The Concept of the "Civil State" in the Constitution and Political Charters of Sudan

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ABSTRACT

On 30 June 1989, Omar Hassan al-Bashir staged a coup with fellow military officers against the democratically elected government of Sudan. Bashir subsequently arrested the Prime Minister, detained political leaders, and dissolved political parties, declaring himself president. In 2019, after 30 years in power, Bashir himself was ousted in a military coup. From 2019 to 2021 Sudan underwent a transitional period, during which political and civil forces, in collaboration with military leaders, reached an agreement to establish a transitional government designed to pave the way for the formation of a democratic civilian government. These principles were formalised in a political agreement signed in 2019 by representatives of the military and various political parties.

Throughout the transitional period, public demonstrations called for the establishment of a "civil state." For protesters, a civil state represented principles of equality, the elimination of religious discrimination, the withdrawal of the military from political life, and the subjection of military institutions to civilian oversight. As a result, political and legal documents from the transitional period reflect the aspirations of the revolutionary movement to institutionalise a civil state. However, the concept itself lacked a clear and consistent definition among the political elite.

Over time, the notion of the civil state evolved within transitional constitutional and political texts, as growing recognition emerged regarding the necessity to entrench its foundational principles, particularly as a prerequisite for achieving sustainable democracy in Sudan. Nevertheless, evidence from the transitional period indicates that the discourse surrounding the civil state was driven more by political considerations than by a coherent or long-term vision for establishing a democratic civil government.

Keywords: *Civil state, Sudan, December Revolution, constitutionalism, political transition.*

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INTRODUCTION

The concept of a "civil state" in Sudan underwent rapid development following the 2018 December Revolution. This evolution was shaped by public and political debates surrounding the transition from the military dictatorship that ruled Sudan from 1989 to 2019—a regime grounded in the ideology of political Islam. Central to these debates were the revolutionary slogans of "freedom, peace, and justice," which served as foundational reference points for those advocating for democratic transformation, political stability, and peaceful coexistence. Interpretations of these slogans played a key role in advancing discourse around the idea of a civil state as a counterpoint to authoritarianism and exclusionary ideologies.

Leaders of civil society, political parties, and youth movements who spearheaded the revolution were influenced by the rhetoric and demands that emerged from the Arab Spring uprisings—especially those in Tunisia and Egypt[1] —where calls for a civil state were likewise framed as an alternative to dictatorship, repression, and political marginalisation.[2]

While the 2019 Constitutional Charter did not explicitly use the term "civil state," subsequent political agreements, peace accords, the 2022 Transitional Constitution, and various constitutional proposals addressed the concept in different forms. The widespread deployment of the term after December 2018, mirroring trends in other Arab Spring contexts, reflects a clear shift in the political consciousness of the revolutionary generation that demanded systemic change.[3]

This paper undertakes a systematic examination of Sudan's constitutional, legal, and political documents to trace the emergence and evolution of the civil state concept in the aftermath of the 2018 December Revolution. It seeks to address a central question: Did Sudan's transitional documents articulate a coherent definition of the civil state, and did they establish corresponding constitutional principles that could be clearly understood and applied by policymakers during the transitional period?

Addressing this question provides insight into the challenges Sudan has faced in its post-dictatorship political transition. It also offers guidance for political leaders in formulating coherent visions for the civil state and advancing democratic governance in the country. This paper is structured around three main themes. The first concerns the evolution of the concept of the civil state in both global and national political thought, as well as the political motivations behind its adoption in Sudan. The second theme involves a detailed analysis of the legal and political documents issued by the transitional government between 2019 and 2021 that addressed the civil state. The third theme examines the political implications of the concept of the civil state as reflected in Sudan's constitutional and transitional political frameworks.

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1 Rainer Grote and Tilmann J. Röder, eds., *Constitutionalism, Human Rights, and Islam after the Arab Spring* (Oxford: Oxford University Press, 2016), 207.

2 Samah Khalaf Allah and Afaf Doleeb, *Sudan's Turmoil: Revolution, Power Struggles, and the Quest for Stability* (Bergen: Chr. Michelsen Institute, 2023).

3 Grote and Röder, *Constitutionalism, Human Rights, and Islam*, 207.

I. The Concept of the Civil State

This section examines the evolution of the concept of the civil state by tracing its philosophical foundations and political development at both the global and national levels of analysis.

A. The Civil State in Global Political Thought

The concept of the civil state has undergone significant development through various philosophical interpretations and constitutional implementations across the world. The modern understanding of the civil state finds its roots in the intellectual contributions of European philosophers during the Enlightenment and Reformation periods, particularly those who advanced the theory of the social contract. Central figures in this context include Kant, Locke, Montesquieu, Rousseau, and Hobbes. The foundational efforts of these theorists contributed to key principles that underpin the modern civil state, foremost among which is the separation between religious authority and governmental institutions.[4]

Kant explicitly advocated for the establishment of the civil state through what he termed the "republican constitution" (or popular constitution), which he regarded as the only legitimate model of civil governance. This model emphasised freedom, equality, and the rule of law. For Kant, the essential elements of a civil state include the separation of powers, the supremacy of the rule of law, the safeguarding of individual liberties, and resistance to tyranny. In his call for a republican constitution, Kant urged the avoidance of violent or revolutionary change, and promoted a gradual, reformist approach to establishing a civil state.[5]

The concept of a "religious state" was also extensively examined by Reformation philosophers and Enlightenment thinkers. These philosophical discussions ultimately shaped modern constitutional applications of the civil state. Based on the foregoing, it may be concluded that the term has become embedded in the global political and constitutional tradition, encompassing principles and human rights values such as equal citizenship and the active role of the populace in shaping public policy.[6]

Among the most significant constitutional texts to implicitly embody the civil state concept is the American Constitution, which reflects social contract theory, the sovereignty of the people, and the primacy of law. The U.S. Constitution introduced governance based on mutual agreement regarding fundamental principles, thereby institutionalising a civil state based on popular consent. Modern democratic constitutions operationalise the idea of social contract by regulating public freedoms and imposing obligations on governments to uphold these rights. In exchange, citizens accept the rules governing these freedoms, as well as duties such as taxation.[7]

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4 Wolfgang Kersting and Otfried Höffe, "The Civil Constitution in Every State Shall Be a Republican One," in *Kant's Moral and Legal Philosophy*, ed. Karl Ameriks (Cambridge: Cambridge University Press, 2009), 250.

