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REPUBLIC OF SUDAN: NEGOTIATION SIMULATION

**Briefing Packet for Sudan People's Liberation Movement &
Army Delegation**

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Introduction

Welcome to the Republic of Sudan Negotiation Simulation. The purpose of this negotiation simulation is to surface key issues that real world negotiators will confront in the Sudanese peace talks, as well as potential solutions to the points of impasse which will likely arise. The negotiation simulation has been developed using the methodology employed by the US Department of State's National Foreign Affairs Training Institute which runs similar negotiations to train US diplomats prior to negotiations.

This simulation exercise is not intended to be a comprehensive review of all the issues involved, nor is it intended to endorse one view over the other. The participants in the simulation naturally will have varying levels of substantive or area expertise, as well as professional commitment to the issue. Participants are therefore encouraged to draw upon their individual experiences as they deem appropriate.

The participants in this simulation have been divided into six delegations. Three of these delegations represent the elite networks: the Government of Sudan (GoS), Sudan People's Liberation Movement (SPLM) and the National Democratic Alliance (NDA). The other three teams represent mediators and observers in the international community.

To provide the necessary information to conduct this simulation, this briefing packet contains a brief review of the history of the conflict, the principal interests of the parties and other relevant actors, a discussion of the primary issues which are likely to be discussed during negotiations, and negotiating instructions for the delegations. Each delegation is provided only their instructions. Two appendices are also provided. The first includes links to further sources of information on the main issues of the conflict. The second is a report providing background information on humanitarian issues caused by the conflict in Sudan.

For the purposes of this simulation, the negotiation is occurring pursuant to the Machakos Protocol. This protocol, signed in 2002, allowed for a six-year interim period that would culminate in an internationally monitored referendum to the people of Southern Sudan to "confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement; or to vote for secession." A cease-fire agreement signed in October of 2002 is also in place, although both the Government of Sudan and the SPLM have violated it on numerous occasions.

Although this simulation does not have any specific rules, there are strict time allotments for group meetings, private negotiations and plenary sessions to address modalities of the process and substantive issues. We are not assuming that all of the issues can be negotiated during the simulation or that agreement can be reached on each of them. Rather, each delegation will need to decide its own priorities and tactics.

The negotiation simulation has been prepared by the Public International Law & Policy Group in cooperation with American University and is made possible by a grant from the Carnegie Corporation of New York. The Public International Law & Policy Group (PILPG) is a 501(c)(3) non-profit organization, which operates as a global *pro bono* law firm providing free legal assistance to developing states and states in transition involved in conflicts. To facilitate the utilization of this legal assistance, PILPG also provides policy formulation advice and training on matters related to conflict resolution. To date, PILPG has advised over a dozen countries on the legal aspects of peace negotiations and constitution drafting, and over fifteen countries in Europe, Asia and Africa concerning the protection of human rights, self-determination, and the prosecution of war crimes.

Agenda

- 9:00–9:30 AM** Coffee and doughnuts available for participants
- 9:30–9:45 AM** Introduction and review of simulation schedule and procedures
- 9:45–10:15 AM** Individual delegation meetings to review positions
- 10:15–10:35 AM** Members of mediating groups (IGAD, Int’l Observers, Egypt) meet with Sudanese delegations
- 10:35–10:45 AM** Coffee break/Shuttle Diplomacy
- 10:45–11:15 AM** Small Group Meetings
- Wealth Sharing / Natural Resources / Humanitarian Issues
 - Self-determination / Power Sharing / Security
- 11:15–11:30 AM** Members of mediating groups meet with Sudanese delegations
- 11:30–12:00 PM** Small Group Meetings (Continued)
- 12:00–12:30 PM** Individual delegation meetings to focus on substantive negotiating issues
(Lunch will be served during this meeting)
- 12:30–1:00 PM** Plenary Session
- 1:00–1:20 PM** Resume Small Group Meetings as necessary
- 1:20–1:45 PM** Final Plenary Session
- 1:45–2:20 PM** Review and Lessons Learned

List of Participants:

Government of Sudan (GoS)

(President Omar Hassan Ahmed al-Bashir and Special Envoy on Peace Dr Ghazi Salah al-Din Atabani)

The Government of Sudan (GoS) is made up of member of the National Congress Party, which is a front for the National Islamic Front (NIF), which is an Islamic extremist group who believe that Sudan is an Arab-Muslim country and that the people of the South must be forced to convert to Islam and coerced into Arab cultural assimilation.

Sudan People's Liberation Movement and Sudan People's Liberation Army (SPLM/A)

(Dr. John Garang de Mabior, Chairman and Commander in Chief of the SPLM/A and Special Envoy for Peace is Cdr. Salva Kiir Mayardit)

The SPLM/A is a Southern rebel group that has been fighting since 1983 for self-determination and the governance of secular democratic government.

National Democratic Alliance (NDA)

The NDA is not part of the peace negotiations, but it has insisted on being part of it. The SPLM/A has allowed them to sit in on the peace negotiations, but it is the GoS that does not allow them to participate on its own behalf. The NDA is a Northern umbrella opposition group that advocates for a united secular multi-party government that has democratic underpinnings and protects the human rights of all its citizens.

Internationals:

Inter-Governmental Authority for Development (IGAD)

(The main mediator is the Kenyan Special Envoy for Peace, Lieutenant General Lazarus Sumbeiywo)

IGAD is a regional group made up of representatives from Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan, and Uganda. IGAD is holding the platform for the Sudanese peace negotiations. Until now, there have been four sets of peace negotiations held in Kenya under IGAD auspices.

International Observers

(The main mediator is the U.S. Special Envoy for Peace, John C. Danforth)

The United States is the key international observer which has pushed the GoS and the SPLM/A into consenting to four agreements. The U.S. is accompanied by the United Kingdom, which had condominium with Egypt over Sudan until January 1, 1956, the Kingdom of Norway, which has provided technical, financial, and humanitarian aid, and the Italian Republic.

Arab Republic of Egypt (Egypt) (along with the Arab League and the African Union)

Though not official observers, these parties have all sent Special Envoys for Peace to the IGAD Peace Talks. Their presence there is important since they are regional groups that will affect and be affected by the peace process. The Arab League and the AU follow Egypt's lead in the negotiations. They emphasize the unity of Sudan.

A Brief History of the Republic of Sudan

The Republic of Sudan, holding the title of the largest country in Africa, has a population of approximately 36 million people mainly of Arab descent in the North and Africans in the South. It is located in the North-Eastern part of Africa, where it borders with nine countries: Central African Republic, Chad, Democratic Republic of the Congo, Egypt, Eritrea, Ethiopia, Kenya, Libya, and Uganda. Sudan contains nineteen major ethnic groups (with almost 600 subgroups), speaking more than 115 tribal languages. Arabic is the official language, which is one of the reasons that Sudan has been amidst a civil war since August 18, 1955 even though it won its independence from Egypt and the United Kingdom on January 1, 1956. During the period prior to independence, Southern Sudan was administered separately from the North. The British administered the South while Egypt administered the North under the Anglo-Egyptian condominium government, which had ruled Sudan since the beginning of the twentieth century. Thus, while the instructional language in Northern Sudan was Arabic, the language of instruction in Southern schools was English and they used customary law. Since decolonization, Khartoum elite, which have identified with Arabic and Islamic culture, have ruled Sudan.

The first civil war began in the South under the leadership of the Southern separatist forces, Anya Nya movement. The war lasted for 17 years, ending in 1972 when the World Council of Churches and the former Emperor of Ethiopia, Haile Selassie, brokered a peace agreement called the Addis Ababa agreement. Under the Addis Ababa agreement between the government and the Anya Nya, the South becomes a self-governing region. Anya Nya members were to be integrated into the national army, the local police, the prison service and the wildlife service. However, in 1978, oil was discovered in Bentiu in Southern Sudan. Thus, just ten years after the Addis Ababa agreement, Sudan's President Jaafar Nimeiri breached the agreement. The Arab Muslim North had managed to exclude the Christian and animist South—the Nuba Mountains and Southern Blue Nile—from state affairs. The GoS pursued various racial and religious discriminatory policies and, thus, managed to marginalize the 60 percent of the population that is not Arab and the 40 percent of the population that is not Muslim. Additionally, it divided the South into three regions, enabling the central government to deal separately with each and to play them off against each other on tribal basis. The government also asserted control over the

two most valuable natural resources of the South and of all Sudan—the Nile River and oil—while failing to live up to promises to develop and educate the South.

In 1983, Nimeiri announced the application of Islamic law in the South, and the war resumed. In response, the Sudan People's Liberation Army (SPLA) was formed in 1983 in Ethiopia from Anya Nya II groups and Sudan army mutineers from the 105 Battalion stationed in Bor, Upper Nile, who escaped to Ethiopia, where they were joined with others. The SPLM/A experienced political divisions almost immediately. John Garang, a former Anya Nya I guerrilla, emerged as their leader. He advocated for a united secular Sudan. Many Anya Nya II leaders sought the Anya Nya I objective of secession or self-determination; thus, they split from Garang. The GoS and political parties aligned with the government tried to tribalize the civil war by using local rebels to fight guerrillas in neighboring territories. In the mid-1980s, the remaining Anya Nya II dissident officers and troops, mostly Nuers, formed a government militia also called Anya Nya II. The Anya Nya II rallied Nuers in its native Upper Nile province against the Dinka, who were predominately represented by the SPLM/A. Many Nuers, however, remained with the SPLM/A despite government efforts to portray the war as a tribal clash of the Dinka against everyone else. As for the SPLM/A, they undertook a policy of trying to win over Anya Nya II, with some success. Commander Gordon Kong Cuol of Anya Nya II led his men into an alliance with the SPLA in late 1987, and other Anya Nya II forces followed suit, leaving a few Anya Nya II with the government.

