preliminary option): A governance arrangement comprised of complementary choices across each Strand of political accommodation.

Political interests: 'Enlightened preferences,' or the choices an individual would make with all possible information available regarding those options and any alternatives.

Political structure: The composition of national and subnational units and their relation to each other that defines the political system and boundaries. There are many different configurations and types of subnational units which can comprise the political structure.

Public participation: The mechanisms and systems through which the public influences and shares control over priority setting, policy making, and resource allocations.

Strand: One of six focal areas or pillars of governance institutions through which political interests can be pursued and accommodated. The six Strands are: political structure and decentralization, electoral system, executive, legislative branch, public participation, and traditional and customary arrangements.

Tools: Instruments of analysis for political accommodation.

Traditional and customary arrangements: Evolved customary practices and governance institutions, either formal or informal, founded on laws that derive from customs and cultures of indigenous people.

**Typology:** Classification and analysis of the six different Strands.

Annex III: The Sudan's changing landscape

Since independence, the Republic of the Sudan has undergone important demographic, socio-economic, and political changes. The Sudanese are more numerous, more literate, and more urban than at any time in their history, and new economic patterns of industry, trade, and commerce have emerged. These demographic and economic shifts, combined with the secession of South Sudan, regional political shifts brought on by the political transitions in the Middle East and North Africa since 2011, and ongoing conflict in the south and west of the country, have changed the nature of politics in the Sudan.

In 1956, there were fewer than ten million people in the northern states of the Sudan (what is today the Republic of the Sudan), only 11 percent of whom lived in urban areas. Women's literacy stood at 3 percent and male literacy at 28 percent. Cotton was Sudan's largest export, Al Gezira its largest economic scheme, and Britain its largest trading partner.

Over the course of the nearly six decades since independence, the population of the Sudan has tripled to over 30 million, women's literacy has risen by a multiple of 17, male literacy has almost doubled, the economy has been transformed by oil and gold, and the Sudan's main trading partners have changed to China and the Gulf States. These long-term socioeconomic trends have re-oriented societal cleavages, placing questions of what it means to be Sudanese in a generational timeframe.

Figure 9 – A rising population[18]
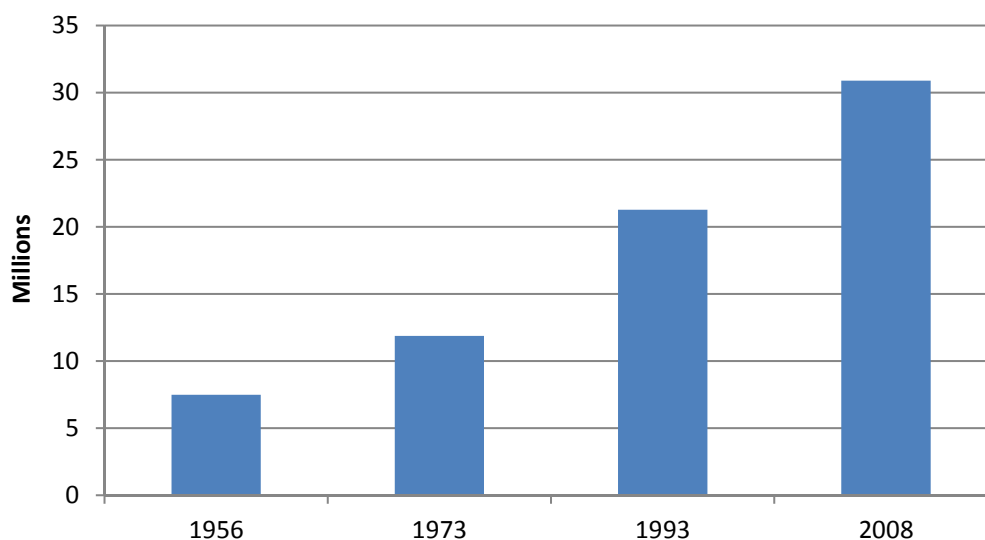
Total population of the northern states of the Sudan (the Republic of the Sudan today)

---

[18] Department of Statistics of the Sudan, *Final Report: First Population Census of Sudan (1955/1956)*, Khartoum, 1961; Department of Statistics of the Sudan, *Final Report: Second Population Census of Sudan (1973)*, Khartoum, 1977; Department of Statistics of the Sudan, *Final Tabulations: Fourth Population Census of Sudan (1993)*, Khartoum, 1995; Central Bureau of Statistics of the Sudan, *Statistical Yearbook (2009)*, Khartoum, 2009.

Figure 10 – Increasing levels of female literacy[19]
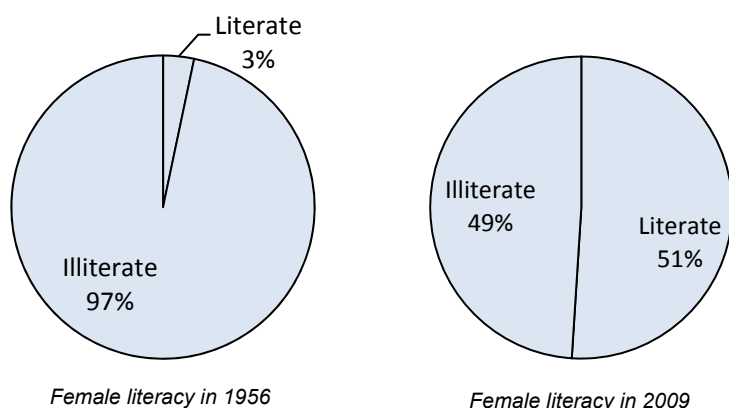
Literate
3%

Illiterate
97%

Female literacy in 1956

Illiterate
49%

Literate
51%

Female literacy in 2009

A series of immediate political challenges has heightened the impact of these long-term demographic and socioeconomic trends. The formal secession of South Sudan has been followed by sporadic and limited conflict along the border between the two countries, significant loss of oil revenues, ongoing conflicts in Southern Kordofan and Blue Nile states, and the unresolved status of the Abyei Area. In addition, the Sudan has experienced 'ripples' from political transformations in North Africa and the Middle East, where rapidly changing countries such as Tunisia, Egypt, and Libya are threatening to overtake the Sudan as beacons of change and modernity. These immediate internal and regional challenges, combined with long-term demographic and socioeconomic changes, have contributed to a 'perfect storm' of political and economic volatility with the potential to exacerbate societal cleavages, disputes, and grievances.

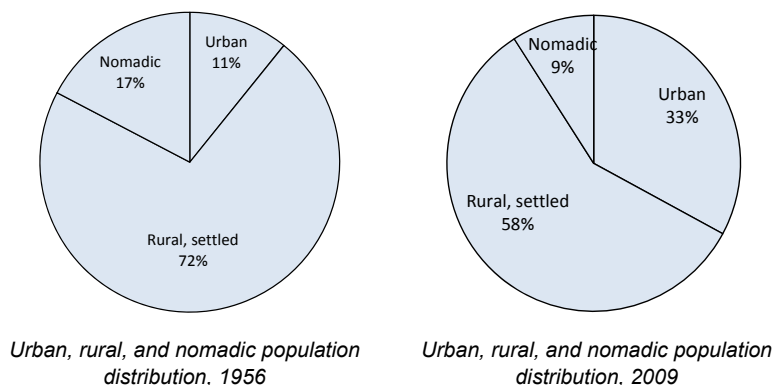Figure 11 – An increasing urban population[20]

A series of immediate political challenges has heightened the impact of these long-term demographic and socioeconomic trends. The formal secession of South Sudan has been followed by sporadic and limited conflict along the border between the two countries, significant loss of oil revenues, ongoing conflicts in Southern Kordofan and Blue Nile states, and the unresolved status

Urban
11%

Nomadic
17%

Rural, settled
72%

Nomadic
9%

Urban
33%

Rural, settled
58%

Urban, rural, and nomadic population distribution, 1956

Urban, rural, and nomadic population distribution, 2009

of the Abyei Area. In addition, the Sudan has experienced 'ripples' from political transformations in North Africa and the Middle East, where rapidly changing countries such as Tunisia, Egypt, and Libya are threatening to overtake the Sudan as beacons of change and modernity. These immediate internal and regional challenges, combined with long-term demographic and socioeconomic changes, have contributed to a 'perfect storm' of political and economic volatility with the potential to exacerbate societal cleavages, disputes, and grievances.

---

19 Ibid.
20 Ibid.

Figure 12 – Trading partners of the Sudan in 2009[21]
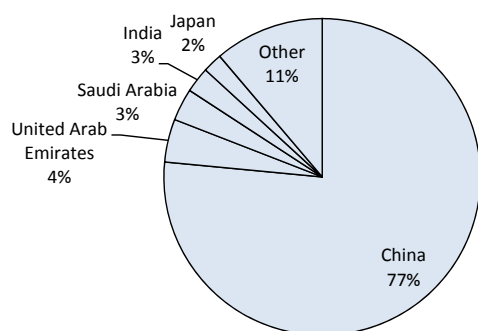
Main destination of Sudanese exports in 2009

This combination of changes – long-term and immediate, internal and regional – presents a new political environment that remains to be shaped. Although volatile, the current transition period also represents an opportunity for the Sudanese people to engage in dialogue on key issues, including systems of governance, arrangements for their participation in political affairs, and the role of Islam.

