

Options for Transition Period Processes

Linkages and Sequencing of Political Dialogue Processes in the Sudan

*** Briefing on work in progress ***



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CDI Sudan Program

mamir@cdint.org | ewright@cdint.org

www.cdint.org

Purpose of briefing

- Share options for linked dialogue processes that will help realize the objectives of the transition period in the Sudan
- Catalyze much-needed debate on the details of sequencing and linkages (across processes)

Overview

- It is a defining moment for the Sudanese people. The transition period offers an opportunity to break cycles of exclusion that have driven conflict for decades and for the people of Sudan to steer a new course toward peace and stability.
- An inclusive and effective constitution review process is the most important process for a successful political transition, as it should translate the peace processes outcomes to a detailed long-term arrangements.
- When combined with the peace process and the elections process, the constitution building process will form the foundation for Sudan's future.

Transition period: Challenges and needs

- Challenges

- Existing political dialogue processes proceeding without enough consideration as to how they complement each other and will help achieve the same overall objective
- 3 years is a short timeframe for the transition. Therefore careful consideration of how the processes can sequence and link together is critical.
- There is not enough transparent communication of processes to the public and engagement of youth, women, and others

- Needs

- Need for a coherent and realistic plan to help the Transitional Government of Sudan coordinate and plan for the various processes, including successful implementation
- Need for detailed design of each process and of how the processes can sequence and link together to meet the milestones in the Constitution Declaration (August 2019)

Three options for linked processes

1. **PSCE** – **P**eace process > **S**ynchronization > **C**onstitution review process > **E**lectoral process
2. **PSEC** – **P**eace process > **S**ynchronization > **E**lectoral process > **C**onstitution building process
3. **PCE** – **P**eace > **C**onstitution review > **E**lectoral process

Option One: PSCE

Peace process > Synchronization > Constitution review process > Electoral process