In 1989, there was a military coup overthrowing a democratically elected government and placing the National Congress Party, which is a front for the National Islamic Front (NIF), in power with Lieutenant General Omar Hassan Al-Bashir heading the government. The NIF is an Islamic extremist regime that believes that Sudan should be an Arab-Muslim state and all those who are not Muslim shall be forced or coerced into Islam and Arab cultural assimilation. Proof of such motives is apparent from the National Assembly's adoption and President Bashir's signing of a NIF drafted Islamic constitution.

Although racial and religious issues are causes of the civil war, it is not limited to those. It also encompasses regional, resources (the Nile water and government controlled oil), land, ideology, demands for self-determination and cultural disputes. The main parties to the conflict since 1983 were those supporting the government - including the Sudanese People's Armed Forces (the national army), the paramilitary Popular Defense Forces, and various militia groups known as the *murahaleen* - and the opposition forces made up of the SPLA and various allied militias. The drive for oil and territorial control over the oil fields was central to the war between the government and the armed opposition forces, as well as to the ongoing conflict between the various militia factions. For example, the 1,600 km oil pipeline, which came into operation in August 1999, continued to be the target of repeated attacks by opposition forces. In addition to the conflict between the regular army and the SPLA, another conflict raged between the various militias allied with the government or the SPLA. These forces frequently changed sides depending on their perceived interests or simply the supply of arms. It was estimated that during the past few years more people had lost their lives as a result of interfactional fighting between militias than in armed encounters with government forces. The GoS pursued a policy of providing support and weapons to the various militia commanders and encouraging interfactional fighting, which resulted in widespread destruction and destitution for the local civilian

population.

The Southern division was centered around the different tribes. The South is divided into two major tribes that are at war with each other: the Dinka, the largest tribe, and the Nuer, the second largest tribe in Southern Sudan. Both have been burning homes, villages, community structures, and grain, and killing women and children, which have been the proximate cause of several famines in recent years. Control over oil has played a major role in this war. In the Eastern Upper Nile, the Nuer government militias have been actively attempting to drive opposing forces out from the areas adjacent to the oilfields. The GoS has also attempted to move about 100,000 civilians and rebels away from oil installations, which triggered the SPLM/A's capture of Torit, which controls a major road to the government-held Juba, the principal city in Southern Sudan.

In attempt to bring peace and stability to the region, in December 1993, the leaders of Eritrea, Ethiopia, Uganda, and Kenya launched a peace initiative under the auspices of the Inter-Governmental Authority for Development (IGAD). Both the GoS and the SPLM/A agreed that the IGAD should assume the task of mediating their differences in an effort to contribute to a lasting peace in Sudan. The IGAD has made some progress, as the negotiating parties have accepted the 1994 Declaration of Principles (DOP) as the basis for negotiations, albeit with some resistance from the GoS. The DOP, in essence, gives the unity of Sudan a chance, while it also allows the people of South Sudan to opt for independence should it become necessary. However, the division in Sudan grew in 1999, when President Bashir dissolved the National Assembly and declared a state of emergency following a power struggle with parliamentary speaker, Hasan al-Turabi. That year, Sudan began exploiting the oil fields from Southern Sudan.

In July 2001, Egypt and Libya attempted to bring peace to Sudan through their Joint Egyptian Libyan Initiative, which established a Declaration of Principles calling for an all-party transitional government, but does not deal with the issue of self-determination for the South. The GoS accepted the DoP without reservation and the SPLM/A accepted it with conditions. Peace seemed very distant until January 2002, when the SPLM/A merged with the SPDF, and the SPLM/A came to agreements with the Sudan Alliance Forces (SAF) in the North, the Umma Party and the Popular National Congress party, which encouraged the Khartoum government to further negotiate. That same month, the GoS and the SPLM/A signed a landmark ceasefire agreement providing for a six-month renewable ceasefire in the Nuba Mountains region of south-central Sudan. Additionally, in July 20, 2002, through IGAD, the GoS and the SPLM/A reached an agreement on the issues of the right to self-determination and the separation of state and religion. This agreement came to be widely known as the Machakos Protocol. However, the Machakos Protocol is not a comprehensive agreement but a framework for negotiations. After the Machakos Protocol, the Joint Egyptian Libyan Initiative was dropped. Various other agreements followed. However, besides obtaining a cease-fire and minor agreements on power and wealth sharing, the IGAD peace negotiations have been slow. No agreements as to the contentious details of this 20-year war have yet been made.

DELEGATION INSTRUCTIONS

1. BACKGROUND

The first civil war ended in 1972 with the signing of the Addis Ababa agreement. In accordance with the agreement, most of the Southern separatist forces, Anya Nya fighters, were absorbed into the national army, the Sudanese People's Armed Forces (SPAF). However, a number of units unhappy with the agreement defected and went into the bush or took refuge in Ethiopia. Angry over Sudan's support for Eritrean dissidents, Ethiopia began to provide support to Sudan's independent rebel forces. The rebel forces grew as they recruited more members among the Dinka and Nuer people, the largest groups in the South, and eventually adopted the name of Anya Nya II. As the rebel forces grew in size and in power, the government sent those original Anya Nya, who had been absorbed into the army, to keep the rebels in check.

At first, the Anya Nya fought vigorously on behalf of the national government, but, when in 1983 Sudan's President Jaafar Nimeiri adopted policies of redividing the South and imposing Islamic law, the loyalty of Southern soldiers began to waver. Uncertain of their dependability, Nimeiri introduced more Northern troops into the South and attempted to transfer the Anya Nya soldiers to the North. However, Nimeiri kept several Anya Nya soldiers in the South. In 1983, this proved to be costly to Nimeiri.

In February 1983, army units in Bor, Pibor Post, and Pochala mutinied. Lieutenant Colonel John Garang of the SPAF was sent to quell a mutiny in Bor of 500 Southern troops who were resisting orders to be rotated to the North. Instead of ending the mutiny, Garang encouraged mutinies in other garrisons and set himself at the head of the rebellion against the government. Desertions and mutinies in other Southern garrisons soon followed.

In mid-1983, representatives of Anya Nya II and of the mutinous army units joined in Ethiopia and formed the Sudanese People's Liberation Army (SPLA). John Garang, a Dinka Sudanese, was named its commander and also head of the political wing, the Sudanese People's Liberation Movement (SPLM). While recruits were trained across the border in Ethiopia, the SPLM/A grew in numbers and in force. However, the SPLM/A failed to achieve full unity under Garang, and, in a struggle for power, dissident units composed of elements of Anya Nya II were routed out by Garang's forces. The defeated remnants, still calling themselves Anya Nya II, returned to Sudan and began cooperating with the national army against the SPLM/A.

Millions of villagers were forced from their homes as a consequence of the fighting and the depredations of militias, the SPLM/A, and Anya Nya II. Devastation of Northern Bahr al Ghazal by the roving *murahalin* (Arab militias) forced large numbers of destitute people to evacuate the war zone in 1986 and 1987, many of them making their way to Northern Sudan to escape starvation. This massive exodus began to slow down as Anya Nya II ties with the government began to crumble in 1987. Taking advantage of this deteriorated relationship, the SPLM/A undertook a policy of trying to win over Anya Nya II, with some success. Commander Gordon

Kong Cuol of Anya Nya II led his men into an alliance with the SPLA in late 1987, and other Anya Nya II forces followed suit, leaving a few Anya Nya II with the government.

The SPLM/A grew in numbers and force due in large part to Ethiopia's support. From the outset, the SPLM/A had the support of the government of Ethiopia under Lieutenant Colonel Mengistu Haile Mariam. This included the provisions of uniforms, logistical support, arms, ammunition, military training, and even political direction. However, when Mengistu's government collapsed in 1991, the SPLM/A, viewed as an enemy by the new Ethiopian government, was suddenly stripped not only of this rearguard support but also of access from Ethiopia to the territory it controlled within Sudan. The SPLM/A, and several hundred thousand Sudanese refugees, promptly fled from Ethiopia back into Sudan.

On August 28, 1991, scarcely three months after Mengistu's fall, the three commanders of Northern Upper Nile, based at Naisr—Riek Machar and Gordon Kong Cuol, both Nuers, and Lam Akol, a Shilluk—called for the overthrow of Garang and broke with the main body of the movement. The stated goals of the breakaway group, known as the Nasir faction, were of democratizing the SPLM/A, stopping human rights abuses, and reorienting the SPLM/A's objective from a united secular Sudan to independence for the South. The SPLM/A remained split, roughly along tribal lines, especially after the Nasir forces (mostly Nuers) massacred many Dinka civilians in effort to capture Garang's home territory of Bor.