5 Kersting and Höffe, "The Civil Constitution," 264.

6 T. C. Brown, "The Genesis of Social Contract Theory," in *Statelessness: On Almost Not Existing* (Minneapolis: University of Minnesota Press, 2022), 74–81.

7 Brown, "The Genesis of Social Contract Theory," 74-81.

The Fourteenth Amendment to the U.S. Constitution, ratified by Congress in 1866, represents a pivotal historical moment, as it substantially expanded the scope of civil rights by addressing citizenship, equal protection, and due process. It also influenced the distribution of representation in Congress and enhanced popular participation in governmental institutions.[8]

The principle of popular sovereignty is the backbone of the civil state, as it underpins the exercise of public power and is fundamental to civil governance. This principle is reflected in the constitution by establishing a governance regime whose authority derives from the people and in which the government is accountable to them. Moreover, the constitution imposes stringent restrictions on governmental power, a defining feature of the civil state intended to preserve individual freedoms and preventing the abuse of power.[9] These features, rooted in the philosophical legacy of social contract theory, have been institutionalised through constitutional experiences, most notably in the American Constitution.

B. The Concept of the "Civil State" in the Sudanese Context

Political and constitutional thought in Sudan evolved within the framework of the legislative and political legacy of British colonial rule, while also being influenced by modern intellectual currents. This included European intellectual trends and the amendments to the U.S. Constitution that established the participation of citizens in government without discrimination. [10]

The emergence of the civil state idea in Sudan is closely linked to periods of political transition following the collapse of authoritarian regimes, as well as to popular calls for empowerment and self-governance. Despite its prominence in public discourse, the term has remained conceptually ambiguous in political narratives. This ambiguity has shaped the ideological foundations of those advocating for its adoption. Some interpret the civil state as a call for secularism and the exclusion of religious dictates from politics. Others understand it as a demand for civilian governance, the exclusion of the military from political power, and the confinement of the armed forces to their constitutional role of safeguarding national security and territorial integrity.

The development of the concept of the civil state in Sudan has been shaped by two main factors: the legacy of military dictatorship and the combined effects of religious discrimination and political exclusion. These influences are briefly outlined below.

1. The civil state vs. military rule

Sudan's political trajectory has been marked by two dominant forms of authoritarianism: military and religious.

8 U.S. Constitution, The Fourteenth Amendment.
9 Ibid.
10 Ibid.

Both forms of rule manipulated constitutional provisions concerning the "nature of the state" to align with their respective political ideology, neither of which supported the realisation of a civil state. Military regimes in Sudan have historically advanced anti-democratic and anti-civilian doctrines, entrenching the military's role in governing public affairs. The military governed Sudan across four extended periods, cumulatively spanning more than half a century, during which it promoted political ideologies such as nationalism, communism, and political Islam—ideologies that found considerable resonance in both Arab and African contexts at the time.[11]

In response to military dominance over the political landscape and to advance democracy and civil rights, political parties, trade unions, university student movements, and civil society organisations mobilised within political fronts to resist the military dictatorship and its alliances.[12] This resistance coalesced around the demand for civil governance premised on the alternation of power through democratic elections, as well as the removal of the military from government and from political activities directly related to governance. The term "civilian state" thus emerged in Sudanese political discourse as an antithesis to military rule.

While human rights advocates and political activists have been acutely aware of the repression and ideological exclusion practiced by military governments—particularly against communities dissenting from army-supported ideologies—they have attributed such systemic violations to the authoritarian character of the leadership of the ruling army alongside the absence of a democratic civil state and the rule of law.[13]

2. The civil state vs. the religious state

The National Islamic Front, later rebranded as the National Congress Party after its coup against the democratic government in June 1989, formed alliances with certain army generals during periods of military rule, as Islamists leveraged military institutions to consolidate control over the country and its people. The first notable instance of such an alliance occurred between Islamists and Field Marshal Gaafar Nimeiry between 1983 and 1985. The second took place when the National Islamic Front successfully orchestrated a military coup against the democratically elected government led by Prime Minister Sadiq al-Mahdi, initiating a three-decade-long period of Islamist-military rule (1989–2019).[14]

During the two periods of cooperation with military generals, Islamists imposed criminal penalties based on Islamic Sharia during Field Marshal Gaafar Nimeiry's rule, and they successfully adopted a constitution reflecting their political vision in 1998. This constitution established Sharia as the primary source of legislation and mandated the application of Islamic ideology across all political forces, including non-Muslim groups. This political regime faced a strong opposition due to its tyranny, exclusionary practices, and brutal repression.