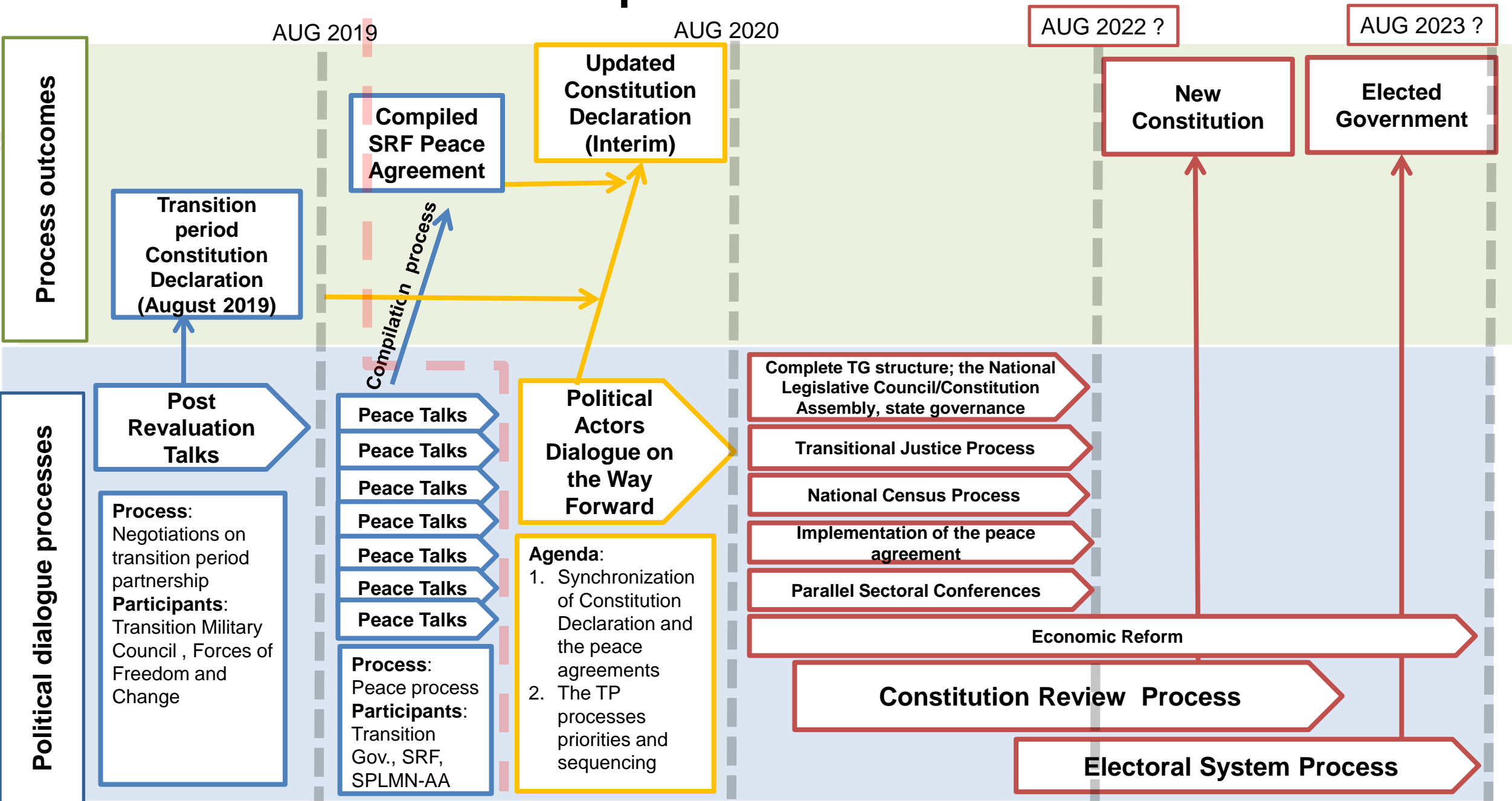
- The different outcomes of the peace dialogue tracks involving SRF are compiled into one overarching peace agreement document. This will be important for:
 - Reconciling conflicting provisions in the different agreements.
- A dialogue is conducted to synchronize the Constitution Declaration with the overarching Peace Agreement, and to agree on the priorities and sequencing of the remaining transitional dialogue processes. This will be important for:
 - Building trust and confidence across political actors, many of whom were only party to the Constitution Declaration negotiation or the peace talks, and some neither.
 - Reconciling conflicting provisions in the different documents.
 - Ensuring consistent expectations of the TP and clarity on plans for the constitution and elections processes, as poorly run processes could threaten the transition.

Option One: PSCE

Pace process > **S**ynchronization > **C**onstitution review process > **E**lectoral process

- The synchronization process could have the following outcomes which should be implemented in the pre-constitution period:
 - The formation of the remaining transitional government bodies;
 - Implementation of the peace agreement;
 - The start of other processes such as transitional justice and a census if possible; and
 - Preparation for the constitution process, including sectoral conferences on issues such as health, education, women, youth, and other basic services, conducted by independent Sudanese experts.
- The constitution review process [for the 2005, 2011, or 2015 constitution] occurs, resulting in a permanent constitution. *(The short TP will not allow for new process)*
- Election of a permanent government.

Option 1 - PSCE



Option 1 – Pros and cons

- Pros
 - Synchronization process encourages consensus among transition actors on transition period political processes
 - Recognizes the reality of separate streams of dialogue ongoing in Juba as of March 2020
 - Features amended Constitution Declaration which provides opportunity for incorporating outcomes of peace talks and have more realistic timelines
 - The constitution review process preceding the elections process means that the elections would return representatives to the new political structures and institutions
- Cons
 - May be very challenging to gain sufficient consensus on the transition period priorities among transition actors
 - Proposing an amendment to the Constitution Declaration may open the ‘Pandora’s Box’ whereby many changes to the body text are requested
 - Constitution review process before elections under current timeframe will likely mean that both processes very compressed and difficult to implement
 - SRF members can hold up progress on subsequent process steps
 - Other armed groups not party to the peace process (SPLMN-AA & SLA –AW) are left out
 - No explicit, formal process for engaging youth, women , and communities affected by war