A second force, headed by William Nyuon, a Nuer who defected from the SPLM/A in August 1992 with many Nuer followers, joined Machar's mostly Nuer forces, as did the mostly Dinka forces of former SPLA commander Kerubino Kwanyin Bol after his escape from long-term arbitrary detention by the SPLA in late 1992. Exploiting the fighting between rival factions, the government recaptured several garrison towns and regained the use of some roads and communications infrastructure in 1992. However, in 1995, the SPLM/A regained its power through the continued Ugandan support, coupled with its military force in western Eritrea and its reconciliation with Ethiopia that gave the SPLM/A renewed access through Ethiopia to contested areas of southeastern Sudan.

In 1995, the Nasir faction, led by Riek Machar, renamed itself the Southern Sudan Independence Movement/Army (SSIM/A) and began forming alliances with the government. In fact, in April 1996, the present government (GoS) entered into a political charter with the SSIM/A, signed by commanders Riek Machar and Kerubino Kwanyin Bol and other minor commanders. On April 21, 1997, representatives of the GoS and a group of breakaway SPLM/A factions and pro-government militias institutionalized this charter in the Sudan Peace Agreement. On April 28, the leaders of the six Southern factions that had signed the peace agreement then signed an agreement in which they united all their forces under the name of the United Democratic Salvation Front (UDSF) headed by Machar. In August 1997, the GoS rewarded Machar with a cabinet-level post with the title of President of the Coordinating Council of the Southern States and Assistant of the President of the Republic. As for Kerubino, he was reinstated in the Sudan armed forces in August 1997 with the rank of major general, and made Deputy Chairman of the Coordinating Council of the Southern States and Minister of Local Government and Public Security in Southern Sudan in January 1998.

In late January 1998, Kerubino defected from the government, realigned his forces with the SPLM/A, and with the SPLA launched surprise attacks on government forces. Following Kerubino's actions, in 2000, Riek Machar resigned from the government and formed another rebel faction, the Sudanese People's Democratic Front/ Defense Forces (SPDF), and formed alliance with the SPLM/A. However, when the SPLA's military supplies dried up in mid-2000, the SPDF turned to the government and assisted them in carrying out scorched earth campaigns in the Nuer villages of Nhialdu and Mankein.

In January 2002, Garang and Machar signed an agreement in which the SPDF's fighters rejoined the SPLM/A under the exact distribution of political positions left for further negotiations. Additionally, in March 2002, with the aim of creating a "New Sudan," the Sudanese Alliance Forces (SAF), the largest armed opposition force in the North, agreed to merge into one organization under Garang's leadership. The Northern Muslim identity of SAF reinforces the SPLM/A's claim that it is not limited by region, race, or religion. To win allies among Northern opposition parties, the SPLM/A emphasizes a secular united state as a goal, while advocating the right of the South to self-determination as a residual, fallback option.

2. VIEWS OF OTHER PARTICIPANTS

The GoS has agreed to give the South autonomy for six years, but the GoS is unwilling to provide the same deal to the contested areas that are outside the 1956 boundaries. However, the GoS believes that it should administer the wealth and power sharing and then give the SPLM/A what they believe that the South deserves. It does recognize that the South needs some representatives in the government and is willing to negotiate the percentage of Southerners in the government.

Because the GoS is willing to allow the National Democratic Alliance (NDA) in the peace talks, the NDA has allied itself with the SPLM/A. However, the NDA still argues that, if the peace negotiation is not inclusive of all the political parties, the peace agreement will bring lasting peace. In order to please the NDA, the SPLM/A has been willing to place NDA members in the SPLM/A's negotiation team. Yet, conflicts have arisen as to how the government would be managed, especially since the NDA sees unity as its ultimate goal.

The IGAD countries have agreed to attempt to broker the peace negotiations between the SPLM/A and the GoS. Most of the IGAD countries have played a major role in supplying and funding the SPLM/A, and the GoS has done the same with the IGAD countries separatist groups. However, the IGAD members and the GoS have agreed to stop funding each other separatist groups and to work on obtaining peace in the region.

The international community sees the need for a peaceful end to the conflict in Sudan. Because of the fierceness of the fighting and the toll on the civilians in Sudan, the international community is willing to help. But the internationals also realize that the conflict is very complex and will only be willing to commit to large amounts of money to aid in settling the conflict if they are allowed to monitor a cease fire as well as have access to the civilians in order to provide the civilians with humanitarian aid.

Although Egypt gave support to the SPLM/A, Egypt is supportive of the GoS because of its fear of having a Southern Sudan. Fearing to have to deal with another country over access to the Nile River, Egypt attempted to take control over the peace negotiations and came up with its own peace initiative along with Libya. The GoS as well as the NDA had agreed to the Joint Egyptian-Libyan Initiative, yet the SPLM/A did not agree.

Hoping that the IGAD peace negotiations would fail, Egypt did not participate. However, after seeing the progression in the talks, Egypt decided to place the peace initiative to the side and play a more active role in the present IGAD peace negotiations. The Arab League and the African Union have followed suit in obtaining a much stronger role in the peace negotiations in the hopes of bringing peace to a “United Sudan.” In fact, the Arab League has agreed to investment money into developing Southern Sudan.

3. ISSUES

a. Self-Determination

The SPLM/A primary objective in the peace negotiations has been to assure that Southern Sudan would have the right to self-determination. SPLM/A obtained this right in July 2002, when the GoS and the SPLM/A agreed that Southern Sudan would enjoy autonomy for six years, after which an internationally monitored referendum to the people of Southern Sudan would be held to “confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement; or to vote for secession.”

There will also be a six-month pre-interim period during which an independent Assessment and Evaluation Commission will be established, made up of the parties and representatives from relevant regional and international partners. The GoS has agreed to this before, in the peace agreement it made in Khartoum in 1997 with Southern splinter factions and, indeed, in its own 1998 constitution, but it had never been made in a way that compels it to implement the commitment. However, the GoS is not willing to extend this agreement to the contested North-South border areas of Abyei, Southern Blue Nile, and the Nuba Mountains have not been decided.

Although the GoS has been willing to agree to the referendum, the GoS would include only the South within its 1956 boundaries, and exclude the Nuba Mountains (where the SPLA has had a front since 1989), the Eastern Southern Blue Nile, and the traditional Dinka area around Abyei, gerrymandered out of the South under the British. The GoS will not permit the oil-rich Western Upper Nile area (Al Wihda state) of the South to secede. The GoS insists that because the three areas are geographically located in the North according to 1956 colonial boundaries, they will not have the option of self-determination. The GoS delegation insists that the three areas do not fall under the purview of peace negotiations between the two parties. The GoS argues that the parties which signed the Machakos peace protocol agreed that the right to self-determination be given exclusively to Southern Sudan and not any other region.

However, the SPLM/A's official position is that five regions should be under the Southern government during the interim period: Bahr al-Ghazal, Upper Nile, Equatoria, the Nuba Mountains, and Southern Blue Nile, and that the last two, along with Abyei, should vote on where they belong before the South's referendum. The SPLM/A wants these areas to be given the right to self-determination as well as be considered in the power-sharing process.

The presence of SPLM/A leaders from the Nuba Mountains and Southern Blue Nile on its negotiating team in Machakos strengthens SPLM/A resolve to push for some form of referendum in these areas. In November 2002, however, the Nuba people held a convention in which they affirmed their wish to remain within SPLM/A-administered territory, and the people of Southern Blue Nile followed suit in December. The people of Abyei have not held a convention, but are also reported to favor remaining within SPLM/A territory, thereby ensuring their right to opt for self-determination.

Abyei is uniquely tied with the SPLM/A given its large indigenous Dinka population and traditional ties with the South, in particular with South Kordofan for historical reasons. The Addis Ababa Agreement of 1972 granted it the right to a referendum on staying in the North or joining the South, a position also supported by the National Democratic Alliance's (NDA) 1995 Asmara Declaration. Thus, there is a strong case that its inhabitants should be given a choice whether they should belong to South Kordofan or Bahr el Ghazal.

The issue of the marginalized people of the Nuba Mountains and Southern Blue Nile is different. There is a strong argument that they cannot be treated as part of the South. There are two main reasons for this. First, they are different: different people, different histories, different experiences and aspirations. Second, it is hard enough to get the idea of self-determination accepted internationally for the South. In Africa, it raises the specter of revising inherited colonial borders. African countries may be ready to accept self-determination for the South within the colonial border of the South, but revising that border to include other areas such as the Nuba and Southern Blue Nile runs the risk of jeopardizing even the prospects of a deal for the South. However, the SPLM/A argues that these areas must be included, for they have fought beside the SPLM/A since the mid 1980's. SPLM/A's strategy is focused on securing an opportunity for the citizens of these areas to have their own forum for deciding their future, tied into the IGAD process.

Since the GoS has consistently refused to discuss these areas under the IGAD framework, a compromise provided that the parties would negotiate in Nairobi – not officially under IGAD but with General Sumbeiywo's supervision. The GoS had argued that one of underdevelopment, and so a Northern problem that is not a legitimate SPLM/A interest or within IGAD's mandate. It holds firmly to the Machakos Protocol as a reason not to discuss self-determination or state and religion in either of these areas. In fact, after this round of negotiation was over, the SPLM/A walked out without any decision on the three contested areas.