11 Grote and Röder, *Constitutionalism, Human Rights, and Islam*, 212.
12 Khalaf Allah and Doleeb, *Sudan's Turmoil*.
13 Zack Medow, *The Spread of Non-Violent Action: The Case of the 2018–2019 Revolution in Sudan – Case Study Report* (Freedom House, 2022), 12.
14 Mohammed, Babiker and Atta el-Battahani, *Reflections on Sudan's Constitutional Trajectory, 1953–2023: 70 Years Lacking Legitimacy, Democratic Governance and Ownership Stockholm: International IDEA, 2023), 17.*

The Sudan People's Liberation Movement/Army (SPLM/A), led by the late John Garang, was one of the most vociferous opposing parties, calling for an end to religious discrimination, resisting the Islamization of society, and advocating for a new Sudan based on equality and national identity rather than the imposition of Islam on non-Muslim communities.[15] Thus, all military groups opposed to the central government at the time, as well as political movements and ethnic groups in marginalised areas, demanded a civil state with a secular government that guaranteed full equality of citizenship and ensured state neutrality toward religion.

Between 1989 and 2019, Sudan witnessed the ongoing persecution of politicians and civil society activists, including arrests and torture, accompanied by widespread financial and political corruption. Under this alliance, as the situation deteriorated dramatically after the secession of the South in 2011, the civil war expanded to encompass almost all of Sudan's western, southern, and eastern regions.[16] Islamic scholar Dr. Abdullah Ahmed Al-Na'im attributes this deterioration in human rights conditions to policies grounded in religious ideology. In his discussions of constitutionalism, human rights, and citizenship in several Muslim-majority countries, Al-Na'im contrasts the "civil state and democracy" with the "religious state, discrimination, and human rights violations." He concludes that from 1989 to 2019 Sudan represented the most recent experiment in establishing a religious state and one of the most significant contemporary cases of widespread human rights violations.[17]

The preceding analysis indicates that the political regimes dominating Sudan since its independence in January 1956 did not enjoy broad popular legitimacy due in part to a failure to establish meaningful mechanisms for popular participation in governance and public policymaking.[18] As a result, Sudan failed to develop constitutional provisions explicitly defining or supporting the concept of a civil state.

The prolonged period of dictatorial military rule underscored these regimes' failure to secure popular legitimacy, primarily due to the exclusion of political parties and labour unions from governance. To maintain control, they formed alliances with Islamist groups wielding considerable religious influence which shared the military's opposition to democracy and civilian rule. This partnership, however, resulted in widespread human rights abuses, political marginalisation, and violence targeting religious and ethnic minorities.[19] In response, calls intensified for the removal of both the military and religious authorities from power as a means to achieve political stability, promote peaceful coexistence, and counter terrorism and extremism. Within this context, and amid the transitional political trends following the 2019 overthrow of the authoritarian regime, the term "civil state" emerged as a democratic alternative to both totalitarian and religious rule in Sudan. [20]

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15 Babiker and el-Battahani, *Reflections on Sudan's Constitutional Trajectory*, 17.
16 Ibid., 21.
17 Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (Cambridge, MA: Harvard University Press, 2008), 727-728.
18 Babiker and el-Battahani, *Reflections on Sudan's Constitutional Trajectory*, 32.
19 An-Na'im, *Islam and the Secular State*, 727-728.
20 Medow, *The Spread of Non-Violent Action*, 14.

Religious rule, however, does not necessarily preclude democratic rule; in their article "Democratic Ideology in Islamist Opposition? The Muslim Brotherhood's 'Civil State,'" authors Chris Harnisch and Quinn Mecham write that the idea of a civil state has gained traction even among the leaders of the Muslim Brotherhood in Egypt. They conclude that the Brotherhood emphasises democracy and political participation but seeks to balance these commitments with the Islamic principles it considers foundational to the state.

This analysis affirms the growing appeal of the civil state concept in countries that have endured prolonged periods of dictatorship. In the Sudanese context, however, the civil state emerged primarily as a response to military rule rather than as a direct challenge to the religious state.[21] This development unfolded within a broader historical and political landscape marked by local political and social resistance to rigid Salafist ideologies, which have impeded progress on issues such as minority rights and women's rights. This dynamic illustrates the complex interplay between religious doctrine and the wider social and political environment.[22]

Parties aligned with a religious ideology generally do not tolerate the idea of a civil state unless it can be utilized as a temporary, tactical stance in opposition to the central government. Hisham Khabbash argues that Morocco's two main Islamist parties concur in their categorical rejection of any non-Muslim ruler and in their affirmation of the importance of political participation in the context of an Islamic system of government […], while diverging on principles such as secularism, the separation of powers, and freedom of religious belief.[23]

An analysis of the context in which the term "civil state" emerged in Sudan reveals that it either failed to gain explicit political recognition in the constitutions and early political experiments following Sudan's independence in 1956, or that it did not receive sufficient conceptual clarification or political attention aligned with the specific requirements of the Sudanese context.

II. Applications of the "Civil State" in the Constitution and Other Transitional Arrangements

Several political and constitutional charters set out legal and political options, programmes, and frameworks aimed at guiding Sudan's political transition, promoting stability, and laying the foundations for a democratic political system. This section examines the 2019 Constitutional Charter (Constitutional Declaration) and selected constitutional proposals that emerged thereafter. The analysis is limited to documents formulated in agreement

21 Chris Harnisch and Quinn Mecham, "Democratic Ideology in Islamist Opposition? The Muslim Brotherhood's 'Civil State'," *Middle Eastern Studies* 45, no. 2 (2009), 189.
22 Ibid.
23 Hisham Khabbash, "The Constant and the Variable in the Attitudes of Moroccan Islamists towards the Civil State," *Al-Muntaqa* 1, no. 2 (2018), 11-31.

with the ruling authority during the political transition period from 2019 to 2021. These include the 2019 Constitutional Charter, the 2020 Juba Peace Agreement, the 2021 Declaration of Principles Agreement, and the 2022 Political Framework Agreement.

