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REPUBLIC OF SUDAN: NEGOTIATION SIMULATION

Briefing Packet for Government of Sudan Delegation

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Table of Contents

Introduction

Agenda

List of Participants

History of the Republic of Sudan

Delegation Information

Background

Views of Other Participants

Issues

Self-Determination

Wealth Sharing

Oil

Water

Power Sharing

Presidency

Southern Representation in the National Government

The National Capital

Security

Humanitarian Issues

Child Soldiers

Slavery

Women

Refugees and Internally Displaced Persons

Main Objectives

Appendices

A: List of Websites for more Information

B: Humanitarian Issues Background Paper

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 Government of Sudan (GoS) has been engaged in a conflict that has lasted 20 years. The government of Omar Hassan Ahmed al-Bashir came to power when Bashir led a 1989 military coup, with the instigation and support of the fundamentalist National Islamic Front (NIF), which overthrew the country's democratically elected government.

In November 1998, the NIF renamed itself the National Congress (NC). NC/NIF members and supporters continued to hold key positions in the government, security forces, judiciary, academic institutions, trade unions, professional associations, and the media. The NC is made up of Islamic extremist 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. Although a majority of the Sudanese population is Muslim, the NC/NIF's view of Islam is not shared even by a majority of the Muslim population of Sudan.

Sudan has an authoritarian government in which all effective political power is in the hands of President Bashir. Since 1983, Sudan has been divided into five regions in the North and three in the South, each headed by a governor. Since the 1989 coup, regional assemblies have been suspended. Each region is now under the control of a military governor. In 1999, Bashir disbanded Parliament, suspended the 1998 presidentially decreed Constitution, and declared a state of national emergency that suspended basic liberties. In 2000, Bashir was reelected to another 5-year term and his political party, the National Congress/National Islamic Front (NC/NIF), won 340 out of 360 seats in Parliament in presidential and parliamentary elections that were boycotted by all major opposition parties. Parliament resumed in February 2001, and in December 2001, the state of emergency was extended.

The GoS treats Islam as the state religion and has declared that Islam must inspire the country's laws, institutions, and policies. The Constitution states that "Shari'a and custom are the sources of legislation." Southerners are not, for the most part, Muslims but practice traditional African religions; a minority of the Southerners are Christians. Both the traditional African religionists and Christians have resisted the attempts of the central government—whether the present one, the prior democratic one (1986—89), or the 1983 attempt of the Nimeiri military dictatorship (1969—85)—to apply Shari'a to Southern Sudan. The GoS officially exempts the Southern states, in which the population is mostly non-Muslim, from parts of the law, which permits physical punishments, including lashings, amputations, and stonings, based on Shari'a law. The law legally can be applied in the South, if the state assemblies approve it. Fear of the imposition of Islamic law is one of the factors that have fueled support for the civil war among opposition forces in the South, which see self-governance as their only assurance.

All regions have limited budgetary powers and depend on the central government for economic support. Sudan's primary resources are agricultural. Although the country is trying to diversify its cash crops, cotton accounts for nearly 50 percent of export earnings. Sudan has made large

investments in growing cotton under various irrigation and pump plans, particularly the Gezira scheme, South of Khartoum between the White and Blue Niles. The GoS has an installed electrical generating capacity of 300 megawatts, of which 180 megawatts is hydroelectric and the rest, thermal. More than 70 percent of the hydropower comes from the Roseires Dam on the Blue Nile grid. Thus, access to and control of the Nile River, which includes the White and Blue Niles, has been a major issue between the North and the South. Furthermore, extensive petroleum explorations which have led to significant finds in the Upper Nile region has been partly the cause of various human rights abuses and of the ongoing civil war in that area, which has forced suspension of exploration and development activity there.

2. VIEWS OF OTHER PARTICIPANTS

The SPLM/A is representing various political groups since the GoS is not willing to allow other groups, such as the National Democratic Alliance (NDA). Thus, it has to please various political agendas, which often conflict with each other. The SPLM/A wants self-determination for three contested areas that have allied themselves with the SPLM/A, a higher percentage of wealth sharing to develop the South, a weaker government with stronger powers for the state so that the Northern political parties—NDA—it has allied with have the democratic institution they advocate for, complete demobilization of government troops, and protection of human rights.

The NDA wants to be involved in the peace negotiations, but the GoS has refused to allow the NDA to participate and has told the NDA that they could make separate agreements with the GoS. The NDA argues that, if the peace negotiation is not inclusive of all the political parties, the peace agreement will bring lasting peace. In response to the GoS's refusal, the NDA has allied itself with the SPLM/A, who is representing the NDA's views.