Beyond the three contested areas remains still the issue over the ultimate status of the South as a federal, confederal, or separate entity. The NIF-dominated government in the North sees federation as the maximum degree of devolution it will concede and categorically rejects self-determination for the South. The GoS's first preference is a unitary state, with assimilation—

“arabization” and “Islamization”—of the Southern peoples. Many Southerners believe that the GoS accepted a referendum after six years in order to buy time for military advantage and is no more than a stratagem to divide the Movement and to keep face with the international community. While the Southern factions agree on the principle of self-determination, they disagree about what kind of state the process of self-determination should generate.

The SPLM/A does not necessarily equate self-determination with secession. The SPDF favors partition and views self-determination as a route to a political divorce from the North. The SPLM/A has advocated for a confederal arrangement during the interim period, which would consist of two states: North and South. The Northern confederal state would embrace the Islamic Constitution passed by the National Assembly, and the Southern confederal state would opt for a secular constitution. However, this position has caused the SPLM/A internally problems with the NDA, who want a secular united Sudan, and with the SPDF, who want to be a separate entity.

b. Wealth Sharing

Sudan’s main natural resources are oil and the Nile river. Southern Sudan is rich in oil and water, while the North is largely desert. However, the Northern regime has completely ignored the South’s interest in these resources and has often exploited these resources to the detriment of the Southerners. Through exploitation of where the boundaries are of the North and the South, the Northern regime has managed to keep all the profits from the revenues obtained in oil and water exploitation. In fact, despite the upsurge in fighting in 2002, gross domestic product (GDP) is estimated to grow at 5.1 percent this year, almost twice the global average. The Northern government has been able to reap the benefits of these natural resources while the South remains largely pastoralist with no formal economy. The revenue that will come to the Southern government under a wealth sharing agreement will be critical for development, but a great deal of international aid and expertise will also be required.

The parties have agreed on a structure for resource sharing, including taxation, revenue generation, and transparency mechanisms. Despite this, they remain far apart on the actual percentage distribution of oil and other resources between North and South, with the biggest difference being around the management and share of the proposed Southern Blue Nile, but also ownership of land matters and the modalities for banking and currency. There have also been other disputes. For example, in early December 2002, the SPLM/A announced the establishment of a bank and its intention to issue currency for use in areas under its control. The GoS denounced this as an attempt to anticipate the Machakos negotiations and an indication that the SPLM/A was not prepared to accept genuine federalism.

c. Oil

The oil resources have been a major cause of human rights violations. Numerous international human rights organizations have accused the GoS of financing wide-scale human rights abuses with oil revenues, including the mass displacement of civilians living near the oil fields. The SPLM/A has declared that it considers oil installations a "legitimate military target," as oil

development has provided the GoS the financial resources to expand its war effort. The GoS has already mortgaged oil revenues for years to buy weapons. Oil revenue was at least 20 percent of the government income in 2001, and the military budget consumed about 60 percent of oil revenue in that year.

The discovery of oil in Benitu in 1978 immediately triggered the Northern government to redraw the administrative boundaries between the North and the South so that the richest oil fields were located on the Northern side. The Northern government further divided the South into three distinct provinces in 1983 in order to further weaken it. The South refused all of the Northern demands.

With the start of significant oil production and exports, Sudan's oil export revenues now accounts for around 70 percent of Sudan's total export earnings. Exports have grown sharply since 1999, when the oil export pipeline was completed, turning the country's trade balance from negative to positive. With exploration that having peace would allow, exploitable reserves could quickly rise to at least three billion barrels. This could result in income to the GoS of between U.S. \$1 billion to U.S. \$1.5 billion per year for twenty years.

The key players in Sudan's oil industry are China's National Petroleum Corporation (40 percent), Malaysia's Petronas (30 percent), Canada's Talisman Energy (25 percent and the field operator), and the Sudanese national firm Sudapet (5 percent), which form the Greater Nile Petroleum Operating Company (GNPOC)—controls 60 percent of the oil industry. Other major involvement of oil companies come from Sweden, Italy, France, the Netherlands, and Qatar.

Amnesty International has accused Talisman with the partnership of the Khartoum regime of tolerating slavery, harboring terrorists and using oil revenue to wage war on its own people. After years of criticism, in October 2002, Talisman Energy agreed to sell its oil assets in Sudan to ONGC Videsh, which is a subsidiary of Oil and Natural Gas Corporation, the Indian state oil company.

In August, 2000, the Sudan's National Petroleum Company (NPC) announced plans to lay pipelines to supply Eritrea and Ethiopia with petroleum derivatives from the Khartoum refinery. If approved, the pipelines would pass through Sudan's Gezira, Sennar and Gedaref states. NPC is also studying the feasibility of running another pipeline to export crude oil from the Adar Yeil oil fields in Southern Sudan to Ethiopia.

Sudan also has plans to export oil to fellow members of COMESA (the Common Market for Eastern and Southern Africa), including neighboring Kenya. Exports may be delayed, however, by concerns over human rights issues in Sudan, and some Kenyan officials have called for a boycott of Sudanese oil. In April 2002, Sudanese and Kenyan GoS officials announced that they are working on logistics for the construction of a new pipeline that would link oil fields in Sudan to the Kenyan port in Mombasa.

The SPLM/A wants the oil located in the South to belong to the regional entity, which could then pass a percentage to the national government. The SPLM/A argument for a greater share stems from the fact that much of the oil is in the South, and exploration has largely been conducted at

the expense of Southerners. The GoS deliberately kept Southern Sudan under-developed through their “policy of exclusion,” and, thus, when determining fair shares, the fact that the South has far greater need for development assistance should be taken into account. The more oil revenues improve infrastructure and facilities there, the more attractive unity will appear. Conversely, the GoS argues that because it has invested heavily in setting up the oilfields and attracting international partners, any agreement must recognize this stake in current revenues.

The GoS holds that within the federal framework, oil revenues and other natural resources should be handled nationally, with an agreed percentage then disbursed to the South. Furthermore, it wants the GoS’s debt to be factored into the wealth sharing negotiation, which would also involve a burden sharing element. Both parties agreed to set up a Petroleum Commission that, among other things, would oversee revenues coming from the oil fields of Southern Sudan. However, the sharing of oil revenues has not quite been addressed yet although it remains a burning issue.

d. Water

Oil revenues are not the only wealth that must be shared. Another large potential source of revenue is water: if plans are revived to build a canal to increase flow to Egypt. Irrigated agriculture is the largest draw on the waters of the Nile, particularly in Egypt and the Sudan. Pressure on Nile resources is likely to increase dramatically in the coming years as a result of high population growth rates in all riparian states, and increasing development-related water needs in Ethiopia. Thus, because the Blue and White Nile meet at Khartoum, Sudan has additional leverage with the nine other states that make up the Nile basin.

The Nile river originates from two distinct geographical zones, the basins of the White and Blue Niles. The source of the White Nile is in the Great or Equatorial Lakes Region, and is also fed by the Bahr-el-Jebel water system to the North and east of the Nile-Congo Rivers divide. Its catchment area includes the riparian states of Tanzania, Rwanda, Burundi, Uganda, DRC, Kenya and Sudan. The Blue Nile originates in the highlands of Ethiopia and Eritrea, as do the other major tributaries of the Nile, the Atbara and the Sobat. About 85 percent of the Nile's waters originate in Ethiopia and Eritrea, while the majority of the river's water is used in the Sudan and Egypt.

In 1929, the Nile Waters Agreement was concluded through an exchange of notes between the British High Commission in Cairo and the Egyptian government. The agreement heavily favored Egypt's "historic rights" allocating for Egyptian use 48 bcm per year, only 4 bcm for the Sudan, and leaving 32 bcm per year unallocated. Tensions increased between Egypt and the Sudan in 1956-1958, as the Sudan voiced further objections to the Aswan High Dam and continued demanding a renegotiation of the 1929 agreement. Egypt subsequently withdrew its support for the Sudanese project to build a reservoir at Roseires on the Blue Nile, and Sudan unilaterally declared its non-adherence to the 1929 agreement. In 1959, the two countries re-negotiated the 1929 agreement and developed the 1959 Agreement between Sudan and Egypt. The new agreement set Egypt's share of Nile waters at 55.5 bcm per year and allocated to the Sudan's an allotment of 18.5 bcm per year.

At the current time, tensions in the Nile River Basin are contained by a number of factors, including Egypt's political and military dominance, the civil war in the Sudan and negligible use of water by other upstream riparians. Concurrently, however, other factors are working to increase the potential for conflict over water in the basin: high population growth in both upstream and downstream countries, accompanied by subsequent demand for increases in agricultural irrigation; nascent development in Ethiopia; environmental degradation of established Egyptian irrigated land; and the possibility of an eventual end to the Sudanese war, which would spur development in Sudan.

Representatives of the South signed the 1972 Addis Ababa Agreement which, they felt, would protect the Southern interests in the waters of the Nile and allow a plebiscite on independence for the South by 1977. But Egypt and the Northern part of Sudan undermined the agreement by a separate plan to dig the Jonglei Canal, which would divert the waters of the Nile around the agricultural and cattle lands of the South and deliver it to the North and to Egypt. The Jonglei canal would reduce water loss through evaporation in the marshes of the Sudd. Southerners are opposed on environmental grounds, saying that as evaporation diminishes, rainfall lessens. Grass, forest and fishing grounds could disappear. The construction of the Jonglei canal through the Southern swamps to increase the flow of water in the Nile downstream to Northern Sudan and Egypt threaten the balance of dry and wet-season grazing in the Dinka and Nuer areas.