Political discourse based on legacy ideologies is giving way to a more pragmatic view of the desired relationship between citizen and State.

Important issues that proved divisive in the former republic – including the democratic nature of the State and the need for decentralization – are now de facto agreed in principle, and the debate now revolves around the way in which these principles will be implemented. A new generation is coming of age, unshackled from many of the political preferences of their parents and keen to build a better future. As this rising demographic tide confronts internal and regional challenges that are creating momentum and support for reform, the Sudan faces an opportunity to reshape itself as a stable, peaceful, and prosperous country.

Figure 13 – A changing economy[22]
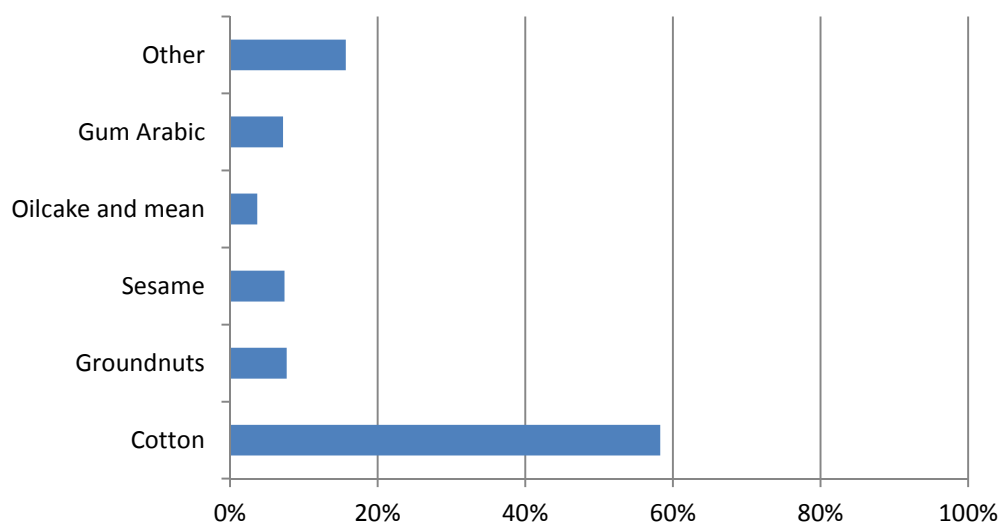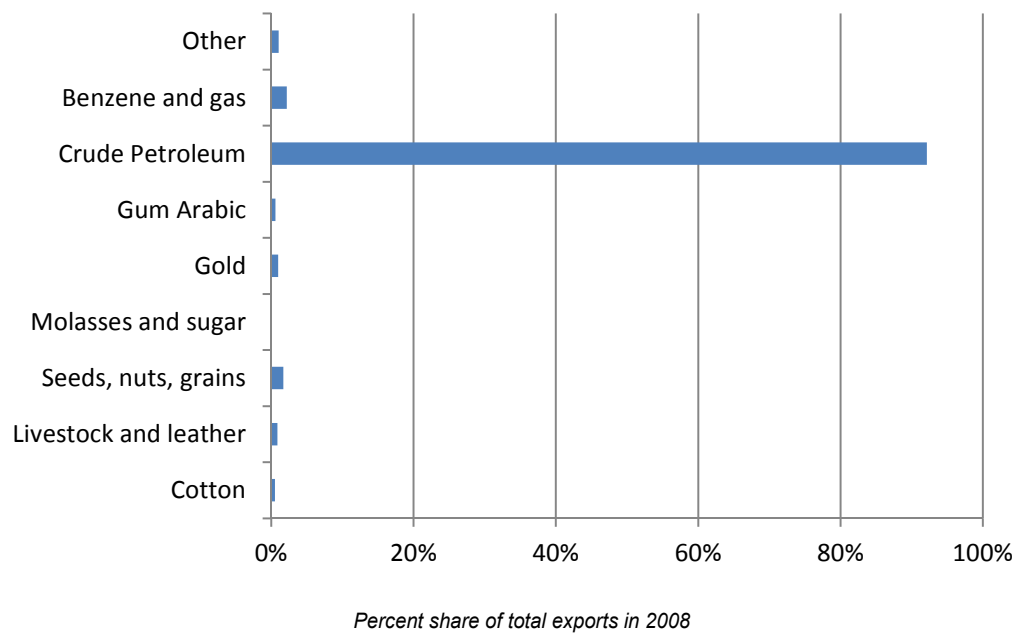

Percent share of total exports in 1972

---

21 Department of Statistics of the Sudan, *Statistical Yearbook (2009)*, Khartoum, 2009.
22 Department of Statistics of the Sudan, *Statistical Yearbook (1973)*, Khartoum, 1973; Department of Statistics of the Sudan, *Statistical Yearbook (2009)*, Khartoum, 2009.

Figure 13 – A changing economy cont.

Percent share of total exports in 2008

Annex IV: Existing arrangements for political accommodation

A first step in considering opportunity areas and exploring options for political accommodation is to assess existing or proposed arrangements through the lens of the six Strands of political accommodation.

As presented in this paper, the study of political accommodation examines comprehensive and sustainable long-term governance arrangements that can incorporate diverse interests, avoiding short-term placation or buy-off.

The focal areas, or 'Strands,' represent six distinct parts of a governance structure where political accommodation can be facilitated: (1) political structure, (2) electoral systems, (3) executive, (4) legislative branch, (5) public participation, and (6) traditional and customary arrangements. While each Strand can be explained and assessed separately from the others, the Strands are also interconnected; understanding how well a given governance structure accommodates diverse interests requires a broad view of all six Strands and how the Strands interconnect.

This section seeks to assess both the potential for existing arrangements in the Republic of the Sudan to accommodate competing political interests and perspectives and the implementation of these arrangements in practice, as even perfectly designed arrangements will not be effective if poorly implemented. However, the analysis here focuses on the implementation of key components of existing arrangements rather than a comprehensive overview of implementation.

This section also identifies points of convergence and divergence among different arrangements that shape the governance framework in the Sudan. These agreements were developed through separate processes, and not all arrangements are consistent with each other. The final constitution will need to address any ambiguities.

Key Legal Documents

Key documents referenced in this section include the Interim National Constitution (amended in 2011); Doha Document for Peace in Darfur (2011); and Eastern Sudan Peace Agreement (2006). For a complete list of documents that are sources of provisions for political accommodation, see *Table A-1* at the end of this annex.

▪ Strand 1: Political structure and decentralization

> *The Republic of the Sudan has a federal system with three levels of government: national, state, and local. The current model set out in the Interim National Constitution was shaped by the Comprehensive Peace Agreement and provides for an asymmetric decentralized federal State structure (with special provisions applying to different states, such as Blue Nile and Southern Kordofan, as well as the Abyei Area). The Eastern Sudan Peace Agreement and the Doha Document for Peace in Darfur also provide for special political representation and revenue transfers for people living in Darfur and Eastern Sudan. Overall, the provisions of these agreements anticipate that states will have substantial autonomy. In practice, however, little of this decentralization has been implemented. Future implementation seems unlikely without substantial change in the context, particularly the dominance of the national executive, the weak ability of states to raise revenue, and weak bureaucratic and service delivery capacity at the state and local levels.*

The Interim National Constitution (INC) of the Republic of the Sudan as amended in 2011 ('amended INC') establishes a "*democratic, decentralized*" system of governance with three levels: (a) national, (b) state, and (c) local. The principles guiding the linkages between these levels of government include that all levels of government should "*(i) respect each others' autonomy, [and] (ii) collaborate in the task of governing and assist each other in fulfilling their respective constitutional obligations.*" Other principles include cooperation, communication, coordination, and amicable settlement of disputes across levels of government.[23]

Responsibility Distribution

<u>The amended Interim National Constitution (INC) of the Republic of the Sudan, 2011</u>

The amended INC lists 45 powers that are exclusive for state governments, including state police, prisons, local government, state media, social welfare, state judiciary, state land and natural resources, cultural matters within the state, religious matters subject to the national constitution, health care, primary and secondary schools, agriculture within the state, pollution within the state, and traditional and customary law. The amended INC lists another 25 responsibilities that are shared between the national and state governments, including economic and social development, tertiary education, health policy, public services, banking, electricity generation and water management, and animal and livestock control. (See *Table A-2* at the end of this annex for a complete list of responsibilities).

If national and state governments dispute where responsibilities lie, the amended INC requires that they set up a committee to resolve the matter. Ultimately, the Constitutional Court has the power to adjudicate such disputes according to four criteria:[24]

"(1) The need to recognize the sovereignty of the Nation while accommodating the autonomy of the states; (2) Whether there is a need for National norms/standard; (3) The principle of subsidiarity; [and] (4) The need to promote the welfare of the people and to protect person's human rights and fundamental freedoms."