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 civil war in Sudan, and Sudan has done the same with the IGAD countries separatist groups. However, they 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, seeing the progression in the talks, Egypt has 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 pursuit 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

In July 2002, the GoS and the SPLM/A agreed to give Southern Sudan autonomy for six years, after which an internationally monitored referendum to the people of Southern Sudan would be held to confirm unity by voting to adopt the system 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. Even after agreeing that self-determination is negotiable, the ultimate status of the South as a federal, confederal, or separate entity is still at stake.

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 government’s first preference is a unitary state, with assimilation—“Arabization” and “Islamization”—of the Southern peoples. Many Southerners believe that the government 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. In the past, the GoS has used division to dominate the South. In fact, the GoS has continued to play the different political groups against each other.

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, the Eastern Southern Blue Nile, and the traditional Dinka area around Abyei. The GoS will not permit the oil-rich Western Upper Nile area (Al Wihda state) of the South to secede. The government 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. However, in November 2002, 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. The SPLM/A want these areas to be given the right to self-determination as well as be considered in the power-sharing process. The government delegation, however, insisted that the three areas do not fall under the purview of peace negotiations between the two parties. They argue 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.

Abyei might have a strong case in its inclusion with the South because of its large indigenous Dinka population and traditional ties with the South, in particular with South Kordofan. However, there are strong reasons for the Nuba Mountains and the Southern Blue Nile exclusion

from the South. There are two main reasons: 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 will attempt to obtain the right of self-determination to these areas out of loyalty to its units there.

The GoS considers that the SPLM/A has raised the issue as a tactic with which to gain maximum concessions at Machakos. The GoS holds firmly to the Machakos Protocol as a reason not to discuss self-determination or state and religion in either of these areas. The IGAD agreed with the GoS that three disputed areas do fall outside of IGAD's mandate. However, the Kenyan mediator managed to get the GoS to agree to have Kenya mediate this issue by placing the issue in a separate peace talk. The peace talk over the contested area ended with no agreement.

b. Wealth Sharing

The GoS seeks to maintain its grip on the main natural resources of Sudan: oil and the Nile River. The major part of these resources is located in the South. Southern Sudan is rich in oil and water while the North is largely desert. This is why it is important which areas are located in the South as well as how the wealth is managed. 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 details of the wealth sharing between the North and the 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.

The GoS wants the wealth sharing to include burden-sharing, especially since Sudan has a huge debt, over U.S. \$21 billion, which continues to be blocked, mainly because of strained relations between Sudan and its creditors, particularly the U.S. The debt will be a major factor in the wealth sharing negotiation. Furthermore, the SPLM/A's attempt to establish its own bank and issue its own currency will also be a big issue in the peace talks. The GoS denounced the SPLM/A's announcement 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 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. Development of Sudan's oil resources has been highly controversial. 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.

No enduring settlement to Sudan's war can be achieved unless the oil dimension is effectively addressed. The GoS regards oil fields as vulnerable, strategic assets, which it seeks to defend preemptively through attacks upon Southern insurgents and their alleged civilian supporters. 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 peace in the region, exploitable reserves could quickly rise to at least three billion barrels. This could result in U.S. \$1 billion to U.S. \$1.5 billion per year for twenty years in revenue. The GoS has already mortgaged oil revenues for years to buy weapons. Oil revenue was at least 20 percent of government income in 2001, and the military budget consumed about 60 percent of oil revenue in that year.

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 per cent of the oil industry. 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 government 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 GoS has invested heavily in setting up the oilfields and attracting international partners. Any agreement must recognize this stake in current revenues. The government's debt will also be a major factor in the wealth sharing negotiation, which must 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. In fact, they have not ironed out the most difficult details like revenue and wealth sharing. 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.

d. Water

It is not just oil revenues that must be shared, but also revenues from taxes as well as other productive sectors of the economy, such as gold and gum Arabic, that are in North and South. A much larger potential source of revenue is water, if plans are revived to build a canal to increase flow to Egypt.

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, Democratic Republic of Congo, 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.

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.

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 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 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 threatened the balance of dry and wet season grazing in the Dinka and Nuer areas. The Southerners refused this agreement in 1975. With peace, the continued construction of the Jonglei canal will be highly contested.

In 1993, the Nile Basin Initiative (NBI) was formed as a regional partnership that brings together all the Nile basin countries with the aim of achieving sustainable development and management of the Nile waters. Member-countries are Burundi, the Democratic Republic of Congo, Egypt, Ethiopia, Kenya, Rwanda, Sudan, Tanzania, and Uganda. In August 2000, the NBI endorsed project areas that included hydro-electric power development, power sharing cooperatives, river regulation, water resources and management, trans-boundary environment action, regional power trade, and efficient water use of agricultural production.

e. Power Sharing

The main governance issues that remain to be negotiated include: the exact relationship between the national government and the Southern states; whether and when to hold elections, and at what level; percentages of Southerners in the government; laws governing the capital; and the exact responsibilities and division of decision-making processes of the Presidency. The GoS would prefer a stronger national government with powers devolved from the center to the states. The federal government can provide for the South and make unity attractive without weakening the national structures. The GoS considers the Southern regional government an unnecessary anomaly that it conceded to the SPLM/A but will not repeat in the North. The GoS urges that strong powers be given to the Southern states, preferably equal to those of the Northern states.