A. The 2019 Constitutional Charter

The 2019 Constitutional Charter was drafted following the political agreement signed in July 2019 between the Transitional Military Council and the Forces of Freedom and Change (FFC) Coalition—a broad coalition comprising political parties, civil society organisations, trade unions, and youth and women's groups.[24] This political agreement represented the first formal accord between military and civilian actors, wherein both parties committed to establishing a civil state by the end of the transition period, initially set at 39 months from the date of signing.

The final paragraph of the preamble to the political agreement affirmed that both parties would cooperate to ensure the success of the transition toward a civil state. The 2019 Constitutional Declaration incorporated the goals set forth in the political agreement without modification, including the objective of establishing civilian rule in Sudan. The preamble's concluding paragraph explicitly states that the document was drafted with the aim of laying the foundations for a civilian regime.[25]

1. Principles concerning equal citizenship rights

While the Constitutional Charter does not explicitly use the term "civil state" in its core articles, it contains provisions that implicitly define the concept of a civil state and its associated procedures. For instance, Article 4, which addresses the "nature of the state," omits a direct reference to a "civil state." However, its first paragraph defines Sudan as "an independent, sovereign, democratic, parliamentary, pluralist, decentralised state, where rights and duties are based on citizenship without discrimination due to race, religion, culture, sex, colour, gender, social or economic status, political opinion, disability, regional affiliation or any other cause." This phrasing may be viewed by advocates of a civil state rooted in democratic principles and the exclusion of military authority from governance, as aligned with their demands for the establishment of civilian rule.

2. Provisions governing the relationship between religion and the state

It is noteworthy that the representatives of the revolutionary forces, during negotiations with military leaders over the transitional constitution, succeeded in removing references to a "state religion," including phrases such as "Islam is a source of legislation" and "the religion of the President of the Republic is Islam." Article 5 of the Constitutional Declaration affirms that "sovereignty is vested in the people and is exercised by the state in accordance with the provisions of this Constitutional Charter."

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24 Brooke Davies, *Sudan's 2019 Constitutional Declaration: Its Impact on the Transition* (Stockholm: IDEA, October 2022), 44.
25 Ibid.

Overall, the 2019 Constitutional Charter was the least explicit among the transitional charters in articulating a clear definition of the "civil state." This shortcoming is likely attributable to the intransigence of the military leaders during negotiations, which impeded the inclusion of provisions explicitly supporting a democratic civilian transition and the full transfer of power to civilian authorities in the constitutional drafting process.

3. Provisions governing the relationship between military institutions and civilian authority

Article 8, which outlines the duties of the transitional period, does not include provisions subjecting military institutions to civilian oversight. Similarly, Chapter 7, which defines the structure of the Transitional Legislative Authority, makes no reference to parliamentary oversight of military institutions. Instead, Paragraph 12 of Article 8 grants military institutions the authority to implement internal reforms independently, without interference from civilian bodies.

B. The 2020 Juba Peace Agreement

The Juba Peace Agreement was signed in October 2020 between the transitional government, several major armed movements, and the Sudan Revolutionary Front, which comprises multiple military factions and civilian forces opposed to the government of Omar al-Bashir. The goal of the signatories was to promote stability and peace while integrating armed opposition groups into the transitional arrangements initiated following the overthrow of President Omar Hassan al-Bashir in April 2019. This significance of the agreement is evident based on its incorporation into the 2019 Constitutional Declaration, also known as the Constitutional Charter for the Transitional Period, through the amendment dated 2 November 2020.[26]

1. Provisions governing the relationship between religion and the state

There is significant evidence from the text of the agreements that the negotiators deliberated extensively on this issue,[27] influenced by a long history of governance rooted in religious ideology, dictatorship, and discrimination. Notably, the word "secular" which is often associated with atheism in Sudan, does not appear in any of the agreements; however, the language used is clearly intended to reflect the principles of secularism and accommodate a civil state. The Juba Agreement encompassed multiple internal accords and negotiation tracks, including the Agreement on National Issues, the Darfur Agreement, and the Two Areas Agreement (Blue Nile and South Kordofan).

Article 7.1 of the Agreement on National Issues (ANI), under the heading "General Principles," states: "[There shall be] complete separation between religious institutions and state institutions to guarantee that religion will not be exploited in politics, and that the state will remain equidistant from all religions and sacred beliefs, which should be guaranteed in the country's constitution and laws."

[26] Zaid Al-Ali, *Summary and Analysis of the Juba Peace Agreement* (Stockholm International IDEA, 2021), 9.
[27] Sami Saeed, *The Juba Peace Agreement and the Sudanese Transition: Power Sharing or Democracy Building?* (Technical Paper 2, International IDEA, 2022), 4.

This provision is general in nature and will likely necessitate the enactment of legislation and the formulation of public policies requiring all levels of government to uphold the principle of non-exploitation of religion in politics.[28] Accordingly, this principle extends to all other agreements and has already been incorporated into the Darfur Peace Agreement. As noted below, this article was reiterated in the Declaration of Principles Agreement signed between the Transitional Government and the Sudan People's Liberation Movement in 2021.

The Blue Nile and Kordofan Agreement includes one key provision on the relationship between religion and the state. Article 1 provides that "the state should remain equidistant from all religions and cultures without racial, religious, or cultural bias."