---

23 Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Articles 25–26.
24 Ibid. Articles 66, 111, Schedules D–E.

<u>The Doha Document for Peace in Darfur (DDPD), 2011</u>

The DDPD is not yet integrated into the amended INC, but it reiterates the importance of a decentralized federal structure. It calls for "*effective devolution of powers and a clear distribution of responsibilities to ensure fair and equitable participation by the citizens of Sudan in general, and those of Darfur in particular.*" The DDPD mandates proportional representation of the people of Darfur at the national, state, and local levels based on their proportion of the total population. The DDPD also specifies that the signatory movements "*shall be represented at all levels of government on the basis of additional protocols*" between each movement and the national government.[25] One faction of the Justice and Equality Movement (JEM) – not party to the original agreement – has subsequently signed onto the DDPD through one such protocol.

In addition to the Sudan's state-based system, the DDPD mandates the establishment of a Darfur Regional Authority (DRA) responsible for cooperation and coordination among the states of Darfur. The DDPD grants the DRA responsibilities including reconciliation, reconstruction and development, return and resettlement of internally displaced persons (IDPs) and refugees, land use, education, health and environment, protection of human rights, and control of small arms and light weapons. The DDPD stipulates, however, that the DRA's responsibilities shall not contradict or affect the exclusive powers of the states in Darfur or of the national government. It also provides for a referendum to decide the administrative status of Darfur, with a choice between retaining the state-based system for Darfur and adopting a regional government.[26]

<u>The Eastern Sudan Peace Agreement (ESPA), 2006</u>

The ESPA states that the parties commit themselves to ensuring "*fair, and effective participation of the people of Eastern Sudan at national, state, local, and national capital levels; and at all institutions*" based on "*relevant precedents, population size, level of marginalization, [and] principles of affirmative action.*" In addition, the ESPA requires that the national government convene a nationwide conference to revisit the country's administrative structure.

Similar to the DDPD, the ESPA also provides for an Eastern Sudan States' Coordinating Council to enhance coordination and cooperation among the three states of Eastern Sudan. The ESPA stipulates that the Council shall be composed of 15 members, including the governors of the three states (who act as rotating chairs), speakers of the assemblies of the three states, three nominees of the Eastern Front, and six representatives selected by the other members.[27]

<u>Agreements relevant to Southern Kordofan and Blue Nile States</u>

The Protocol on the Resolution of the Conflict in Southern Kordofan and Blue Nile States (2004) was incorporated into the INC, and the decentralized nature of the governance arrangements is reflected in the **Blue Nile and Southern Kordofan state constitutions** (2005 and 2006, respectively), which stipulate that in the state, "*self-rule is practiced in the framework of decentralized government as stipulated in the Interim Constitution of 2005.*"[28]

---

[25] Doha Document for Peace in Darfur, 2011, Articles 2-4, 8.
[26] Ibid. Article 10.
[27] Eastern Sudan Peace Agreement, 2006, Articles 5, 7.
[28] Interim Constitution of Blue Nile State, 2005, Article 1; Interim Constitution of Southern Kordofan State, 2006, Article 1.

Resource and Revenue Distribution

<u>The Interim National Constitution of the Republic of the Sudan as amended, 2011</u>

The amended INC addresses the issue of equitable distribution of national wealth. It supports equity in development, fiscal equity, transparency, and accountability. One of its core principles is that the resources and common wealth of the Sudan shall be shared equitably to enable each level of government to discharge its legal and constitutional responsibilities and duties.[29]

The INC sets out the different revenue sources that the national government and state governments are entitled to collect. National revenue sources include, in particular, custom duties, seaport and airport revenue, sales tax, corporate or business profit tax, national personal income tax, grants and foreign financial assistance, and most oil revenue. Oil-producing states receive at least two percent of oil revenue they produce.[30] The main state revenue sources are the two percent state share of oil revenue, state personal income tax, agricultural taxes, and foreign aid. (See *Table A-3* at the end of this annex for a complete list of revenue sources.)

The revenue-raising powers of the states are limited compared to those of the national government. In addition, two key sources of revenue – land and subterranean resources – are not listed in the revenue sources that are allocated. Land ownership affects grazing rights of nomadic people, forest resources, public and commercial use of land, near-surface resources like gold and minerals, commercial farming, land for public use (e.g. schools), national parks, and environmental degradation or protection. Discussions about land and subterranean resources were explicitly excluded from the Comprehensive Peace Agreement, which stated that the *"Agreement is not intended to address the ownership of those resources. The Parties agree to establish a process to resolve this issue."* [31] Such a process has not taken place. The amended INC does provide that land rights will be a shared responsibility,[32] but the national government currently controls most land; under the amended Civil Transactions Act of 1984, all unregistered land is deemed to belong to the national government.[33]

The amended INC provides for wealth transfers from the national government to subnational governments to supplement state revenues and address unequal revenue distribution. To manage this wealth allocation, the amended INC provides for the establishment and operation of a Fiscal and Financial Allocation Monitoring Commission (FFAMC) tasked with monitoring equalization grants and ensuring that revenues allocated to conflict-affected areas are transferred in accordance with agreed formulas. The Commission consists of three representatives of the national government and the finance ministers of all 18 states. The amended INC also recognizes the "*serious needs*" of Southern Kordofan, Blue Nile, and the Abyei Area and provides for the

---

[29] Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Article 143: "*Resources and common wealth of the Sudan shall be shared equitably to enable each level of government to discharge its legal and constitutional responsibilities and duties to ensure that the quality of life, dignity and living conditions of all citizens are promoted without discrimination on grounds of gender, race, religion, political affiliation, ethnicity, language or region.*"
[30] Ibid. Article 146.
[31] Comprehensive Peace Agreement, Protocol on Wealth-Sharing, 2004, Article 2.1.
[32] Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Article 144.
[33] Liz Alden Wily, "Making Peace Impossible? Failure to Honour the Land Obligations of the Comprehensive Peace Agreement in Central Sudan," 2010, 8.

establishment of a National Reconstruction and Development Fund to bring conflict-affected and underdeveloped areas to the national average level of development.[34]

<u>The Doha Document for Peace in Darfur (DDPD), 2011</u>

The DDPD establishes principles for wealth allocation from the national to subnational governments beyond those contained in the amended INC, including compensation for the population of Darfur to address grievances stemming from conflict, a program for accelerated development for Darfur, and funding of a microfinance system in Darfur. More specifically, the DDPD states that the FFAMC shall allocate money to the state governments of Darfur based on population, development indicators, state effort in revenue collecting, impact of the conflict, and geographical size. In addition to these allocations, it requires that the national government financially support social services in Darfur; reform, restructure, and rectify imbalances in the Darfur Reconstruction and Development Fund; and allocate Darfur money from the National Revenue Fund.[35]

<u>The Eastern Sudan Peace Agreement (ESPA), 2006</u>

The ESPA reiterates some of the principles of wealth allocation found in other documents, including increased allocations for war-affected areas. The ESPA also provides for the establishment of an Eastern Sudan Reconstruction and Development Fund to supplement transfers from the FFAMC.[36]

Areas of convergence or divergence

There exists a structural disconnect between the amended INC's state-centric approach and the DDPD and ESPA's de facto mixed state-based and regional approaches. The amended INC does not divide the states into regions, although both peace agreements include regional entities, such as the Darfur Regional Authority (DRA). The agreements have not yet been fully implemented, and ultimately all the governance arrangements for the Sudan should be reflected in the final constitution. These differing approaches raise important questions about whether all states and regions of the Sudan should be treated equally or whether the current asymmetric approach is better able to acknowledge historical disadvantages and provide for better political accommodation.

Assessment

In principle, the Sudan's decentralized system provides opportunities for state-level political representation and decision-making influence by granting numerous responsibilities and some revenue-raising powers to state governments. However, it does not appear that the current decentralized model is adequately implemented to ensure a sufficient degree of political accommodation to underpin peace and stability.

---

[34] Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Articles 142, 150.
[35] Doha Document for Peace in Darfur, 2011, Articles 26, 18-21, 25.
[36] Eastern Sudan Peace Agreement, 2006, Articles 20, 23.

In practice, despite these agreements and the amended INC, the Sudan remains relatively centralized and did not become significantly more decentralized over the period from 2000–2010. Weak implementation of the constitution and the peace agreements has resulted in a model where the national government, in particular the national executive, wields substantially more political, economic, and administrative power and influence than is anticipated under the agreements.

For instance, the INC provides for a Council of States to represent states on the national level. The Council of States, which serves as the upper house of the National Legislature, has, on paper, greater authority than the lower house over matters concerning the states, including decentralization. Each state is represented equally in the Council of States, which could help accommodate the interests of sparsely populated states often marginalized from the national political scene. However, the Council has not, so far, played an important role in advancing the interests of the states.