The canal causes enormous human and environmental problems in the area, where million of birds come to stay during the winter. The canal would have a devastating effect on the region's eco-system and micro-climate, thereby accelerating desertification. The construction of the Jonglei canal began in 1978 even though the Southerners refused this agreement in 1975. However, the work stopped in November 1983 due to civil unrest in the region. Since 1983, the SPLM/A has blocked work on construction of the Jonglei canal which would divert water that is "vital to Southern nomadic pastoralists to create new farming areas that would be reserved for Northern farmers as settlers. With peace, the issue over whether the construction should continue will be crucial for the Southerners.

e. Power Sharing

The parties have agreed in principle to a bicameral legislature at the national level but they still need to decide how and when this will be established, what the exact relationship between the national government and the Southern states would be, what laws would govern the capital city, and the exact responsibilities and division of decision-making processes of the Presidency. They must agree on the distribution of representatives in each house by region or state, as well as the procedures by which they will be chosen. In addition, the parties must agree on a system for national leadership during the interim period, and whether and when elections will be held in a way that does not exacerbate internal divisions or threaten implementation of the agreement.

The SPLM/A prefers a very weak national government with a powerful Southern regional government and weaker states in the South, and the same structure replicated in the North. The SPLM/A advocates for strong Northern states in order to minimize the powers of the center, which the GoS would like to strengthen relative to the Northern states. The GoS's advocacy of devolution of maximum powers to the Southern states – and equating the powers of these states

with those in the North – is aimed at putting the SPLM/A on the political defensive. The ethnically based governments that will exist at the state level will be ripe for external manipulation by outside interests aiming to weaken the SPLM/A. The SPLM/A believes that there can be no equality if the Northern states identify with the national government while the Southern states answer to the Southern regional government.

f. Presidency

The SPLM/A proposed that President Bashir serve as President for the first three years of the interim period, and John Garang for the second three years. A rotating presidency would involve the SPLM/A most directly in the national government and make it much easier to sell unity to the South at the referendum. However, the GoS rejected this proposal. The GoS instead proposed Garang as the First Vice President, but it has slowly retracted itself from this proposition. The proposition sparked the government's fears that there could be a Southern President if something happened to President Bashir. The GoS fears regarding the ascendancy of Garang to the Presidency also stem from the assumption that the SPLM/A will maintain a separate army during the interim period. The fear is that if Bashir disappeared, then Garang would effectively become the commander-in-chief of both the Northern and Southern armies, a situation unacceptable to the government. However, the specific functions of the vice presidents could be negotiated.

g. Southern Representation in the National Government

The SPLM/A recognizes that a much more open system is needed that represents a wider set of constituencies and ensures fair representation in all ministries. The SPLM/A officials and Southerners representing other parties should be integrated fully into the national government in order to guarantee the changes needed there and also to influence the national policy. The SPLM/A governors and unit commanders can focus on the Southern regional authority, while more junior SPLM/A elements can choose between national or regional positions. SPLM/A and other parties must get significant ministerial posts in a broad-based interim government.

The parties have agreed in principle that the national government should include a bicameral legislature, with a lower house reflective of state populations and an upper house with equal representation from all states. The GoS recognizes that an equitable level of Southern participation must be safeguarded. The area of disagreement is over the actual percentage of Southern representation in the various organs of power.

The GoS is willing to have a national census during the interim period to decide on the South's proportion of the national population. The GoS proposes a 1000-seat legislature in which 300-plus representatives of other parties appointed jointly by Bashir and Garang will supplement the current national assembly and SPLM/A National Liberation Council.

A 33.3 percent representation for Southerners throughout the various levels of government – except the Upper House, which will require either more equal numbers or a veto for certain legislation – was being discussed as a compromise. This could be adjusted after the census. Such an agreement should be conditional on an effective Southern veto in the envisioned Upper

House so that the peace agreement could not be unilaterally abrogated or amended by majority rule.

There is a great deal of debate within both the GoS and SPLM/A as to how elections should be addressed. The GoS supports elections early in the interim period. This confidence is due in part to the idea that the government's National Congress Party will be seen as the party that delivers peace, oil revenues, and national development, as well as that it can manipulate any electoral process.

The SPLM/A is less enthusiastic about early elections, believing that inclusiveness can be secured during the interim period more effectively in other ways. The SPLM/A wants to prioritize the implementation of the interim arrangements and preparation for the referendum. It worries that a major commitment to elections could undermine these objectives, exacerbate divisions in the South, and weaken its hold on power. The SPLM/A also fear the re-emergence of ethnic divisions, some of which their own movement exacerbated in its early years, others of which the government has promoted during the last decade. Thus, fear of failure early on has pushed the SPLM/A to seek elections once the proposed government is efficiently running.

h. The National Capital

The SPLM/A demands that the shared capital be secular because the laws would apply to many non-Muslim residing in Khartoum. The GoS is unwilling to compromise on the issue of whether the capital should be secular. In fact, President Bashir stated that Khartoum would never be secular. The GoS' argument is that Khartoum is an integral part of Northern Sudan as well as the capital, and, thus, it will not be secular. Furthermore, the GoS argues that the SPLM/A is trying to renegotiate issues resolved implicitly in the Machakos Protocol while the SPLM/A says that this is a national matter and, thus, not addressed by the agreement to allow *Shari'a* law in the North.

In the Machakos Protocol, the SPLM/A and the GoS agreed to allow *Shari'a* law in the North. The Machakos Protocol acknowledged the role of religion in the state and specifically noted that, "religious, customs and beliefs are a source of moral strength and inspiration for the Sudanese people." It further affirmed the right of the South to a secular administration, by providing that the national GoS can "introduce legislation so as to allow or provide for institutions or practices in that region [that are] consistent with their religion or customs," while confirming the role of *Shari'a* in the North.

The SPLM/A argues that it agreed to have *Shari'a* as the basis of legislation in the North, but there was no agreement on the status of the capital, Khartoum. The SPLM/A demands a national capital that is not part of either the Northern or the Southern entities.

i. Security

Generations of Northern military domination and aggression have had devastating psychological and physical consequences. To begin to reverse this, produce stability, and increase Southern self-confidence, any peace deal must allow the SPLM/A to maintain operational control of the

South. The kind of unilateral troop rotation and undermining of the 1972 Addis Ababa Agreement by the Nimeiry government that provided the final spark for civil war in 1983 cannot be allowed. Although demobilization will have to be a major component of the deal, the SPLM/A ultimately must be in charge of security during any interim period in order for there to be sufficient confidence to move forward towards peace.

Large-scale demobilization will be needed on both sides in order to lower the other's concerns and minimize the chances of continued fighting. This includes the government's termination of all assistance to the militias and factions it has supported for years: Militias are part of the GoS. The GoS cannot hide behind the fact that these militias and factions are not part of the government, and, thus, the government cannot control them. As long as they act under the color of state, they are state actors.

The status of government forces in the South is perhaps the most contentious topic remaining to be negotiated. Khartoum wants to maintain a significant force in current garrisons. The GoS wants to maintain a military presence in the South in case the agreement breaks down and war resumes. The GoS declared that the government's troops would not withdraw from the South and hand over their camps and equipment to the rebel forces after a peace accord. They argue that "[t]he army represents the state, while SPLM/A forces don't. The GoS has a national mandate that is not subject to compromises, such as foreign policy, national security, frontiers, and financial issues." However, the GoS is willing to reduce its forces in accordance with the security arrangements of the final peace agreement.

The SPLM/A, however, insists upon full withdrawal. "If Khartoum cannot have troops in Southern Sudan during the interim period, then we may not even need to have a referendum," speculated an SPLM/A official. The continued presence of its troops would constitute a dangerous flashpoint and a constant reminder for Southerners that they were still "ruled" by the North. The SPLM/A would be willing to consider having a joint general command with separate operational units and co-chiefs of staff, with the SPLM/A in control of the South and existing government forces of the North. Joint security arrangements could also be negotiated around the oil infrastructure and other assets considered national. A Joint Military Commission – with international, GoS and SPLM/A representatives – could oversee implementation of the security arrangements and investigate alleged violations. SPLM/A officers could then be integrated into significant national army and security positions.

j. Humanitarian Issues

The twenty years of civil war have been at the cost of various human rights violations caused by all sides of the party. In just twenty years, the civil war in Sudan has led to the loss of 2 million lives and resulted in 4.5 million internally displaced persons (IDPs). In addition, some 500,000 people were believed to have sought asylum abroad. The GoS is party to various human rights convention, yet it has frequently violated the rights the government agreed to protect, in particular, the GoS has violated all four Geneva Conventions.

International humanitarian law prohibits killing civilians, torture, forcible displacement, and the destruction of civilian property without absolute military necessity. Yet both parties to the

conflict have committed such abuses. Militias allied to the government have also acted with impunity to abduct civilians into forced labor. Pressured to protect human rights, President Bashir agreed to and has set up a National Commission on the Application of International Humanitarian Law in the country.