Article 9.2 thereof provides that both areas shall exercise the powers and authorities that are set out under the 1973 Constitution (as amended in 1974). Importantly, Sharia law was only established in Sudan in 1983, which means that the two areas will be allowed to pass legislation that is not based on Sharia, irrespective of legal developments in the rest of the country.[29]

2. Principles concerning equal citizenship rights

The agreements place a great deal of weight on gender, racial, and religious equality. This emphasis is attributed to the main political demands of armed movements opposed to the government of President Omar al-Bashir, which focused on eliminating political marginalisation and ensuring equal citizenship for all Sudanese people. Paragraph 4 of Article 1 stipulates that "the peoples of Sudan are the source of all powers, and the government at all levels shall be accountable to the people." From this text, it is understood that the Sudanese Armed Forces, as part of government institutions, are therefore subject to accountability to the people and their representative institutions. The Agreement on National Issues (ANI) affirms the rights and freedoms approved by the Transitional Constitutional Charter, and Article 1.20 of the ANI provides that the signatories recognise the "importance of women's representation at all levels of authority and decision-making centers in a just and effective way, with no less than 40% representation." Similarly, Article 2 of the Blue Nile and Kordofan Agreement stipulates that "citizenship without discrimination forms the basis of all civil, political, social, economic, and cultural rights and duties."

3. Provisions regulating the relationship between military institutions and civilian authorities

The Juba Agreement contains several provisions that address the status and control of the armed forces. However, it omits key provisions necessary to ensure that military institutions are subject to effective civilian oversight by bodies such as Parliament and the Auditor General. Furthermore, this agreement does not include any clauses that restrict

[28] Nils-Christian Bormann and Ibrahim Elbadawi, "The Juba Power-Sharing Peace Agreement: Will It Promote Peace and Democratic Transition in Sudan?" Economic Research Forum (ERF), Working Paper no. 1490 (2021), 11.

[29] Al-Ali, *Summary and Analysis of the Juba Peace Agreement*, 9.

military leaders from engaging in political activities, participating in government, or conducting economic activities outside the oversight of the Ministry of Finance. Meanwhile, Articles 2 and 26 of Chapter VIII of the Darfur Agreement state that the role of military institutions is to "protect the homeland, citizens, and the constitution." This formulation, however, remains insufficiently precise and fails to create a clear or enforceable obligation.

The most plausible explanation for the absence of provisions limiting the military's authority during the transitional period is that the military leadership within the Transitional Sovereignty Council played a central role in the negotiations in Juba, enabling them to avoid the inclusion of any substantive restrictions on the military's role or activities in public life. Although the ANI general principles do not explicitly reference the term "civil state," the substance of the civil state principle is implicitly articulated in three consecutive paragraphs—Paragraphs 7, 8, and 9—of Article 1 (General Principles), which outline the following provisions:

- The complete separation of religious institutions and state institutions to ensure that religion is not exploited in politics [...]
- A commitment to peaceful civil practice and the renunciation of all forms of violence in political action.
- [A commitment] to building a state based on equal citizenship for all Sudanese people.

C. The Declaration of Principles Agreement (March 2021)

The Declaration of Principles between Lieutenant General Abdel Fattah al-Burhan, Chairman of the Transitional Sovereignty Council, and Abdelaziz al-Hilu, leader of the Sudan People's Liberation Movement-North (SPLM-N), signed in Juba, South Sudan, in March 2021, facilitated more substantive and systematic discussions on the concept of a civil state, with particular focus on the relationship between the state and religions, as well as the protection of freedom of belief without discrimination. These discussions reflect a broader commitment to the principles of citizenship and fundamental freedoms.[30] The Sudan People's Liberation Movement–North (SPLM-N) operates in regions inhabited by non-Muslim communities, including Christians and adherents of local religions, who have long voiced grievances over religious discrimination under the regime of General Omar al-Bashir, whose rule was rooted in the ideology of political Islam. The SPLM-N has declared that, should its objectives for the establishment of a secular system of governance not be realized, it will advocate for the right to self-determination in territories under its control.[31] Article 2.3 of the Declaration of Principles stipulates the "establishment of a civil, democratic, federal state in Sudan, wherein freedom of religion, freedom of belief and religious practices and worship shall be guaranteed to all Sudanese people by separating the identities of culture, region, ethnicity and religion from the state. No religion shall be imposed on anyone, and the state shall not adopt any official religion."[32]

30 Bormann and Elbadawi, "The Juba Power-Sharing Peace Agreement," 9.
31 "Sudan Gov't and SPLM-N Sign Agreement to Pave Way for Peace Talks," *Al Jazeera*, 28 March 2021.
32 Bormann and Elbadawi, "The Juba Power-Sharing Peace Agreement," 27.

The state shall be impartial in matters of religion, faith, and conscience. The state shall guarantee and protect freedom of religion and religious practices. These principles shall be enshrined in the constitution.

It is noteworthy that Article 2 does not provide a definition of the civil state; however, Article 2.1 outlines the characteristics of such a state, even though it does not explicitly use the term "civil state." It provides as follows: "Sudan is a racially, ethnically, religiously and culturally diverse state; therefore, this diversity must be fully recognised and managed, and the question of national identity must be addressed."

The Declaration of Principles was significant in that it constituted a direct agreement with the military component of the transitional government, which had consistently expressed reservations regarding provisions aimed at transferring power to civilian authorities. The concept of a civil state, grounded in the principle of state neutrality toward religion, remained central to the political vision of the Sudan People's Liberation Movement (SPLM), as it represented a response to prolonged wars and internal conflicts rooted in religious and ethnic discrimination. The 2019 Constitutional Charter, which preceded the Declaration of Principles, incorporated the principles of equality and non-discrimination as fundamental components of comprehensive peacebuilding and human security, thereby establishing them as priorities for the transitional period. Accordingly, it was essential for the signatories to the Declaration of Principles to include provisions promoting religious equality and upholding diversity.