The DDPD and ESPA provide specific mechanisms to accommodate the interests of the people of Darfur and Eastern Sudan respectively. Both agreements mandate affirmative political representation for the people of these regions, as well as for the signatory movements, on the national, state, and local levels. However, these provisions have not all been implemented.

Moreover, the states have a limited range of options for revenue generation, as the key revenue sources of oil, land, and customs fall under the national government. Therefore, states struggle to raise revenue and are highly dependent on transfers from the national government. Likewise, most local governments are highly dependent on transfers from state governments. This dependence limits the autonomy and capacity of both state and local governments. The weak bureaucratic and service delivery capacity of the states further undermines effective decentralization.[37]

Although the amended INC and both peace agreements anticipate substantial fiscal transfers based on a number of criteria, it is unclear how many transfers have taken place. The FFAMC was established by presidential decree in 2006 to address the inequitable distribution of revenue among states but initially suffered from lack of capacity and resources. The FFAMC has since developed a formula for allocating revenue from the national government to state governments. However, this formula is not widely disseminated and is based on a broad range of criteria that balance each other out to minimize its redistributive effect. Significant inequity among states remains, with little correlation between transfers per capita and poverty levels. In addition, states do not use transparent formulas to allocate revenue to local governments, resulting in unpredictable and inequitable transfers.[38]

Overall, few decentralization provisions have been implemented, and future implementation seems unlikely without substantial change in political and economic incentives and capacity.

---

37 The World Bank, "Sub-National Public Expenditure Review: Fiscal Transfers and Own Revenue Mobilization," Khartoum, 2013; International Monetary Fund, "Sudan: Selected Issues Paper," Washington, DC, 2012.
38 Ibid.

■ Strand 2: Electoral system

> *The president of the Sudan is elected through a two-round system. Members of the Council of States are indirectly elected by state legislative assemblies (two representatives per state), and members of the National Assembly are elected through a mixed system: 60 percent from single-seat constituencies and 40 percent from political party and women's lists. The DDPD and ESPA guarantee proportional representation for Eastern Sudan and Darfur, but these provisions are not reflected in the National Elections Act. In practice the electoral system did not effectively translate votes into seats in the 2010 elections. This was partly because the electoral model is not proportional and hence disadvantaged small parties and partly because of widespread irregularities in voting and the counting of votes.*

The Interim National Constitution of the Republic of the Sudan as amended, 2011

The amended INC affirms the right of citizens "*to elect or be elected in periodic elections, through universal adult suffrage in secret ballot, which will guarantee the free expression of the will of the electorate*" and to form political parties.[39] The amended INC specifies the system for electing the president as a two-round system (see below) but does not specify the system for electing the legislature.[40] It also provides for the establishment and operation of an independent, nine-member National Elections Commission to oversee national and state elections, referendums, and voter registration.[41]

The Doha Document for Peace in Darfur (DDPD), 2011

The DDPD reaffirms the principles governing elections laid out in the amended INC and adds that these elections will take place under national and international observation. In addition, it affirms that "*the representation of the people of Darfur at the national level shall reflect the proportion of the Darfur population to the total population of Sudan*."[42]

The Eastern Sudan Peace Agreement (ESPA), 2006

The Eastern Sudan Peace Agreement reaffirms the principles outlined in the amended INC and DDPD. In addition, it states that "*relevant precedents, population size, level of marginalization, principles of affirmative action, shall be used in determining the representation of the people of Eastern Sudan*."[43]

Arrangements in other agreements and legal texts

The National Elections Act of 2008 as amended in 2011 specifies the electoral systems to be used for elections to four political offices or institutions: (i) the presidency, (ii) the governorship of each state, (iii) the National Legislature, and (iv) state legislative assemblies.[44]

---

[39] Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Articles 40-41.
[40] Ibid. Articles 54, 57.
[41] Ibid. Article 127.
[42] Doha Document for Peace in Darfur, 2011, Articles 2–3.
[43] Eastern Sudan Peace Agreement, 2006, Articles 1, 7.
[44] The National Elections Act, 2008, Articles 26–33.

The president is elected through a majoritarian system in which the winner is the candidate who wins an absolute majority (i.e. more than half of valid votes cast). Where no candidate attains an absolute majority, a second round of voting is held between the two candidates with the highest number of valid votes. State governors are elected through a plurality system in which the winner is the candidate who wins the most votes, regardless of whether that candidate receives more than half.[45]

Members of the Council of States are indirectly elected by state legislative assemblies; each state legislator casts two votes, and the two candidates with the highest number of votes are elected. The 354 members of the National Assembly are elected through a 'mixed' system that combines majoritarian and proportional systems: 60 percent of members are elected from single-seat geographical constituencies, while the remaining 40 percent are elected from political party and women's lists (15 and 25 percent respectively). A party must achieve at least four percent of the vote to win a seat through the party and women's lists. Members of state legislative assemblies are elected through the same mixed system as members of the National Assembly.[46]

Areas of convergence or divergence

The amended INC, DPDD, and ESPA all contain a clear commitment to the principles of free and fair elections as a source of government authority. However, the National Election Act's lack of provisions ensuring representation for marginalized regions contrasts with the DDPD and ESPA's commitment to the principle of representation based on affirmative action. These provisions need to be incorporated into the electoral law.

Assessment

The electoral system for the president allows a candidate to win with a sizeable majority of votes from just one part of the country without appealing to all regions. In the 2010 elections, President Omar al-Bashir ended up being the only candidate to run for president (following the withdrawal of the SPLM candidate) and therefore had no competition. The electoral system for governors only requires a candidate to gain a simple plurality of votes (which can be less than a majority).

The electoral system for representatives to the Council of States facilitates some degree of political representation and decision-making influence by granting equal representation to all states, including historically marginalized states with small populations. However, the party with a majority in each state legislative assembly gains both representatives for that state, undermining the potential for accommodating minority parties.

The electoral system for the National Assembly and state legislative assemblies does not translate voter preferences proportionately into representation. Although some members are elected through a proportional system, most are still elected from single-seat constituencies, and the majoritarian and proportional ballots are not linked (i.e. parties are not awarded seats from the

---

45 The National Elections Act, 2008, Article 26; Interim National Constitution of the Republic of the Sudan, 2005, Article 54.
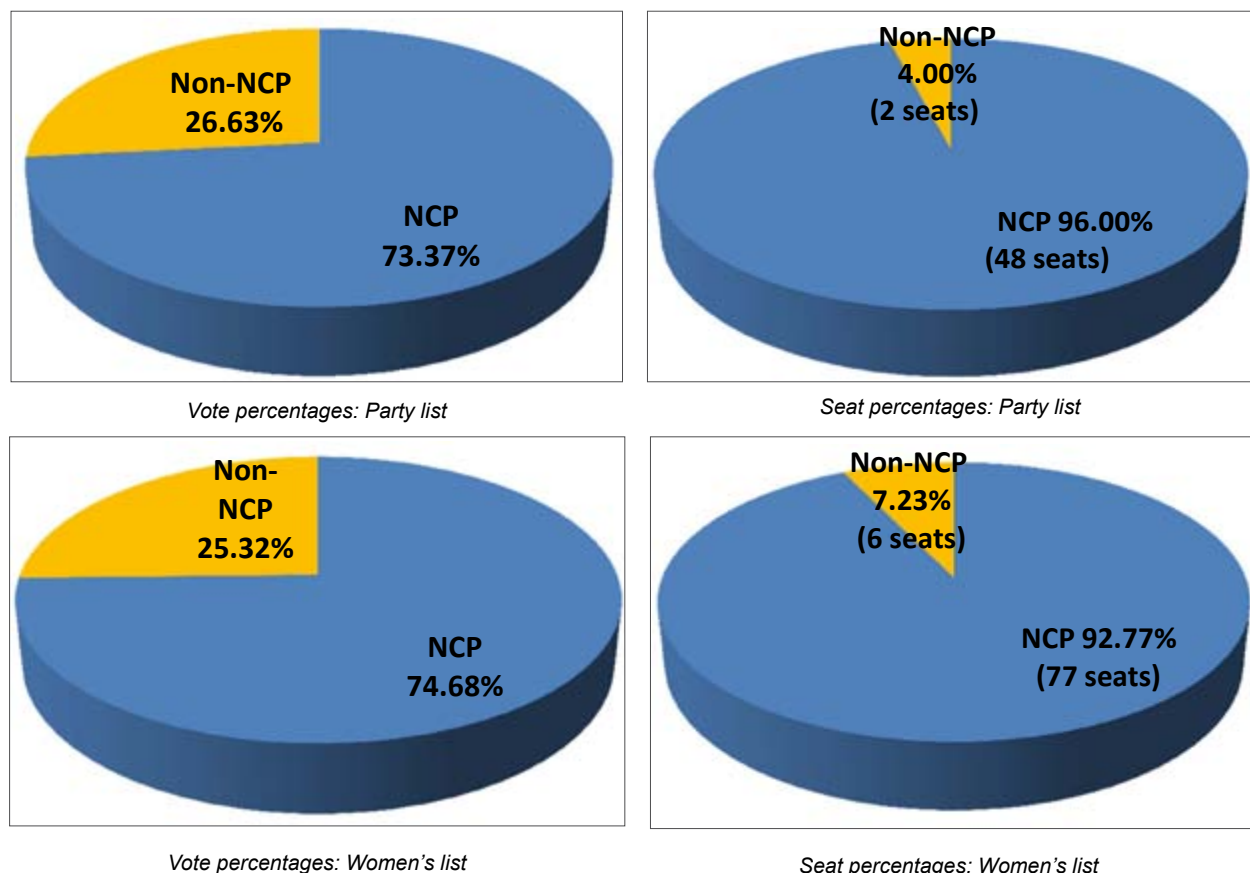46 The National Elections Act, 2008, Articles 29-33. Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Article 54. The National Elections Act, 2008 (amended 2011), Article 26.

proportional ballots in a way that directly compensates for disproportionality resulting from the majoritarian ballot). Moreover, the four percent threshold for the political party and women's lists, the stipulation that political parties submit their lists at the state level, and the requirement that parties run separately rather than as coalitions, favor larger parties with strong national organizational structures.