The commission would be chaired by a top official of the Justice Ministry and would be responsible for revising existing laws in line with international humanitarian law. The commission would consult with civil society groups and trade unions when necessary. The commission would also be required to set up implementation mechanisms. The commission is also mandated to “execute the requirements of international humanitarian law.” In order to assure that human rights are protected, international conventions on human rights need to be entrenched in the constitution and the independence of the judiciary guaranteed.

k. Child Soldiers

The SPLM/A had recruited underage soldiers, but the SPLM/A has assured UNICEF that the SPLM/A would demobilize everyone under the age of eighteen and all SPLM/A commanders would follow instructions not to recruit anyone under that age. The U.S. State Department reported that, during 2002, the SPLM/A actively engaged in efforts to demobilize child soldiers; however, there were reports that child soldiers were involved in military incidents during December 2002, which raised concerns that the SPLM/A again was using forced recruitment of children.

At the same time the GoS attempts to focus world attention on the SPLM/A’s use of child soldiers, underage boys are forcibly recruited into the army or government-sponsored militias. Conscription into the armed forces is compulsory for both men and women and the law stipulates that military training is a precondition for entry into further and higher education or into certain jobs. The Sudanese law sets eighteen as the minimum age, but the U.S. State Department has reported that the GoS forcibly conscripted young men and boys into the military forces to fight in the civil war. Human Rights Watch reported that boys as young as twelve were collected, not only from public buses and other vehicles but also at football stadiums and other recreation centers. The street children’s camp became a convenient reservoir from which to draw army conscripts. Children were being abducted in the streets of Khartoum and forcibly recruited into the Popular Defense Forces.

Although the boys could decline to volunteer for the army, many whom the custodians of the street children’s camp solicited for military service were well below the legal age of eighteen. The army also forcibly drafted underage Southerners in garrison towns to fight against their fellow Southerners in the SPLM/A. The UN’s Special Rapporteur received reports of over 22 percent of the total population enrolled in primary schools in Unity State being forcibly recruited by government-allied militias, including children as young as nine years old.

1. Slavery

The U.S. State Department reported that although the 1998 Constitution prohibits forced or bonded labor, including by children, slavery and forced labor in Sudan persisted, affecting women and children in particular. Militia raiders, *Murahaleen*, with the support of forces directly under the control of government authorities, systematically raided villages and captured women and children as remuneration for their services in Bahr el-Ghazal and Upper Nile. The GoS took no action to halt these practices and continued to support tribal militias. Human Rights Watch reported that this practice is conducted almost entirely by “government-backed and armed militia of the Baggara tribe in western Sudan”—*Murahaleen*. Abductees frequently were forced to herd cattle, work in the fields, fetch water, dig wells, or do housework. They also were subjected to arbitrary punishment, torture, and rape, and at times, killed. These practices had a pronounced racial aspect, as the victims were exclusively black Southerners and members of indigenous tribes of the Nuba Mountains. There were reports of the sale and purchase of children, some in alleged slave markets; however, the GoS continued to deny slavery and forced labor existed but acknowledged that abductions occurred.

The GoS has stated that the situation described as slavery actually is a matter of rival tribes engaging in hostage-taking, over which the government had little control over. Among pastoral groups in Northern and Southern Sudan, small-scale inter-tribal abduction or hostage-taking is commonplace. Such groups depend on access to shared seasonal resources of pasture and water. During conflicts over water and grazing, livestock may be stolen, men killed and women and children abducted. The resolution of disputes in such cases involves compensation for loss of life and stolen livestock and the return of abducted women and children. This problem has increased as there has been advancement of desertification in western Sudan, which has led some Baggara to depend more on access to grazing resources in the territory of the Dinka in Southern Sudan.

The GoS has stated that it would establish special local courts that would prosecute persons responsible for abductions; however, those courts have never been established. As for the sexual slavery of women, which involved widespread torture, rape, and forced marriages, thousands of women and children abducted during the 20-year conflict reportedly remained unaccounted for, despite the existence since 1999 of a governmental Committee for the Eradication of Abduction of Women and Children (CEAWC), mandated to trace and reunite them with their families. The CEAWC has not managed to function efficiently due to lack of transparency and of financial management.

In January 2002, the GoS agreed with the U.S. special envoy for peace in Sudan, Senator John Danforth, to allow an international commission to study incidents of slavery and forced labor, and to make recommendations on practical steps to end these practices. The commission found that abduction of civilians and forcible recruitment by the armed forces of all sides in the war was commonplace. The commission found that attacks by pro-government militias known as *Murahaleen* are characterized by: capture through abduction; the forced transfer of victims to another community; subjection to forced labor for no pay; denial of victims’ freedom of movement and choice; and, frequently, assaults on personal identity such as renaming, forced religious conversion, involuntary circumcision, prohibition on the use of native languages and

the denial of contacts with the victims' families and communities of origin. The GoS has failed to acknowledge its own responsibility for acts committed by militias and other forces under its authority.

m. Women

Displaced women from the South were vulnerable to harassment, rape, and sexual abuse. Soldiers reportedly abducted and gang-raped women and girls traveling by foot along roads in Upper Nile. The PDF and *Murahaheen* militias reportedly kept women and children, captured in raids, in slavery-like conditions, using them for domestic and field labor. Libyans have also been implicated in the purchase of Sudanese slaves, particularly women and children who were captured by government troops. Insurgent forces were responsible for a number of civilian injuries and for raping women. SPLM/A and allied forces allegedly abducted and raped women and girls. There were also reports that the SPLM/A forcibly recruited Sudanese refugees in Northern Uganda for service in their forces.

Thousands of women and children abducted during the 20-year conflict reportedly remained unaccounted for, despite the existence since 1999 of a governmental Committee for the Eradication of Abduction of Women and Children, mandated to trace and reunite them with their families. In November 2001, the GoS announced the establishment of special civilian tribunals in the border regions separating the South and the North of the country to prosecute persons involved in the abduction, transport, holding, and selling or exchanging of women and children from war zones. However, the tribunals were never created nor were administrative procedures promulgated.

Despite Sudan's Constitution and its ratification of international and regional human rights instruments which prohibit discrimination on the basis of sex, the subordination of women and girls continues to be part of the law and customs which are strongly based in male dominance. President Bashir stated that Sudan would not sign the UN Women's Convention because it was contrary to Sudanese family values. Additionally, a number of GoS directives required that women in public places and government offices and female students and teachers conform to what the GoS deemed an Islamic dress code. At the least, this necessitated wearing a head covering; however, enforcement of the dress code regulations was inconsistent.

The GoS has also amended the Labor Law by decree to prohibit women from working in physically demanding jobs. Taking this decree a step further, the governor of Khartoum issued a decree banning women from working in public places. The decree was challenged based on its constitutionality in the Constitutional Court, which temporarily suspended the ban. The Court's final decision was still pending at the end of the year. However, the Minister of Justice, while recognizing that the Constitution and international conventions guarantee a woman's right to work, would not condemn the ban as unconstitutional.

Women in Khartoum State continued to be harassed and ill-treated by police enforcing the Public Order Law, which restricts women's freedom of movement and regulates their behavior and dress under threat of summary trial, flogging and imprisonment. Under Sudanese law, women cannot travel abroad without the permission of their husbands or male guardians.

Female genital mutilation (FGM) is most common among uneducated families in the North and east. Some estimate that the rate of FGM is as high as 90 percent in these areas. However, even displaced Southerners who have not traditionally practiced FGM are giving in to pressure to fit in and have their daughters circumcised. Infibulation, the most severe type of FGM, was the most common type. Usually it was performed on girls between the ages of 4 and 7 by traditional practitioners in improvised, unsanitary conditions, which caused severe pain, trauma, and risk of infection to the child. Because of dirty razors and un-sterile needles and stitching, HIV-infection has become also substantial problem in Sudan.

Moreover, recent statistics show that the maternal mortality rate is over 550 per 100,000 of childbirths, with one of the main causes of this high maternity mortality rate being female genital mutilation and its complications. The GoS does not support FGM, and it has introduced information about FGM in some public education curriculums. Although the health law forbade doctors and midwives from performing infibulation, no form of FGM was illegal under the Criminal Code. The GoS neither arrested nor prosecuted any persons for violating the health law against infibulation.

n. Refugees and Internally Displaced Persons (IDPs)

The GoS and government-associated forces implemented a scorched earth policy aimed at removing populations from around the oil pipeline and other oil production facilities. Contrary to various oil companies assertion that there are no settlements in the oil-rich areas—thus no mass displacement—civilians living in and around the oil fields have been deliberately targeted for massive human rights abuses—forced displacement, aerial bombardments, strafing villages from helicopter gunships, unlawful killings, torture including rape and abduction. The massive displacement occurred right after the deployment of additional weapons and forces to protect the oilfields.

Under the auspices of security, the military destroyed the civilians' harvests, looted livestock and occupied the territory so as to prevent the IDPs from returning. The government's PDF militia reportedly attacked several villages in Northern Bahr el-Ghazal, killing civilians, abducting women and children, stealing cattle, looting and burning villages, raping women, and displacing persons in order to create an uninhabited security zone. Government troops have not only used air attacks but also have committed gross human rights violations in order to drive people out of their homes: mass executions, nailing women and children to trees with iron spikes, slitting children's throats, hammering nails into male prisoners' foreheads, and crushing people with tanks.