In the context of the December 2018 revolution, the revolutionary forces struggled to define the relationship between the state and religion. This dynamic manifested in vigorous political campaigns led by the Islamist movement supporting the regime of General Omar al-Bashir, which sought to undermine the transitional government by portraying advocates of "secularism" or a "civil state" as adversaries of the people's religious beliefs. The Declaration of Principles between the Sudanese government and the Sudan People's Liberation Movement–North (SPLM-N) sought to shape Sudan's democratic transition by affirming the principles of a civil state, including the commitment to state neutrality in matters of religion, as foundational elements.[33] The concept of a civil state, grounded in religious neutrality, was rearticulated and further developed in the Declaration of Principles through the political lens of the SPLM-N, which views the root of Sudan's conflict as stemming from the entrenchment of Islamist state ideologies within the central government's frameworks and institutions, thereby resulting in the exclusion of non-Muslim groups from governance and high-level national decision-making.[34]

D. Draft Constitution of the Sudanese Bar Association (2022)

The Sudanese Armed Forces, in coordination with the Rapid Support Forces, staged a military coup against the transitional government on 25 October 2021—halting the political transition and detaining Prime Minister Abdalla Hamdok and other members of the cabinet. However, the leaders of the revolution, with backing from the international community, engaged in extensive efforts to initiate direct dialogue with the military leadership.[35]

33 Ibid.
34 "Sudan Gov't and SPLM-N Sign Agreement."
35 International Crisis Group, *A Critical Window to Bolster Sudan's Next Government* Brussels: International Crisis Group, 2023

To facilitate the restoration of the democratic transition, the Sudanese Bar Association initiated a new process to draft a political framework, garnering strong support from revolutionary forces, including the Forces of Freedom and Change, civil society organisations, and the Sudanese Professionals Association. The Sudanese Armed Forces and the Rapid Support Forces agreed to engage in the proposed framework agreement, which aimed to reinstate the democratic transition and redefine the political partnership between civilian and military actors, thereby guiding the transitional period to its conclusion. The framework agreement was subsequently signed on 5 December 2022, in the presence of civilian representatives and international and regional stakeholders.[36]

Based on the principles and provisions outlined in the Framework Agreement, the Sudanese Bar Association formed a technical committee to draft a proposal for a new Transitional Constitutional Charter. Both the Framework Agreement and the Draft Constitutional Charter placed strong emphasis on the concept of a "civil state" and the principle of civilian rule. These terms were employed to promote democratic governance and limit military control over key sectors, such as national security, the economy, the media, and foreign relations.[37] As such, both documents, drafted by civilian actors, aimed to affirm the central role of civilians in governance and preclude military involvement in political affairs.

This vision echoed the slogans of revolutionary youth at the time, who demanded the withdrawal of the military from politics and the dissolution of the Rapid Support Forces, chanting *Al-'askar lilthakanat w-al janjaweed yinhil*, which means, "the military to the barracks, and the Janjaweed dissolved." These developments—along with the demands voiced by revolutionaries in the streets—were reflected in the evolution of the civilian-military partnership framework and in provisions concerning security sector reform and the establishment of a fully civilian state by the end of the transitional period. Collectively, these efforts may be understood as a concerted attempt to institutionalise civilian rule and preclude military involvement in future political affairs.[38]

The term "civil state" features prominently in both documents, and references to "civil government," "civil state," and "civilian rule" recur throughout their respective chapters. In this context, observers might interpret the drafting of these texts as a direct response to the 25 October 2021 coup, which revealed the military's reluctance to advance the agreed-upon transitional process, dismantle the remnants of the former authoritarian regime, and transfer power to civilians during the final phase of the transition.[39] Accordingly, the concepts of "civil state" and "civilian rule" were emphasised in these documents as mechanisms to structure the democratic transition and to extricate the military establishment from political authority.

36 Ibid.
37 D. Rosalind Marsden, "A Critical Juncture for Sudan's Democratic Transition," *XCEPT*, 2023.
38 Ibid.
39 Ibid.

1. The main principles in the 2022 Draft Constitution of the Bar Association regarding the position of the military in a civilian state

The preamble explicitly stipulates provisions specific to a democratic civil state, affirming that sovereignty resides in the people, who are the ultimate source of authority (Paragraph 3). It also recognizes the religious, ethnic, and cultural diversity of the Sudanese people (Paragraphs 2 and 4) and stipulates that the state must remain neutral and impartial with respect to any religion (Paragraph 5). The preamble prohibits military coups against the government and defines the role of the army as protecting Sudan's borders and defending democratic civilian rule (Paragraphs 10 and 11). It further mandates that the transitional period should be characterised by "civilian" rule, explicitly excluding the participation of the "army" (Paragraph 14).

2. Nature of the state

Article 3 does not explicitly use the term "civil state," but it addresses the concept, adopting an approach comparable to that of the United States Constitution in articulating the nature and characteristics of such a state. Article 3 declares that the Republic of Sudan is "a democratic federal state whose diverse cultures, ethnicities, languages, schools of thought, and religions coexist. Its system of governance is parliamentary. Rights and duties are based on citizenship without discrimination on grounds of ethnicity, religion, culture, colour, language, gender, social or economic status, disability, regional affiliation, or any other type of discrimination." This approach stands in contrast to the 2021 Framework Agreement, which, in Article 2, called for the establishment of a democratic civil state while intentionally avoiding any reference to a "secular state," a concept that constitutes a central tenet of the political theory advanced by the Sudan People's Liberation Movement-North.