These factors are compounded by the National Election Act's lack of any special provisions to ensure the representation of the diverse and often marginalized political interests of areas such as Darfur, Eastern Sudan, and the states of Blue Nile and South Kordofan. On the contrary, the DDPD and ESPA both stipulate that Darfur and Eastern Sudan shall benefit from affirmative action in terms of their representation.

The 2010 elections demonstrated that the Sudan's electoral system does not proportionally translate votes into seats. Even the women's list and party list ballots, which were based on the principle of proportional representation, resulted in the NCP winning significantly more seats than its share of the vote, due largely to the factors mentioned above (see *Figure 14*).

Figure 14 – Results of national 2010 elections for women's lists and political party lists, votes and ultimate seats secured, Northern states

Vote percentages: Party list

Seat percentages: Party list

Vote percentages: Women's list

Seat percentages: Women's list

Although the 2010 election did increase representation for some marginalized regions, such as Darfur, it reduced the representation of opposition parties. This reduction of representation was particularly evident because the 2010 elections marked a transition from the CPA's negotiated quotas for the representation of the NCP, SPLM, and other parties. These quotas had ensured a minimum representation of opposition parties in the national legislature.

The election's failure to accommodate the opposition resulted both from the electoral system, which structurally disadvantaged small parties, and from the implementation of the elections. Shortcomings that affected the performance of opposition parties included the absence of campaign expenditure limits, laws limiting the freedom of parties and candidates to campaign, inadequate civic and voter education, and unequal access to the media. In addition, opposition parties failed to mobilize voters, and most ultimately decided to boycott the election.[47]

■ Strand 3: Executive

> *The national executive consists of the president, two vice presidents, the council of ministers, and various other appointed officials. The executive has substantial power both in the amended INC and in practice. The DDPD and ESPA specify how Darfur and Eastern Sudan are to be represented in the national executive, including a vice president from Darfur. These agreements, however, prioritize political representation over political decision-making influence, as the constitution does not provide vice presidents and presidential advisors and assistants formal powers.*

At the national level, the executive consists of the presidency and national council of ministers. At the state level, the executive consists of governors and state councils of ministers. The electoral systems used for the executives at national and state level are described under Strand 2 above.

The amended Interim National Constitution (INC) of the Republic of the Sudan, 2011

The president appoints two vice presidents, the council of ministers, state ministers, presidential assistants and advisors, justices of the Constitutional Court (with approval by a two-thirds majority of the Council of States), and the chief justice of the Supreme Court, among other officials.[48] The functions of the president and the council of ministers are shown in *Table A-4* at the end of this annex.

The assent of the president is required for a bill to become law, and the president can veto bills (the National Legislature can overturn this veto with a two-thirds majority of both chambers).[49] With approval from the National Legislature, the president can declare a state of emergency, which allows him or her to assume the functions of other state organs or of state governments.[50]

---

47 See, for example: The National Civic Forum, "Observation Report: Sudan's General Elections," Khartoum, 2010; Al-Khatim Adlan Center for Enlightenment and Human Development, "General Elections Monitoring Report," Khartoum, 2010.
48 Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Articles 62–63, 109–110, 119.
49 Ibid. Article 98.
50 Ibid. Articles 159-160.

The National Legislature can impeach the president or vice president with a three-quarters majority of both chambers. Any person can challenge an act of the president or council of ministers before the Constitutional Court or another court of law.[51]

Decisions of the council of ministers prevail over all other executive decisions. The council makes decisions by consensus or by simple majority, and all ministers are collectively and individually responsible for the council's decisions.[52]

The CPA, as well as the INC prior to amendment following the independence of South Sudan in 2011, required that one vice president come from Southern Sudan and one from Northern Sudan, with the first vice president coming from the opposite region as the president (in this case, from Southern Sudan). The CPA and INC prior to amendment also required the first vice president to consent to declaration and termination of a state of emergency; declaration of war; appointments specified in the CPA; and summoning, adjourning, or proroguing the National Legislature.[53] The 2011 amendments to the INC eliminated these provisions.

On the state level, the executive consists of a directly elected governor (wali) and a state council of ministers appointed by the governor. The state legislature can remove the governor through a vote of no confidence with a three-quarters majority after he or she has served at least 12 months in office. The state legislature can remove a state minister with a two-thirds majority vote.[54]

The Doha Document for Peace in Darfur (DDPD), 2011

The DDPD stipulates that "*Darfur shall be represented in the National Executive according to the criterion of proportionality*" and that "*a number of Vice-Presidents shall be appointed in a manner that realises political inclusion and representation of all Sudanese including from Darfur.*"[55] Also on the national level, the DDPD stipulates that the president shall appoint a Darfurian as assistant to the president, that the five cabinet ministers and four ministers of state from Darfur shall retain their posts, and that the president shall appoint two additional cabinet ministers and four additional ministers of state from Darfur.[56]

On the regional level, the DDPD provides that the Darfur Regional Authority (DRA) shall have an executive consisting of a chairperson, the governors of the states of Darfur, assistant to the chairperson, and several ministers and commissioners. In state protocol, the DRA chairperson is next in line after the president and vice presidents.[57]

The Eastern Sudan Peace Agreement (ESPA), 2006

On the national level, the ESPA requires that the president appoint an assistant and an advisor to the president from lists of nominees provided by the Eastern Front. The assistant shall participate

---

[51] Ibid. Articles 59–60, 72.
[52] Ibid. Articles 64, 68.
[53] Interim National Constitution of the Republic of the Sudan, 2005, Articles 58, 62; Comprehensive Peace Agreement, Protocol on Power Sharing, 2004, Article 2.3.
[54] Interim National Constitution of the Republic of the Sudan, 2005, Article 137.
[55] Doha Document for Peace in Darfur, 2011, Article 4.
[56] Ibid. Article 4.
[57] Ibid. Article 10.

in the national council of ministers, National Security Council, and National Planning Council, as well as supervise the Eastern Sudan Reconstruction and Development Fund. In addition, the ESPA requires that the two ministers from Eastern Sudan retain their posts and that Eastern Front nominees receive an additional post in the national council of ministers.

On the state level, the ESPA requires that Eastern Front nominees receive posts as advisor to the executive of Khartoum state, deputy governors for Kassala and Gadaref states, minister in the Red Sea state council of ministers, and advisor in each of the three states of Eastern Sudan. On the local level, it allows the Eastern Front to nominate three administrators in each of the three states of Eastern Sudan.[58]

Areas of convergence and divergence

The three documents reviewed here are consistent in their treatment of the executive and its institutional authority. The documents are not consistent, however, in terms of the line of succession should the office of the president fall vacant. The DDPD specifies that the DRA chairperson is next in line after the vice presidents, but the amended INC does not affirm this line of succession.

Assessment

Although the amended INC no longer provides for political representation of specific groups in the executive, the DDPD and ESPA both provide for representation of regional interests in the executive through the vice presidency, presidential assistants, and council of ministers. These provisions, however, represent ad hoc arrangements negotiated with specific regions rather than a comprehensive attempt to increase political representation in the executive and thus do not accommodate all marginalized regions.

Moreover, all three documents place greater import on political representation than decision-making influence, and the power of appointment remains in the hands of the presidency. Vice presidents are appointed by the president and have limited institutional checks, and the president appoints, can dismiss, and defines the portfolio of his or her assistants. While access to the presidency can provide assistants with decision-making influence, this influence is not institutionally guaranteed.

The council of ministers is also appointed by the president and makes decisions by consensus or by simple majority. This combination of appointed members and 'fall back' decision-making procedures (decision making by simple majority if consensus is not possible) means that the decision-making influence of individual members is limited.