Ninety-five percent of women and children are internally displaced and living in extreme poverty. Tens of thousands of people, mainly Southerners and Westerners displaced by famine and civil war, continued to live in squatter slums around Khartoum. Security forces often targeted Southern women in IDP camps because they produced and sold a traditional home-brewed alcohol. The official camps, all several miles outside the city, are designated by the government as areas where internally displaced persons (IDPs) are allowed to reside, although they have no property rights. The displaced in official camps tend to have better access to services because of the comparative willingness of the government to allow access to

international agencies and the traditional targeting of international donor funds to “defined” populations. The health situation in many squatter areas and settlements, where international access is limited and funding is difficult to obtain, has become extremely poor.

In squatter areas, the displaced build houses on unauthorized plots owned by the government or by private individuals, hoping to take advantage of economic opportunities in the city. Throughout the 1990s, GoS officials have frequently forced relocations from squatter areas. “Approximately three-quarters of a million persons have been forcibly removed from the Khartoum area since 1992, often at gunpoint.” With each relocation, established communities are scattered, homes destroyed, and jobs lost, all without compensation to victims. The settlements where the displaced people from squatter areas are moved are far from Khartoum in areas devoid of services. IDPs are allotted a plot of land and are entitled to purchase a leasehold title from the government, which gives them limited rights of ownership, including the right to sell the land. The government, however, retains discretionary privileges on the land. Residents must rebuild homes at their own expense.

Human Rights Watch have reported that many Southerners have fled to the capitol of Khartoum to escape the war, only to meet severe racial discrimination, forcible displacement and crowding into subhuman living quarters by the GoS, and state-supported attempts to convert them to Islam. Most of the aid provided has been in the form of emergency relief, which has frequently been diverted or withheld from the civilian population of Southern Sudan by all parties to the conflict. The SPLM/A have been accused of taxation and occasional diversion of relief supplies. The SPLM/A leadership repeatedly committed itself to eliminating these problems; however, in practice it appeared unable to impose consistently those commitments on its forces in the field.

Around Khartoum, where the GoS provides some resources to schools, classes are taught in Arabic and a Muslim curriculum is required in all schools. The Southern parents who can afford fees are deeply concerned about efforts to “Islamicize” children at school. As for the tens of thousands – maybe 100,000 – street children that have appeared in Khartoum since the war began, the GoS insists that the orphans are the state’s responsibility and has not allowed UNICEF to address them. Street children are picked up and transported to camps outside Khartoum. They are not trained for the military, but are required to convert to Islam following a period of religious education. Conditions are harsh and treatment is poor.

4. MAIN OBJECTIVES

- The SPLM/A agrees to the referendum, but disagrees with the exclusion of the Nuba Mountains, the Eastern Southern Blue Nile, and Abyei in the referendum.

Acceptable minimum—allow the three contested areas to vote on whether they want to be part of the South.

- The SPLM/A is willing to share the revenues with the North, but wants to have a higher percentage of the profits.

Acceptable minimum—Since the resources are located in the South, the revenues should belong to the regional entity, which could then pass a percentage to the national government. A Petroleum Commission would oversee revenues coming from the oil fields of Southern Sudan.

- The SPLM/A prefers a very weak secular national government with a powerful Southern regional government and weaker states in the South, and the same structure replicated in the North.

Acceptable Minimum—unwilling to compromise on the issue of whether the capital should be secular, but is willing to compromise on governmental powers.

- The SPLM/A insist that government's troops withdraw from the South and hand over their camps and equipment to the rebel forces after a peace accord.

Acceptable minimums—the complete withdrawal from the South of government troops.

- The SPLM/A sees the humanitarian issues as important and is pushing for international involvement in the protection of human rights.

Acceptable minimums—securing human rights through revising existing laws in line with international humanitarian law and setting up implementation mechanisms as well as assuring an independent judicial system.

Appendices

Appendix A – Websites for Further Information on the Conflict

MAPS

Perry-Castaneda Library Map Collection of the University of Texas at Austin
http://www.lib.utexas.edu/Libs/PCL/Map_collection/sudan.html

Save the Children UK maps of Southern Sudan
<http://www.state.gov/www/issues/relief/sudan.html>

UN Map of Sudan
<http://www.un.org/Depts/Cartographic/map/profile/sudan.pdf>

TIMELINES

BBC TIMELINE
http://news.bbc.co.uk/2/hi/middle_east/827425.stm

IRIN: Webspecial on the Sudan Peace Process
<http://www.irinnews.org/webspecials/Sudan/chronology.asp>

ESPAC – Working for Peace in Sudan: The Peace Process
http://www.espac.org/peace_process/search_for_peace26.html

Background Reports/History

Human Rights Watch: Background to the War in Sudan
<http://www.hrw.org/campaigns/sudan98/testim/house-01.htm>

Human Rights Watch:
<http://www.hrw.org/reports98/sudan/Sudarm988-03.htm>

Human Rights Watch: World Reports 2003: Sudan
<http://www.hrw.org/wr2k3/africa12.html>

All Africa: Sudan and Her Neighbors – Part 1
<http://allafrica.com/stories/printable/200303070101.html>

Peace Agreements

IGAD Declaration of Principles
<http://www.irinnews.org/webspecials/Sudan/sudanDOP.html>

Joint Egyptian – Libyan Initiative for Peace
<http://www.sudanbuc.net/egyptian.html>

The Nuba Mountains Cease-Fire Agreement
<http://www.gurtong.net/nubapeace.htm>

Agreement to Protect Non-Combatant Civilians
<http://www.alarm-inc.org/alarmold/sudanagree.htm>

MOU on the Cessation of Hostilities Extended
<http://www.sudanembassy.org/asp/print.asp?ID=151>

Machakos Protocol
<http://www.sudan.net/news/press/postedr/164.shtml>

MOU on Aspects of Structures of Government
<http://www.sudan.net/news/press/postedr/202.shtml>

MOU Regarding Points of Agreement on Power Sharing and Wealth Sharing
http://www.gurtong.net/igad_index.htm

IGAD: Sudan Peace Process
<http://www.igad.org/pressroom/sudpress.html>

Self-Determination

The Road to Peace in Sudan: Bringing the I.G.A.D. Process to a Conclusion by Abdul Mohamed
<http://www.usip.org/oc/sr/abdul-mohamed.pdf>

Wealth Sharing

Oil

Amnesty International: Sudan Human Rights Violations Mount as Oil Production Expands
http://www.amnesty.ca/library/Talisman_Statement.htm

Amnesty International: Sudan: Mixing Oil and Blood
<http://www.amnestyusa.org/amnestynow/sudan.html>

Amnesty International: Wining Oil – Losing People
http://library.amnesty.it/isdocs/aidoc_everything.nsf/Index/AFR54001200

Energy Information Administration: Country Analysis Brief: Sudan
<http://www.eia.doe.gov/emeu/cabs/sudan.html>

IRIN Webspecial on the Sudan Peace Process: Sudan: Wealth-sharing
<http://www.irinnews.org/webspecials/Sudan/wealthsharing.asp>

Water

Global Policy: Nile River Politics: Who Receives Water?
<http://www.globalpolicy.org/security/natres/nile.htm>

AQUASTAT—FAO's Information System on Water and Agriculture: Sudan
<http://www.fao.org/ag/agl/aglw/aquastat/countries/sudan/print1.stm>

American University: ICE: Case Studies: Blue Nile
<http://gurukul.ucc.american.edu/ted/ice/bluenile.htm>

The Nile Waters Agreements
http://www.transboundarywaters.orst.edu/projects/casestudies/nile_agreement.html

Power Sharing

ICG: Power and Wealth Sharing: Make or Break Time in Sudan's Peace Process
<http://www.intl-crisis-group.org/projects/showreport.cfm?reportid=854>

Power Sharing and International Mediation in Ethnic Conflicts
<http://wwics.si.edu/subsites/ccpdc/pubs/power/pw1.htm>

IRIN Webspecial on the Sudan Peace Process: Sudan: State and Religion
<http://www.irinnews.org/webspecials/Sudan/statereligion.asp>

Security

IRIN Webspecial on the Sudan Peace Process: Sudan: Nuba ceasefire experience suggests points to ponder
<http://www.irinnews.org/webspecials/Sudan/nubaceasefire.asp>

Humanitarian Issues

Human Rights Watch: Civilian Devastation: Abuses by All Parties in the War in Southern Sudan
<http://www.hrw.org/reports/1993/sudan/>

Amnesty International: Annual Report 2002
<http://web.amnesty.org/web/ar2002.nsf/afr/sudan!Open#bottom>

U.S. Department of State Country Reports on Human Rights Practices in Sudan 2002
<http://www.state.gov/g/drl/rls/hrrpt/2002/18228.htm>

Child Soldiers

Human Rights Watch: Children in Sudan: Slaves, Street Children and Child Soldiers
<http://www.hrw.org/reports/1995/Sudan.htm>

Slavery

U.S. Department of State: Slavery, Abduction and Forced Servitude in Sudan
<http://www.state.gov/p/af/rls/rpt/10445pf.htm>

Human Rights Watch: Slavery and Slave Redemption in the Sudan
<http://www.hrw.org/backgrounder/africa/sudanupdate.htm>

Human Rights Watch: Children in Sudan: Slaves, Street Children and Child Soldiers
<http://www.hrw.org/reports/1995/Sudan.htm>

Refugees / IDPS

U.S. Committee for Refugees: Country Report: Sudan 2002
<http://www.refugees.org/world/countryrpt/africa/sudan.htm>

Amnesty International: Sudan Human Rights Violations Mount as Oil Production Expands
http://www.amnesty.ca/library/Talisman_Statement.htm

Women's Commission: Only Through Peace: Hope for Breaking the Cycle of Famine and War in Sudan
<http://www.womenscommission.org/pdf/sd.pdf>

Appendix B – Background Paper on Humanitarian Issues Caused by the Conflict

International law today is changing from being more state-orientated to focusing on the protection of human rights and seeking accountability of those individuals, not merely states, who are responsible for violations of these rights. War and war-like conflicts seem to go hand in hand with brutalities and flagrant violations of the law and human dignity. International humanitarian law is concerned with the protection of civilians, combatants and persons *hors de combat*. Hostilities in armed conflict inevitably have the strongest effect on the most vulnerable people that are present in the area where the conflict is taking place. Three vulnerable groups that have been identified by the international community as in need of extra protection are refugees and internally displaced persons (IDP), women, and children. Many international treaties seek to protect refugees and IDP, United Nations strives to mainstream a gender sensitive policy in all UN institutions, and most recently the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict has entered into force.