3. Civilian oversight of military agencies

Paragraph 2 of Article 34 (Security and Military Agencies Reform), in Chapter Three of the Draft Constitution prepared by the Bar Association (Mandate of the Transitional Period), provides that the relationship between the military and civilians shall be governed by a democratic constitution. This provision affirms that the performance of the armed forces shall be subject to oversight by institutions of democratic civilian governance. To foster an environment conducive to the integration of military and security institutions into Sudan's democratic transition, Article 34 further mandates that all legislation regulating security institutions be subject to comprehensive institutional and legislative reform. In democratic systems, civilian institutions—including parliaments—are responsible for directing and overseeing the military and determining national defence policies. This responsibility does not derive from the assumption that civilian officials possess greater expertise than military professionals, but rather from their representative mandate on behalf of the citizenry, which entrusts them with decisions affecting national security and the safety of the state.[40]

[40] Wolfgang Wagner, *Parliamentary Control of Military Missions: Accounting for Pluralism*, Geneva Centre for the Democratic Control of Armed Forces (DCAF) Occasional Paper no. 12 (Geneva: DCAF, 2006), 29–31.

4. The nationalist nature of the military institution

Paragraph 1 of Article 69 (Military Forces) of the draft constitution stipulates that the Sudanese Armed Forces shall constitute a non-partisan national force representing all Sudanese equally. "It shall undertake the duty of defending the homeland, its unity and sovereignty, safeguarding its security, territorial integrity, and borders." The article also provides that the military "may not be used against the Sudanese people and their revolution," nor against the civilian government. Paragraph 6 of Article 69 defines the relationship between the military and civilians, affirming that the military is mandated to serve the people. It prohibits the military from engaging in investment and commercial activities involving goods and services or from participating in profit-driven competition, with the exception of military industries that strengthen national defence capabilities and operate within a policy framework approved by the transitional government.

Paragraph 7 of the draft constitution outlines the mandate of the military institutions during the transitional period. Within this paragraph, the term "civilian government" is referenced three times:

- "Abiding by the constitutional order and respecting the rule of law, the democratic civilian government […]"
- "Respecting the will of the Sudanese people to establish a pluralistic democratic civilian government and operating under its authority."
- "Implementing policies related to security and military reform in accordance with the plan of the civilian transitional government […]."

In these three provisions, the constitution drafters emphasised the central role of civilian institutions in approving the overarching strategies governing the functions and responsibilities of the military, as well as in overseeing the military's performance in implementing these strategies.

Paragraph 7 assigns additional duties to the national military forces, including—but not limited to—protecting the people's national security and defending Sudan's territories. In fulfilling these duties, the military shall remain non-partisan and shall not represent or support any political ideology, religious movement, or ethnic group. The loyalty of the army and its leadership must be directed toward the supreme values of the nation as articulated in the constitution, including the protection of the rule of law and the preservation of democratic principles.[41]

The framework agreement between Sudan's military establishment and civilian forces was articulated with significant inclusivity and participation.[42] The civilian forces sought to address the shortcomings of the 2019 Interim Constitution in drafting the new constitution. A central focus was the entrenchment of the civil state within the constitutional framework. The provisions outlined in the Bar Association's draft constitution reflect a keen awareness of the military's role in undermining political stability and obstructing democratic development in Sudan. The draft further acknowledges the divisive effects of religious, cultural, and ethnic discrimination on society and its institutions.[43]

41 Ibid.
42 Marsden, "A Critical Juncture for Sudan's Democratic Transition."
43 Wagner, *Parliamentary Control of Military Missions*, 29-31.

E. The Effects of Implementing the Concept of the Civil State on Democratic Transition

Numerous political factors contributed to the incorporation of the concept of the civil state in all political and legal negotiations conducted during the transitional period. Accumulated experience played a key role in the development of constitutional provisions relating to the civil state. Notably, while these principles held a significant position within transitional documents, they did not translate into effective practical implementation. In general, the growing demand for the establishment of a civil state produced both positive and negative effects. Two principal consequences of the widespread presence of the concept of the civil state in Sudan's political transition documents are highlighted here: the increasing political significance of the concept of the civil state and the mounting apprehension among military leaders concerning its implementation.

One of the most significant outcomes accompanying the implementation of the concept of the civil state during the transitional period was the marked development of legal provisions pertaining to its establishment. There has been a steady but accelerated increase in the number of texts and provisions governing the civil state. For instance, the 2022 Bar Association Draft Constitution was drafted following the signing of the Declaration of Principles Agreement in 2021 by Lieutenant General Abdel Fattah al-Burhan, Chairman of the Transitional Sovereignty Council, and Abdelaziz al-Hilu, leader of the Sudan People's Liberation Movement-North. As a result, the constitutional provisions in the Bar Association's draft, particularly those addressing the relationship between religion and the state, were clearly and significantly influenced by the tenets and clauses of the Declaration of Principles Agreement, especially with respect to the state's neutrality toward religion.[44] This development reflects an increased awareness of the concept of the civil state among the political elite, youth activists, and civil society.

One major consequence of the insistence on implementing the principle of the civil state was the heightened concern among military leaders regarding their political interests and future. Although the military leadership signed a political partnership agreement with civilian forces in 2019, which included a power-sharing arrangement during the transitional period, the erosion of mutual trust culminated in a coup led by the army commander on 25 October 2021, thereby derailing the path to civilian rule and democratic transition. In an effort to restore the transitional process, the Bar Association proposed a framework agreement in December 2022. Demands for the establishment of a civil state re-emerged, intensifying political tensions among the parties to the framework agreement, particularly as negotiations turned to the topic of security sector reform and the future of the Rapid Support Forces.[45]

In the absence of a dispute resolution mechanism among the principal actors in the political transition, political tensions escalated beyond the negotiation table, eventually erupting into armed conflict and culminating in a war between the Sudanese Armed Forces and the Rapid Support Forces in April 2023. This development effectively derailed the opportunity for a successful and peaceful democratic transition.[46]

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44 "Sudan Gov't and SPLM-N Sign Agreement."
45 Khalaf Allah and Doleeb, *Sudan's Turmoil*.
46 International Crisis Group, *A Critical Window*.