The president has appointed vice presidents, advisors, and assistants in accordance with the above arrangements. President Bashir appointed Ali Osman Taha as first vice president and al-Haj Adam Youssef, a Darfurian, as vice president in 2011. Youssef, however, lacks support from the main rebel groups in Darfur. President Bashir also appointed Musa Mohamed Ahmed, leader of the Eastern Front, as an assistant to the president. The constitution does not guarantee influ-

---

58 Eastern Sudan Peace Agreement, 2006, Articles 8, 14, 16, 18.

ence to the vice presidents or presidential advisors and assistants. Reflecting this lack of influence, Minni Minnawi, a Darfurian and leader of the Sudan Liberation Army who was appointed as senior assistant to the president in 2007, resigned from that post in 2010.

In addition, the amended INC does not include some pre-election executive power-sharing provisions included in the CPA, including the provisions that the governor and deputy governor of Southern Kordofan and Blue Nile states come from different parties.[59]

■ Strand 4: Legislative branch

The Sudan has a bicameral legislature consisting of a National Assembly and Council of States. Most legislation requires approval by both houses, but the constitution provides the Council of States greater authority over legislation that affects the interests of the states, including legislation related to decentralization. The DDPD and ESPA both specify the number of representatives from Darfur and Eastern Sudan to be included in the National Assembly, but these numbers are not reflected in the amended INC. In practice, the legislature does not play a prominent role due to the dominance of the national executive.

The bicameral National Legislature consists of the National Assembly and the Council of States. At the state level, the legislature consists of unicameral state legislative assemblies. The electoral systems used for the legislatures at the national and state levels are described under Strand 2 above.

The amended Interim National Constitution of the Republic of the Sudan, 2011

The Council of States consists of two representatives from each state and two observers from the Abyei Area elected by the Abyei Area Council. The amended INC does not specify the number of members in the National Assembly (see National Elections Act below). Members of both chambers serve five-year terms. The functions of the two chambers are summarized in *Table A-5* at the end of this annex.

The amended INC provides for decision making in the National Legislature or in either chamber to be on the basis of unanimity or consensus, where possible, or otherwise by a simple majority of those present, except where the constitution specifically provides for other decision-making procedures. The National Legislature can override a presidential veto with a two-thirds majority vote and can impeach the president with a three-quarters majority vote. The different types of decision-making procedures are summarized in *Table A-6* at the end of this annex.

Any bill that is passed in the National Assembly is referred to a standing Inter-Chamber Committee, which considers and decides whether the bill affects the interests of the states. If it is deemed that the legislation does affect the states, the bill is referred to the Council of States.[60]

---

[59] Comprehensive Peace Agreement, Protocol on the Resolution of Conflict in Southern Kordofan/Nuba Mountains and Blue Nile States, 2004, Article 11.1.
[60] Ibid. 81.

On the state level, each state has a legislative assembly. The state legislative assemblies are responsible for drafting and adopting state interim constitutions.[61]

The Doha Document for Peace in Darfur (DDPD), 2011

On the national level, the DDPD specifies that Darfur shall be represented in the National Legislature in proportion to its percentage of the population and shall retain its 96 members in the National Legislature.[62]

On the regional level, the DDPD provides for the establishment of the Darfur Regional Authority (DRA) Council. The DRA Council has 67 members, including a chairperson, two vice chairpersons, representatives of movements, and representatives of the state legislatures. The supervisory, monitoring, and organizational responsibilities of the DRA Council include examining laws, approving the budget of the DRA, adopting policies within the responsibilities of the DRA, establishing a committee to prepare a constitution for the Darfur region in the case that such a region is created, and recommending legislative measures that "*would promote coordination and cooperation among the States of Darfur.*"[63]

The Eastern Sudan Peace Agreement (ESPA), 2006

On the national level, the ESPA provides that eight seats in the National Assembly be allocated to the Eastern Front. On the state level, it provides the Eastern Front ten seats in each of the state legislative assemblies of the three states of Eastern Sudan, including the chairmanship of one of the committees in each of the assemblies. On the local level, it provides the Eastern Front five members in each local government assembly in Eastern Sudan.[64]

Arrangements in other agreements and legal texts

The amended National Elections Act of 2008 (amended 2011) specifies the number of members in the National Assembly as 354.[65]

The Protocol on the Resolution of Conflict in Southern Kordofan/Nuba Mountains and Blue Nile States provides the state legislatures the additional responsibility of overseeing a popular consultation process. This process was intended to make the CPA "*subject to the will of the people of the two states through their respective democratically elected legislatures.*" In addition, the Protocol provided these two state legislatures the responsibility of establishing a "*Parliamentary Assessment and Evaluation Commission to assess and evaluate the implementation of the [CPA] in each state.*"[66]

---

61 Ibid. Article 138.
62 Doha Document for Peace in Darfur, 2011, Articles 3, 5.
63 Ibid. Article 10.
64 Eastern Sudan Peace Agreement, 2006, Articles 9, 17, 18.
65 The National Elections Act, 2008 (amended 2011), Article 29.
66 Protocol Between the Government of Sudan and The Sudan People's Liberation Movement (SPLM) on the Resolution of Conflict in Southern Kordofan/Nuba Mountains and Blue Nile States, 2004, Article 3.

Areas of convergence or divergence

The DDPD and ESPA grant Darfur and Eastern Sudan fixed numbers of representatives in the National Assembly, and the ESPA additionally grants the Eastern Front additional representation in state and local legislative assemblies. These provisions, however, are not reflected in the electoral system, and it is unclear how the specified number of seats would be maintained or added.

Assessment

In principle, the Council of States (upper house) is the primary vehicle for accommodating state-level interests at the national level. The Council of States must pass any bill that affects the interests of the states. It can amend such bills (with a two-thirds majority) without the approval of the National Assembly and can initiate legislation related to decentralization. These powers combine to make the Council of States an institutional check on any attempt to undermine the federal system.

In practice, however, it has not effectively served as an institutional check. This is partly because of the NCP's highly centralized political party structure, which limits the power of individual legislators and makes the legislature subservient to the executive. In addition, the membership and decision-making criteria of the Inter-Chamber Committee that determines which bills affect the interests of the states are unclear.

■   ## Strand 5: Public participation

> *The amended INC provides for public participation in the form of referendums, public sessions of the legislature, and a Public Grievances Chamber. In addition, it provides for popular consultations in the states of Southern Kordofan and Blue Nile and a referendum in the Abyei Area. Both the DDPD and ESPA also provide for public participation, including provisions for regional dialogues in Darfur and Eastern Sudan and a referendum to determine whether Darfur should form a single region. Most of these mechanisms for public participation have not been implemented.*

The public participation Strand for political accommodation includes mechanisms and systems through which the public influences and shares control over priority setting, policy making, and resource allocation. While participation in elections is an important vehicle for public participation, elections are covered separately under Strand 2.

The amended Interim National Constitution (INC) of the Republic of the Sudan, 2011

Referendums represent one of the primary mechanisms for public participation in the amended INC. The constitution grants the president and the National Assembly the power to refer matters to the public in a referendum. Referendums pass by receiving simple-majority support and have authority above all other legislation.[67] In addition, the constitution stipulates that the sittings of the National Legislature shall be open to the public and its proceedings shall be published, although its members can decide to hold certain deliberations behind closed doors.[68]

---

67 Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Article 165.

The constitution also provides for the establishment of an independent body called the Public Grievances Chamber to "*consider complaints relating to grievances suffered by citizens in relation to State institutions… only after exhausting all means and stages of litigation by the complainant.*" The Chamber has the power to recommend solutions to these grievances to the presidency or the National Assembly.[69]

Finally, the constitution provides for popular consultations in the states of Southern Kordofan and Blue Nile and for a referendum on the status of the Abyei Area.[70]

<u>The Doha Document for Peace in Darfur (DDPD), 2011</u>

The DDPD provides for the participation of the people of Darfur in a range of areas. These include planning, designing, and implementing recovery, reconstruction, and rehabilitation programs; formulating and implementing policies for wealth distribution; and making decisions on revenue management and development. In addition, the DDPD requires consultations with affected individuals regarding land issues and with land rights holders regarding the exploitation of subsoil resources, including oil.[71]

The DDPD also commits the parties to establishing mechanisms "*to promote, enable and facilitate the active participation of IDPs, returning refugees, victims of conflict and civil society in the planning and implementation of strategies, policies and programmes related to addressing the humanitarian and human rights impact of the conflict and to the return process.*" These mechanisms incorporate special measures to ensure the participation of women and youth.[72] Related to these mechanisms, the DDPD commits the parties to encouraging the participation of local communities and civil society in the reintegration of ex-combatants.[73]

In addition to these provisions, the DDPD puts in place a process for public participation within Darfur called the Darfur Internal Dialogue and Consultation (DIDC). According to the DDPD, the DIDC shall, "*through popular consultation and dialogue seek to consolidate peace in Darfur, promote confidence-building and encourage reconciliation as well as unity amongst the people of Darfur and Sudan in general.*"[74]

Finally, the DDPD mandates that the president, with the approval of the chairperson of the Darfur Regional Authority (DRA), appoint a Darfur Referendum Commission to conduct an internationally monitored referendum within one year to determine whether Darfur would remain under the current states system or form a single region with states.[75]