Option Two: PSEC

Peace process > Synchronization > Electoral process > Constitution building process

- The different outcomes of the peace dialogue tracks remain separate to leave the door open to remaining armed movements to join the transition process.
- A dialogue is conducted to synchronize the Constitution Declaration with the various peace agreements, and to agree on the priorities and sequencing of the remaining transitional dialogue processes. This will be important for:
 - Reconciling conflicting provisions in the peace agreements and constitution charter.
 - Building trust and confidence across political actors, many of whom were only party to the Constitution Declaration negotiation or the peace talks, and some neither.
 - Ensuring consistent expectations of the TP and clarity on plans for the elections and constitution processes, as these are complex and take time, and poorly run processes could threaten the transition.

Option Two: PSEC

Pace process > **S**ynchronization > **E**lectoral process > **C**onstitution building process

- The synchronization process could have the following outcomes which should be implemented in the pre-constitution period:
 - The formation of the remaining transitional government bodies;
 - Implementation of the peace agreements;
 - The start of other processes such as transitional justice and if possible a census; and
 - Preparation for the elections, including amendment of the political parties law and formation of the Electoral Commission.
- Elections of a permanent government occur.
- The newly-elected government then undertakes the constitution review process.

Option 2 - PSEC

AUG 2019

AUG 2020

AUG 2021

AUG 2022

Process outcomes

Transition period
Constitution
Declaration
(August 2019)

Peace
Peace
Peace
Peace
Peace
Peace
Peace
Agreement

Updated
Constitution
Declaration

Elected
Government

New
Constitution

Political dialogue
processes

Post
Revaluation
Talks

Process:
Negotiations on transition period partnership
Participants:
Transition Military Council, Forces of Freedom and Change

Peace Talks
Peace Talks
Peace Talks
Peace Talks
Peace Talks
Peace Talks
Peace Talks

Process:
Peace process
Participants:
Transition Gov., SRF, SPLMN-AA

Political
Actors
Dialogue on
the Way
Forward

Agenda:
1. Synchronization of the Constitution Declaration and the peace agreements.
2. TP processes priorities & sequencing

Economic Emergency Plan

Complete the TG structure at states level; Superior Council

Transitional Justice Process

IDPs and Refugees resettlement

National Census Process

Reform the Armed Groups structure to be political parties

Political Parties Law

Electoral System Process

Constitution process by elected government

Option 2 – Pros and cons

● Pros

- Encourages some consensus on process among transition actors.
- Leaves the door open for other armed groups (SPLMN-AA & SLA- AW) to join
- Recognizes the reality of separate streams of dialogue ongoing in Juba
- Features separate 'Addenda' to Constitution Declaration, one for each bilateral (TGoS <> SRF Member) agreement; in this way no single member of SRF can hold up progress (This approach was used with DDPD)
- An elected new Executive and Legislative Branch, and potentially a newly (re-)appointed Commission would oversee the constitution building process, increasing legitimacy of the process.

● Cons

- May be challenging to gain sufficient consensus among transition actors, even on process
- The elections process preceding the constitution building process means that the elections can be conducted in a shorter period of time and would need limited revisions to the Electoral Act/Interim Electoral Act.
- Having elections before the constitution building process means that for at least the first term the political structure will remain as under the previous National Constitution. This has some serious shortcomings, such as over-concentration of authority in the Executive, and risks a constitution process will not be conducted.
- No explicit, formal process for engaging youth, women, and communities affected by war.