Refugees and Internally Displaced Persons (IDP)

I. The international law governing refugees and internally displaced persons

International instruments that govern the rights and protection of refugees and internally displaced persons are the 1951 Convention Relating to the Status of refugees, the 1967 Protocol, the 1967 Convention governing the specific aspects of refugee problems in Africa, and the Guiding Principles on Internal Displacement.

The 1951 Convention relating to the Status of Refugees is the key legal document in defining who is a refugee. Furthermore it assesses what their rights are and what legal obligations rest on states in this respect. Amongst many others Burundi, DRC, Rwanda and Uganda are state parties to both the 1951 Convention and the 1967 Protocol. The 1967 Protocol removed geographical and temporal restrictions from the Convention.

Key issues that need to be dealt with are malnutrition, health & epidemic problems (the World Health Organization has recently reported on a cholera outbreak, see WHO website: <http://www.who.int/disasters/emergency.cfm?emergencyID=8&doctypeID=2>), asylum rights, minority rights.

Position of Women

I. Prohibition of rape and sexual violence under international humanitarian law and women's rights

Despite the clear prohibition of rape and sexual assault by international law, no conventional or other international instrument defines this international crime. Rape and other crimes of a sexual nature are explicitly prohibited in the Geneva Conventions of 1949 and the two additional protocols. Article 27 of the Fourth Geneva Convention (Geneva Convention Relative to the

Protection of Civilian Persons in Time of War, adopted 12 August 1949) applicable to international armed conflicts provides: “Women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.” Similar provisions can be found in Article 76 (1) of Protocol I and in Article 4(2) (e) of Protocol II. (Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, entry into force 7 December 1978 and Protocol II Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-international Armed Conflicts, entry into force 7 December 1978). The latter applies in situations of non-international armed conflict.

In the Statute of the International Criminal Court rape and outrages upon personal dignity are explicitly listed as separate offences under War Crimes in Article 8 paragraph 2 (b) subparagraphs (xxi) and (xxii). Many interesting reports on this issue can be found on the United Nations website (www.un.org), one of which is: Contemporary Forms of Slavery: Systematic Rape, Sexual Slavery and Slavery-like Practices During Armed Conflicts, Report of the High Commissioner for Human Rights, 27 June 2000, E/CN.4/Sub.2/2000/20

Another very important document which is often described as an international bill of rights for women is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979 (UN General Assembly).

II. Recommendations

Gender mainstreaming through national institutions

It is imperative that any attempt to improve the situation of women in Sudan finds its way through regional systems even though it is based on international law notions. An enforced westernized model that does not succeed in its goals or survives simply because it does not meet the needs and demands of the situation at hand would not be suitable for its purpose. Gender mainstreaming should take place in at all levels and in every aspect, such as equitable treatment under and access to the justice system, access to education, work, and health care. Gender mainstreaming benefits economic development, community development, and creates healthier and more wealth for families.

Adequate protection and legal redress

Victims of sexual crimes in armed conflict rarely have access to adequate legal redress. It is unimaginable for them to simply call the local police to report the crime and expect to have that crime properly investigated. In many cases institutions such as the World Bank finance projects relating to access to justice, empowerment of women, and gender mainstreaming.

Deterrence and Prevention

The foundations of gender-based violence lie in the low status which women and girls have in society. To end the cycle of sexual violence and discrimination, which are aggravated in armed conflicts, the equal rights of women in society must be promoted and protected. Without the full equality and participation of women in the economic, political and cultural life of their societies, any measures taken to prevent the systematic rape and sexual slavery of women during armed conflict, in fact any form of gender-based violence, will fail.

A critical and practical point of consideration in deterrence of future crimes against women is related to the many women that stay in refugee camps. In refugee camps there should be a separation between different parties and between men and women in order to prevent further attacks within the compound. Women due to their weaker position are often victimized, get less relief than male refugees (or in return for sexual favors), and are subject to nightly retributions. Furthermore, there should be a facility where people can have their story registered. This will facilitate future justice and prevents the disappearance of anonymous victims.

Medical assistance

In a report submitted by the High Commissioner for Human Rights, the Committee on the Elimination of Discrimination against women recommends specific legislative and structural steps to shelter women from attacks and abuse. Further, it is suggested to provide women who are victims of violence with comfort, assistance, advice, guidance and information concerning legal redress. (Report of the High Commissioner for Human rights, on: *Contemporary Forms of Slavery; Systematic rape, sexual slavery and slavery-like practices during armed conflicts*, E/CN.4/Sub.2/2000/20. These recommendations relate to the women suffering under attacks from terrorist groups in Algeria, however, they are equally relevant to the situation in DRC).

Child Soldiers

I. International law governing child soldiers

International humanitarian law gives children special protection and sets a minimum age for participating in hostilities. The international law that deals with the issue of child soldiers consists of the 1949 Geneva Conventions and the 1977 Additional Protocols, the Convention on the Rights of the Child of 20 November 1989, The Optional Protocol to the Convention of the Rights of the Child on the Involvement of Children in Armed Conflict of 25 May 2000 (entry into force 12 February 2002), the ILO Convention 182 on the Worst Forms of Child Labour of 1999 (particularly articles 1 and 3), and the African Charter on the Rights and Welfare of the Child of 1990. (For the text of these treaties see www.icrc.org under humanitarian law > children in war).

The Convention on the Rights of the Child (CRC) establishes the definition of a child. When dealing with the applicable legal regime for children and armed conflict the Convention defers to the Geneva Conventions and Additional Protocols. In the CRC all provisions apply to children of the age of 18 and younger. However, the deferral to the Geneva Conventions creates a discrepancy with regard to the age limitation that has been set. Under Geneva law a child is allowed to participate in hostilities from the age of 15 and older. Participation from the age of 15 to 18 it is permissible under certain conditions, such as voluntary participation, no conscription etc. The part of the Geneva Conventions that applies to internal armed conflict is Common Article 3 which offers a more narrow protection than the other provisions of the Geneva Conventions which applies to international armed conflict. Thus, it seems that children between the age of 15 and 18 may participate in hostilities and therefore may be held liable for crimes they commit. However, the most recent Optional Protocol to the CRC on children and armed conflict reiterates a child as a person of the age of 18 and younger. Thus it prohibits the participation of children in hostilities. Pay attention to the language of the protocol: is it an obligation or a recommendation? This is relevant in cases of prosecution under national law.

The ILO Convention qualifies the use of children as soldiers in war and other hostilities as one of the worst forms of forced labor. The Convention also qualifies a person under the age of 18 as a child. With regards to age the ILO Convention uses the CRC definition.

II. Accountability of child soldiers

The case of forced child soldiers has been addressed for the first time in the context of the Special Court for Sierra Leone. The Special Court deals with the issue of child soldiers under specific provisions. It is focused on children between the ages of 15 to 18. The fact that they can be held liable is yet very controversial. However, it has been expressed that the overall goal is to prosecute those with the most responsibility. This is formulated in the introduction and the objective of the Statute of the Special Court. This has been interpreted to mean the leaders, those who forced the children to take part in the hostilities. Definitely the prohibition is clear on the age of 15 and below. Also the way of recruitment is taken into consideration. The persons that can be deemed responsible can be prosecuted for the war crime of forcibly recruiting children. (the prosecutor of the Special Court has stated not to prosecute the children themselves). The International Criminal Court also has jurisdiction to prosecute the conscripting and enlisting of children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities, under the war crimes provision, article 8 (xxvi), of its Statute. (unless the signatory State to the ICC Statute decides to prosecute the offender(s) itself).

III. Recommendations and Rehabilitation

The battle to help the child soldiers is not just limited to preventing recruitment, but extends to rehabilitation. There are many reports issued on the psychological effects on children. The international community gives a strong push for rehabilitation. Even when children were to be prosecuted the punishment should be in the form of rehabilitation. (http://www.hrw.org/press/2001/05/congo_soldiers0529.htm).