---

[68] Ibid. 88.
[69] Ibid. Article 129.
[70] Ibid. Articles 140–141.
[71] Doha Document for Peace in Darfur, 2011, Articles 1, 17, 38, 40-41.
[72] Ibid. Article 42.
[73] Ibid. Article 73.
[74] Ibid. Article 76.
[75] Ibid. Article 10

<u>The Eastern Sudan Peace Agreement (ESPA), 2006</u>

The ESPA provides for public participation through its provision that the State "*shall foster citizen participation in economic and social policy formulation and execution.*" Like the DDPD, it also requires the national government to consult all citizens affected by the development of land or natural resources.[76]

In addition, the ESPA provides for a Consultative Conference on the Eastern Sudan Peace Agreement to publicize and mobilize support for the ESPA, facilitate its implementation, and provide a forum for stakeholders to present their observations and recommendations. According to the ESPA, the conference shall include community and traditional leaders, political parties, civil society organizations, trade unions, professionals, religious leaders, business leaders, and members of the diaspora and shall include adequate representation of women and youth.[77]

<u>Arrangements in other agreements and legal texts</u>

The June 2011 Southern Kordofan and Blue Nile Framework Agreement states that "*popular consultation is a democratic right and mechanism to ascertain the views of the people of Southern Kordofan/Nuba Mountains and Blue Nile States on the comprehensive agreement reached by the Government of Sudan and the Sudan People's Liberation Movement.*"[78]

Areas of convergence or divergence

The amended INC, DDPD, and ESPA all put in place specific mechanisms to promote public participation. However, arrangements for public participation vary considerably in practical terms. For example, the popular consultation mechanism is exclusive to the states of Blue Nile and Southern Kordofan, and in many instances public participation is stated as a principle but is not grounded in concrete mechanisms to ensure its implementation.

Assessment

The political agreements discussed here reinforce the role of public participation in political affairs and put in place some mechanisms to facilitate this participation. In many instances, however, they put in place public participation mechanisms in the context of public consultation on a particular agreement or for a particular period of time rather than as an ongoing arrangement.

Although the CPA contained provisions for a referendum in the Abyei Area and popular consultations in Southern Kordofan and Blue Nile states, these have not been implemented. The referendum in Abyei did not take place. Likewise, although preparations for the popular consultations in Southern Kordofan began, these consultations did not take place and were overtaken by the outbreak of conflict. The popular consultations in Blue Nile took place, but the process was not completed and the final report was never released due to the outbreak of conflict. The referendum on the status of Darfur has been postponed.

---

76 Eastern Sudan Peace Agreement, 2006, Articles 19, 21.
77 Ibid. Article 33.
78 Framework Agreement between the Government of the Sudan and the Sudan People's Liberation Movement (North) on Political Partnership between NCP and SPLM-N, and political and security arrangements in Blue Nile and Southern Kordofan States, 2011, Article 3.

■ Strand 6: Traditional and customary arrangements

> *The amended INC contains vague references to traditional and customary arrangements, including a provision tasking all levels of government with amending land laws to incorporate customary practices. The DDPD builds on these provisions, providing for the protection of traditional land ownership rights. In addition, the DDPD pledges to strengthen the Native Administration in Darfur and recognizes a role for both the Native Administration and ajaweed councils in dispute resolution. The agreements, however, contain few specifics, and the Native Administration remains weak.*

<u>The amended Interim National Constitution (INC) of the Republic of the Sudan, 2011</u>

The amended INC provides that "*religions, beliefs, traditions and customs are the sources of moral strength and inspiration for the Sudanese people.*"[79] In addition, the amended INC states that the sources of nationally-enacted legislation shall be not only "*Islamic Sharia and the consensus of the people*" but also "*the values and the customs of the people of the Sudan, including their traditions and religious beliefs, having regard to Sudan's diversity.*"[80]

The amended INC presents these traditions and customs not only as principles but also as rights:

> *"Ethnic and cultural communities shall have the right to freely enjoy and develop their particular cultures; members of such communities shall have the right to practice their beliefs, use their languages, observe their religions and raise their children within the framework of their respective cultures and customs."* [81]

The amended INC also tasks all levels of government with amending land laws to incorporate "*customary laws, practices, local heritage and international trends and practices*" and tasks the National Land Commission with making recommendations on the recognition of customary land rights or laws.[82]

<u>The Doha Document for Peace in Darfur (DDPD), 2011</u>

The DDPD builds on the amended INC's provision for incorporating customary land laws, stipulating that "*tribal traditional land ownership rights (hawakeer), historical rights to land, traditional and customary livestock routes and access to water sources shall be recognised and protected.*"[83] It also encourages parties to land disputes, including disputes related to the return process, to use traditional methods of dispute resolution.[84]

In the DDPD, the parties agree to strengthen the Native Administration, a structure of traditional leaders that parallels and overlaps with formal governance structures. Responsibilities assigned

---

79 Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Article 4.
80 Ibid. Article 5.
81 Ibid. Article 47.
82 Ibid. Articles 143–144.
83 Doha Document for Peace in Darfur, 2011, Article 34.
84 Ibid. Articles 38, 52.

to the Native Administration include environmental degradation and desertification and, in cooperation with other actors through the Darfur Land Commission, land planning and development. The DDPD also states that the Native Administration "*shall respect, where appropriate, the established historical and community traditions, customs and practices that have played vital roles in the community.*"[85]

The DDPD also provides traditional institutions a role in the reconciliation and justice process. The DDPD recognizes the role of the Native Administration and *ajaweed* councils – defined in the document as mediation councils consisting of the Native Administration and community leaders – "*in complementing processes of justice and reconciliation*" through reconciliation conferences. It also provides for the inclusion of representatives from the Native Administration and camp elders on the Justice Committee responsible for overseeing claims and compensation.[86]

<u>The Eastern Sudan Peace Agreement (ESPA), 2006</u>

Like the amended INC and DDPD, the ESPA includes provisions tasking all levels of government with amending legislation related to land use and ownership to incorporate customary laws and practices.[87]

Areas of convergence or divergence

While the documents are consistent in asserting the importance of traditional and customary arrangements, they create few specific structures and mechanisms that formally incorporate them into existing governance arrangements.

Assessment

The documents presented here all recognize the importance of traditional and customary arrangements, particularly in relation to land rights, conflict resolution, justice, and reconciliation. These provisions could provide opportunities for mutual conciliation but remain vague. For example, the DDPD does not specify the role of the Native Administration or the *ajaweed* councils, particularly in relation to the justice and reconciliation process, and does not clarify how they will complement rather than compete with formal institutions.[88]

Despite the parties' commitment to strengthening the Native Administration in the DDPD, the Native Administration remains weak. Its members are appointed by the Government of the Sudan so are generally close to the ruling NCP and increasingly represent specific tribes and ethnicities rather than geographical areas. Extensive government involvement in the Native Administration and other traditional processes has reduced their legitimacy in the eyes of Darfurians.[89]

---

[85] Ibid. Articles 13, 34, 58.
[86] Ibid. Articles 55, 58.
[87] Eastern Sudan Peace Agreement, 2006, Article 21.
[88] Jérôme Tubiana, Victor Tanner, and Musa Adam Abdul-Jalil, "Traditional Authorities' Peacemaking Role in Darfur," (Washington: United States Institute of Peace, 2012).
[89] Ibid.

Figure 15 – Map of the Sudan[90]

---

90 United Nations Cartographic Section, Map No. 4458 Rev. 2, March 2012. NB: This map does not reflect the establishment of the states of Central Darfur, East Darfur, or West Kordofan in 2012 and 2013.

Table A-1 – Sources of provisions for political accommodation

Source of provisions	Date	Notes and observations on the parties to the agreement or text (where relevant)
Protocol on the Political Participation of the Liberation and Justice Movement and Integration of its Forces	16 July 2011	Agreement signed in Doha by the Government of the Sudan and the Liberation and Justice Movement (LJM)
Doha Document for Peace in Darfur (DDPD)	14 July 2011	Agreement signed in Doha by the Government of the Sudan and the Liberation and Justice Movement (LJM)
Framework Agreement between the Government of the Sudan and the Sudan People's Liberation Movement (North) on Political Partnership between NCP and SPLMN, and political and security arrangements in Blue Nile and Southern Kordofan States	28 June 2011	Agreement signed in Addis Ababa between the Government of the Sudan and the Sudan People's Liberation Movement-North (SPLM-N)
Agreement between the Government of the Republic of Sudan and the Sudan People's Liberation Movement on temporary arrangements for the administration and security of the Abyei Area ("The Abyei Area Agreement")	20 June 2011	Agreement signed in Addis Ababa between the Government of the Sudan and the Sudan People's Liberation Movement (SPLM)
Framework Agreement to Resolve the Conflict in Darfur	23 February 2010	Agreement signed in Doha between the Government of the Sudan and the Justice and Equality Movement (JEM)
National Elections Act	2008 (amended 2011)	
Eastern Sudan Peace Agreement (ESPA)	19 June 2006	Agreement signed in Asmara between the Government of the Sudan and the Eastern Sudan Front
Darfur Peace Agreement (DPA)	5 May 2006	Agreement signed in Abuja between the Government of the Sudan, Sudan Liberation Movement/Army (SLM/A), and JEM
Interim National Constitution of the Republic of the Sudan (INC)	2005 (amended 2011)	
Comprehensive Peace Agreement (CPA)	9 January 2005	Agreement encompassing six protocols and two annexes signed between the Government of the Sudan and Sudan People's Liberation Movement/Army (SPLM/A)