Option Three: PCE

Pace process > **C**onstitution review process > **E**lectoral process

- The different outcomes of the peace dialogue tracks remain separate.
- No synchronization process of the peace agreements and the Constitution Declaration is held, meaning the agreements will need to be reconciled during the constitution process.
- A pre-constitution period allows for:
 - The formation of the remaining transitional government bodies at State level;
 - Formation of National Constitution Assembly instated of National Assembly
 - Implementation of the peace agreements;
 - The start of civic education on constitution process and substance; and
 - Formation of constitution commission structure and responsibilities.

Option Three: PCE

Peace process > **C**onstitution review process > **E**lectoral process

- The constitution process occurs, resulting in a permanent constitution.
- Election of a permanent government.

Option 3 - PCE

AUG 2019

APR 2020

AUG 2021

AUG 2022

Process outcomes

Transition period
Constitution
Declaration
(August 2019)

Peace
Peace
Peace
Peace
Peace
Peace
Peace
Agreement

New
Constitution

Elected
Government

Political dialogue processes

Post
Revaluation
Talks

Peace Talks

Process:
Negotiations
on transition
period
partnership
Participants:
Transition
Military
Council,
Forces of
Freedom and
Change

Process:
Peace
process
Participants:
Transition
Gov., SRF,
SPLMN-AA

Implement the Peace Agreements

Establish the National Constitution Assembly

Complete TG structure at state level

Civic Education re constitution process & substance

Constitution Process

Electoral System
Process

Option 3 – Pros and cons

- Pros

- More realistic number of processes to conduct given the current timeframe
- High probability of successful transition period
- Leaves the door open for the other armed movements to join the constitution process
- Accommodates members of the armed groups in the transitional government

- Cons

- The various outcomes of the peace dialogues will have to be reconciled during the constitution process, and it will likely take more time
- The peace agreements from the tracks would likely take precedence, which could increase polarization between the FFC and the SRF
- Could allow for dominance of the peace process actors over the civilian components, which in turn could lead to a less inclusive, representative, and genuine constitution process.
- Other armed movements not party to the peace process (SPLMN-AA & SLA –AA) are left out
- No explicit, formal process for engaging youth, women, and communities affected by war.