Both the framework agreement and the Bar Association's draft constitution addressed the concept of the civil state in detail and introduced specific provisions defining the role of the military establishment during the transitional period.

In her article "A Critical Juncture for Sudan's Democratic Transition," Rosalind Marsden, a writer and diplomat specialising in Sudanese affairs, asserts that available evidence demonstrates the military leadership's lack of commitment to democracy and the civil state principle. Marsden explains that this was the rationale behind the military's efforts to undermine and terminate the transitional period in 2021.[47] Discussions surrounding the establishment of a civil state in the 2022 Framework Agreement likely called explicitly for the military component to be excluded from governance and the national economy, limiting its role to defending the state and safeguarding democracy.[48] It was therefore expected that military leaders would perceive the implementation of civil state principles as a threat to their interests, especially given that these principles would end immunities and impose strict civilian oversight over the military's economic enterprises.[49] If the application of these principles served to curb the political role of the military, it makes sense that senior military leaders would harbour concerns regarding their personal interests and the institutional role of the military in both politics and the economy.[50]

Finally, it is important to note that political demands for the implementation of the civil state—particularly from youth sectors, civil society, and political parties—far outpaced the corresponding constitutional responses. In reaction to these demands, constitutional initiatives gradually incorporated content related to the civil state. The Bar Association's draft constitution effectively constitutes a revision of the 2019 Constitutional Document, with two key differences: (a) it does not include the power-sharing arrangement between the military and civilians that was central to the original document, and (b) it contains several amendments reflecting the firm stance of pro-democracy civilian forces against the continued political involvement of the military following the 2021 coup.

Although the demand for a civil state emerged from the outset of the revolution against military rule in December 2018, the Constitutional Charter neither addressed these demands nor fostered an environment conducive to their realisation during the transitional period.

Despite the progress reflected in the Bar Association's draft constitution as a subsequent response to the demands of revolutionary and democratic forces, it contained several significant flaws that could undermine its capacity to establish effective transitional governance and ensure the continuity of the transitional process. Notably, the lack of clarity in its rules and procedures, the absence of institutional independence among the entities tasked with implementing its provisions during the transitional phase, and the requirement to finalise the drafting of a permanent constitution prior to the elections, all represent significant vulnerabilities within the proposed draft—weaknesses that opponents of the transitional process could readily exploit.[51]

47 Marsden, "A Critical Juncture for Sudan's Democratic Transition."
48 ACLED, "New Political Deal Amid Rising Disorder in Sudan," *Context Assessment*, 3 March 2023.
49 International Crisis Group, *A Critical Window*.
50 Khalaf Allah and Doleeb, *Sudan's Turmoil*.
51 ACLED, "New Political Deal Amid Rising Disorder in Sudan."

CONCLUSION

The concept of a "civil state" gained considerable prominence in Sudan following the December 2018 revolution, emerging as a core demand of civil forces advocating for political stability and sustainable democratic governance. Various political factors contributed to the widespread adoption of the term, including Sudan's extended history of military dictatorship, as well as a period of religious rule, during which grave human rights violations were committed. The period of political Islam's governance stands out as the longest since Sudan's independence and proved particularly detrimental to the principles of national unity and social cohesion. These experiences of failed governance played a central role in shaping a political and legal understanding of the "civil state" in Sudan—one that rejects military involvement in politics and mandates the state's impartiality with respect to religion.

The 2019 Constitutional Charter, the 2020 Juba Peace Agreement, the Declaration of Principles signed in March 2021 between the transitional government and the Sudan People's Liberation Movement-North (SPLM-N) and the 2022 draft constitution prepared by the Sudanese Bar Association, collectively contributed to embedding the concept of a civil state within Sudan's transitional legal framework. This rapid articulation of a Sudanese conception of the civil state reflects the perspectives of the civil forces that played a central role in toppling Bashir's authoritarian regime. The swift emergence and broad adoption of the term by revolutionary youth and civil society fostered the development of a collective consciousness regarding the foundational requirements for political stability and peaceful coexistence.

The notion of a "civil state" emerged as a response to the root causes of Sudan's enduring crises, with its incorporation into political and legal instruments symbolising the Sudanese people's aspirations for a state free from dictatorship, human rights violations, discrimination, and oppression.

Yet, Sudanese political and legal charters governing transitional periods do not provide a precise or comprehensive definition of the term "civil state." This definitional gap, it can be argued, stems from an absence of in-depth analysis of the political and ideological dynamics that continued to shape the public sphere during successive authoritarian regimes in Sudan. As a result, no coherent political vision for a democratic project materialised in the aftermath of the revolution against dictatorship. Within this context, narratives surrounding the civil state concept have been heavily influenced by the prevailing ideological currents that dominated the post-revolution political scene. For some, the term refers to a civil state as opposed to a military regime, while others interpret it as the antithesis of a religious state—envisioning a system that safeguards public freedoms and guarantees equality without discrimination.

Despite significant advancements in articulating the civil state concept during the 2019–2021 transitional period, the relevant legal texts and general principles lacked the institutional mechanisms required to ensure their effective implementation. Therefore, it is essential that any transitional constitution not only enunciate general principles affirming the civil state but also establish concrete structures for their operationalisation through institutions, legislation, and public policies. Moreover, transitional constitutional provisions must be carefully designed to address the military's persistent reluctance to support the civil state model.

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