Table A-2 – Key national, state, and concurrent responsibilities
(Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Schedules A–C)

National competencies	Concurrent competencies	State competencies
• National defense • Foreign affairs • Nationality and naturalization • Passports and visas • Immigration • Currency, coinage, and exchange control • Constitutional Court and other national courts • National police and prisons • Postal services • Aviation and navigation • National lands and national natural resources • Central Bank • National debt • National states of emergency • International and inter-state transport • National economic policy and planning • Management of the Nile Waters and trans-boundary waters • National information, publications, telecommunications regulations • National elections	• Professional associations • Tertiary education, education policy, and scientific research • Health policy • Urban development, planning, and housing • Trade, commerce, and industry • Delivery of public services • Banking and insurance • Bankruptcy and insolvency • Disaster management • Electricity generation and water and waste management • Information, publications, media, broadcasting, and telecommunications • Environmental management • Relief, repatriation, resettlement, rehabilitation, and reconstruction • International and regional agreements on culture, sports, trade, investment, credit, loans, grants, and technical assistance • Financial and economic policies and planning • Gender policy • Water resources other than inter-state waters • State courts responsible for enforcing national laws • Land regulation	• State constitution • State police and prisons • Local government • State information, state publications, and state media • Social welfare • State civil service • State judiciary • State land and natural resources • Cultural matters within the state • Regulation of religious matters • Internal and external borrowing • Management of state lands • Provision of health care • Regulation of businesses • Management of state natural resources and forestry resources • Primary and secondary schools • Agriculture within the state • Intrastate public transport and roads • Population policy and family planning • State referendums • Town and rural planning • Traditional and customary law

Table A-3 – Sources of national and state revenue
(Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Articles 147–148)

National revenue sources	State revenue sources
(a) National personal income tax	(a) State land and property tax and royalties
(b) Corporate or business profit tax	(b) Service charges for state services
(c) Custom duties and import taxes	(c) Licenses
(d) Sea-ports and airports revenue	(d) State personal income tax
(e) Service charges	(e) Levies on tourism

National revenue sources	State revenue sources
(f) Oil revenues	(f) State share of oil revenue
(g) National government enterprises and projects	(g) State government projects and national parks
(h) Grants and foreign financial assistance	(h) Stamp duties
(i) Value added tax or general sales tax or other retail taxes on goods and services	(i) Agricultural taxes
(j) Excise duties	(j) Grants-in-aid and foreign aid
(k) Loans, including borrowing from the Central Bank of Sudan and the public	(k) Border trade charges or levies in accordance with national legislation
(l) Any other tax as determined by law	(l) Other state taxes, which do not encroach on National taxes
	(m) Loans and borrowing [subject to certain limitations]
	(n) Any other tax as may be determined by law

Table A-4 – Functions of the president and the national council of ministers
(Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Articles 58, 66)

Functions of the president	Functions of the national council of ministers
(a) Preserve the security of the country and protect its integrity	(a) Planning State policy
(b) Supervise the executive constitutional institutions and provide exemplary leadership in public affairs	(b) Initiation of national legislative bills, national budget, international treaties, bilateral and multilateral agreements
(c) Appoint holders of constitutional and judicial posts in accordance with the provisions of this Constitution and the law	(c) Receiving reports about national ministerial performance for review and action
(d) Preside over the National Council of Ministers	(d) Receiving reports on executive performance of states for purposes of information and coordination
(e) Summon, adjourn or prorogue the National Legislature	(e) Receiving reports on matters that are concurrent or residual and decid[ing] whether it is competent to exercise such power in accordance with Schedules D and E herein. If it so decides, it shall notify the other levels of government of its intention to exercise such power. In case any other level of government objects thereto, a committee shall be set up by the levels concerned to amicably resolve the matter before resorting to the Constitutional Court
(f) Declare war in accordance with this Constitution and the law	
(g) Declare and terminate the state of emergency in accordance with the provisions of this Constitution and the law	
(h) Initiate constitutional amendments and legislations and assent to laws	
(i) Approve death sentences, grant pardon, lift convictions and remit penalties according to this Constitution and the national law	(f) Any other functions assigned thereto by the President of the Republic and the law
(j) Represent the State in its foreign relations, appoint ambassadors of the State and accept credentials of foreign ambassadors	
(k) Direct and supervise the foreign policy of the State and ratify treaties and international agreements with the approval of the National Legislature	
(l) Seek the opinion of the Constitutional Court on any matter in connection with the Constitution	
(m) Any other functions as may be prescribed by this Constitution or the law	

Table A-5 – Functions of the National Assembly and Council of States
(Interim National Constitution of the Republic of the Sudan, 2005 (amended 2011), Articles 74–75, 80–81)

Functions of the National Assembly	Functions of the national Council of States
(a) Assume legislation in all national powers [subject to certain rules]	(a) Initiate legislations on the decentralized system of government and other issues of interest to the states and pass such legislations with a two-thirds majority of all representatives
(b) Approve plans, programs and policies relating to the State and society	(b) Issue resolutions and directives that may guide all levels of government [in accordance with certain provisions]
(c) Approve the annual national budget	(c) Approve by two-thirds majority of all representatives, the appointment of the Justices of the Constitutional Court
(d) Ratify international treaties, conventions and agreements	(d) Supervise the National Reconstruction and Development Fund
(e) Oversee the performance of the national executive	(e) Request statements from national ministers concerned regarding effective implementation of the decentralized system and devolution of powers
(f) Adopt resolutions on matters of public concern	
(g) Summon national ministers to present reports on the executive performance of the government in general or of specified ministries or particular activities	
(h) Interrogate, at will, national ministers about their performance or the performance of their ministries and… recommend… the removal of a national minister	

Table A-6 – Decision-making rules and procedures in the National Legislature
(Articles 59, 60, 81, 89, 98, 101, 110, 135, 156, 167)

Issue	Chamber responsible	Decision-making procedure
Passing legislation (exceptions listed below)	Both chambers	Unanimity or consensus, or, alternatively, simple majority with approval by the president
Impeaching the president or vice presidents	Both chambers	Three-quarters majority
Determining that the president is not fit for office due to mental infirmity or physical incapacity	Both chambers	Three-quarters majority
Amending the constitution	Both chambers	Three-quarters majority
Overriding a presidential veto	Both chambers	Two-thirds majority
Approving appointment of the national auditor general	Both chambers	Two-thirds majority
Approving appointment and removal of justices of the Constitutional Court	Council of States	Two-thirds majority
Amending and passing any bill referred by the Inter-Chamber Committee without returning the bill to the National Assembly	Council of States	Two-thirds majority with approval by the president

Issue	Chamber responsible	Decision-making procedure
Initiating and passing legislation on the decentralized system of government, including the number, names, capitals, and geographical boundaries of states	Council of States	Two-thirds majority with approval by the president
Passing the budget	National Assembly	Unanimity or consensus, or, alternatively, simple majority with approval by the president

About Conflict Dynamics International

Conflict Dynamics International is an independent, not-for-profit organization that specializes in mediation, governance and peacebuilding, and humanitarian policy development. The organization works to support development of innovative technical options for peacemaking and peacebuilding in transition contexts through a process of applied research, and an inclusive methodology of iterative consultations and impartial engagement. Founded in 2004, Conflict Dynamics works to fulfill its mission across three program areas: (I) Peacebuilding in Transition States, (II) New Frontiers in Humanitarian Policy, and (III) Pressure Points for Conflict Prevention and Resolution.

This Briefing Paper was developed through Conflict Dynamics' work in the Sudan and South Sudan since 2008 under the program *Political Accommodation in the Sudan*.

Other Briefing Papers in this series include:

- *Cultivating Consensus: exploring Options for Political Accommodation and promoting all Somali Voices* (February 2014)

- *Shaping the Future: Prospects for Economic and Political Cooperation between South Sudan and the Sudan* (August 2013)

- *Building the House of Governance: Political Accommodation in South Sudan* (May 2012)

- *Envisioning the Future: Options for Political Accommodation between North and South Sudan following the Referendum* (September 2010)

- *National Elections and Political Accommodation in the Sudan* (June 2009)

- *Electoral Reform in Sudan and Prospects for Peace in Darfur: Implications of the National Elections Act 2008 for the Darfur Political Process* (October 2008)

Conflict Dynamics welcomes feedback and perspectives on the ideas in this Briefing Paper. Readers are invited to share their views by contacting Conflict Dynamics at info@cdint.org.