3 options – Pros and cons

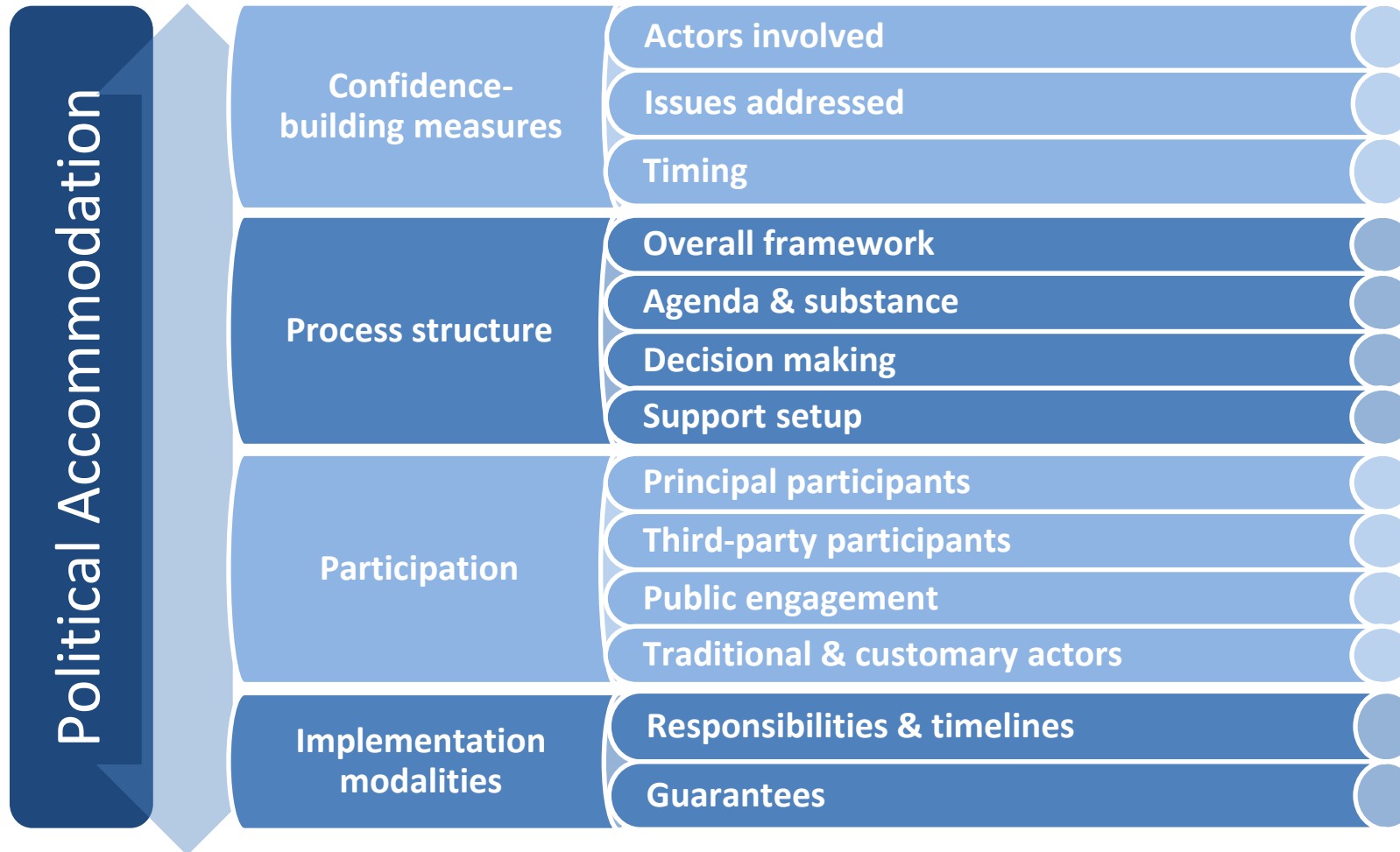
	OPTION 1	OPTION 2	OPTION 3
PROS	<ul style="list-style-type: none"> • Encourages consensus among transition actors on transition period political processes • Recognizes the reality of separate streams of dialogue ongoing in Juba as of March 2020 • Features amended Constitution Declaration which provides opportunity for incorporating outcomes of peace talks and have more realistic timelines • The constitution review process preceding the elections process means that the elections would return representatives to the new political structures and institutions 	<ul style="list-style-type: none"> • Encourages some consensus on process among transition actors • Leaves the door open for other armed groups (SPLMN-AA & SLA- AW) to join • Recognizes reality of separate Juba dialogues • Features separate ‘Addenda’ to Constit. Decl, one for each bilateral agreement; so no single member of SRF can hold up progress • Elected new Executive and Legislature, and a newly (re-) appointed Commission would oversee the constitution building process. 	<ul style="list-style-type: none"> • More realistic number of processes to conduct given the current timeframe • High probability of successful transition period • Leave the door open for the other armed movements to join the constitution process • Accommodates members of the armed groups in the transitional government
CONS	<ul style="list-style-type: none"> • May be very challenging to gain sufficient consensus on transition period priorities among transition actors • Amending the Constitution Declaration may open the ‘Pandora’s Box’ whereby many changes to the body text are requested • Constitution review before elections will mean both processes very compressed & difficult to implement • SRF members can hold up progress on subsequent process steps • Other armed movements not party to the peace process (SPLMN-AA & SLA –AW) are left out • No explicit, formal process for engaging youth, women, communities affected by war 	<ul style="list-style-type: none"> • May be challenging to gain sufficient consensus among transition actors • The elections process preceding the constitution building means that elections can be conducted in a shorter period of time and need limited revisions to Electoral Act. • Elections before the constitution building means that the political structure will remain as under the previous Constitution. This risks a constitution process will not be conducted. • No explicit, formal process for engaging youth, women, communities affected by war 	<ul style="list-style-type: none"> • The peace dialogues outcomes will have to be reconciled during constitution process • Peace agreements from the tracks would likely take precedence, which could increase polarization between FFC & SRF • Could allow for dominance of peace process actors over the civilians, which in turn could lead to a less inclusive, representative, and genuine constitution process. • Other armed movement not party to peace process (SPLMN-AA & SLA –AA) left out • No explicit, formal process for engaging youth/women/communities affected by war

Individual process design

This section goes into more depth on the specific processes that comprise the three options, including directive questions to help guide the design of these processes

Framework for process design

These four strands provide a structure to design comprehensive political dialogue processes:



PROCESS: Compilation Peace Agreement

Overall Process Framework

What should be the format? Criteria of Compilation?
Who will oversee the process and what is the mandate?
What decision-making rules will be used? What dispute resolution mechanisms ?
What types of support will be required by the participants or facilitators/mediators?
How will this agreement allow for participation of other armed groups in future processes?

Participants

Who will participate directly in the talks and who else is an influential participant?
How will other political actors be engaged?

Implementation Modalities

Who has a role or a responsibility to implement the agreement?
What guarantees can be put in place to ensure that the agreement is implemented?
What are the consequences of delayed or non-implementation?

Confidence Building Measures

Will any confidence-building measures be undertaken?

1. Among armed movements
2. Between SRF and FFC

OUTCOME:
Unified,
overarching
peace
agreement

PROCESS: Dialogue on the Way Forward

Overall Process Framework

What should be the format? Where will the talks occur?
Who will oversee the process and what is the mandate?
What decision-making rules will be used? What dispute resolution mechanisms ?
What types of support will be required by the participants or facilitators/mediators?
How will the process be financed?

Participants

Who will participate directly in the process and who else is an influential participant?
What arrangements can be used to ensure effective youth and women engagement?

Implementation Modalities

Who has a role or a responsibility to implement the agreement?
What guarantees can be put in place to ensure that the agreement is implemented?
What are the consequences of delayed or non-implementation?

Confidence Building Measures

Who will undertake confidence-building measures?
What issues should measures focus on?

OUTCOME:
Updated
Constitution
Declaration

PROCESS: Constitution Process

Overall Process Framework

What is the overall framework (or structure) for the process?
What institutional structures will the process need (e.g., assembly, committees)?
Who will oversee the process and what is the mandate?
How long will the process take, and will it take place within a formal timeframe?
What are the main substantive issues to be discussed?
What decision-making rules will be used? What dispute resolution mechanisms?
What types of support will be required by the participants or facilitators/mediators?
How will the process be financed?

Participants

Who will participate directly in the process and who else is an influential participant?
What arrangements can be used to ensure effective public engagement?

Implementation Modalities

Who has a role or a responsibility to commitment and activation of the constitution?
What guarantees can be put in place to ensure that the constitution is implemented?
What are the consequences of delayed or non-implementation?

Confidence Building Measures

Who will undertake confidence-building measures?
What issues should measures focus on?

OUTCOME:
New/
Reviewed
Constitution
Document

PROCESS: Electoral System

Overall Process Framework

Who will oversee the process and what is the mandate?
What institutional structures will the process need (e.g., commission, committees)?
How long will the process take?
What types of support will be required?
How will the process be financed?

Participants

What arrangements can be used to ensure effective women and youth engagement?
What arrangements can be used to ensure fair and free process?

Implementation Modalities

What guarantees can be put in place to ensure implementation?
What are the consequences of delayed or non-implementation?

Confidence Building Measures

Will any confidence-building measures be undertaken?

OUTCOME:
Elected
Government