Whether the South is a federal state or states, a confederal state, an autonomous region or an independent sovereign state, it will need a constitutional settlement that addresses a wide range of issues. These issues will include the following: The details of the Constitution of the Southern State; Whether the Southern State is itself unitary or divided into regions, autonomous areas or even states; The separation of powers and the rule of law; Building institutions for civil administration, the rule of law, etc; The status of Southerners residing in the North and northerners residing in the South; The economic framework to be adopted; The SPLM/A's role and the nature of the Southern Sudanese armed forces; The position of the Southern State with respect to international institutions and agreements, including the Nile Waters Agreement.

f. Presidency

One model of leadership at the top of the national government during the interim period envisions a rotating presidency, which could involve the major Northern political parties. Another postulates a collective executive or presidential council with representation from all parties. The latter was used during democratic periods in post-independence Sudan (1956-1958,

1964-1969, 1986-1989) when a Council of State represented different constituencies. Yet, another possibility would leave the current structure intact but provide internationally monitored elections throughout the country to decide both the new national parliament and national leadership. The GoS would prefer this last option since it is unwilling to even have the idea of southerner as president. A rotating presidency would involve the SPLM/A most directly in the national government.

Not only is the GoS against the idea of a rotating presidency, but also the GoS is against the idea of having the SPLM/A leader as First Vice President. The mere idea that if something happened to President Bashir, there would be a Southern president sparked the GoS' fears. The GoS fears regarding the ascendancy of a southerner to the presidency partly stems from the assumption that the SPLM/A will maintain a separate army during the interim period. The fear is that if Bashir disappeared, the SPLM/A leader would effectively become the commander-in-chief of both the Northern and Southern armies, a situation unacceptable to the GoS. However, the specific functions of the vice presidents could be negotiated.

g. Southern Representation in the National Government

The parties have agreed in principle that the national government include a bicameral legislature, with a lower house reflective of state populations and an upper house with equal representation from all states. Yet, there still remains a great deal of debate within both the GoS and the SPLM/A as to how elections should be addressed. Elections would give legitimacy to the agreement and its signatories and allow more inclusive governance but they also could be destabilizing too early in the process and allow parties that disagreed with the peace deal to undermine it if they won significant power.

The GoS supports elections early in the interim period. The GoS' standpoint is that the issue of concern to Sudanese is elections. Thus, participation will be secured through elections. That is how the country can address the concerns of those who feel this is not an inclusive process. The country needs to allow anyone to contest the elections. It is better to be inclusive. The GoS' confidence is due in part to the idea that the GoS'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. Conversely, the SPLM/A fears failure, so they advocate for elections to occur later in the interim period.

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 accepts 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 the current national assembly and SPLM/A National Liberation Council will be supplemented by 300-plus representatives of other parties appointed jointly by al-Bashir and Garang. A 33.3 per cent 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.

h. The National Capital

The status of the national capital has been one of the most difficult issues. The GoS is unwilling to compromise on the issue of whether the capital should be secular. In fact, President Bashir stated that the capital “will never be secular.” 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. 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 government 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.

i. Security

The GoS wants to maintain a significant force in current garrisons. The army’s spokesman declared that government troops will not withdraw from the South and hand over their camps and equipment to the rebel forces after a peace accord, arguing 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 would be willing to negotiate a reduction in its forces in accordance with the security arrangements of the final peace agreement. The SPLM/A, however, insists upon full withdrawal.

j. Humanitarian Issues

Various human rights violations have occurred on both insides. Many observers believe that the strife between the two SPLM/A factions claimed more civilian lives than did the government army. President Bashir’s 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. To include representatives of relevant State bodies and individuals, 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 committee is also mandated to “execute the requirements of international humanitarian law.” The GoS ratified the Geneva Conventions in 1957, yet, during conflict between the GoS and the SPLM/A, the government’s forces as well as the SPLM/A and militias allied to both sides, have frequently violated the provisions of 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. The main human rights violations have been in regards to child soldiers, slavery, women, refugees and internally displaced persons.

k. Child Soldiers

The United States State Department and various human rights organizations have criticized both sides for recruiting child soldiers. In fact, the U.S. State Department reported that, in 2002, while the SPLM/A claimed to be actively engaged in efforts to demobilize child soldiers, SPLM/A child soldiers were involved in military incidents during December 2002, which raised concerns that the SPLM/A again was using forced recruitment of children. Children continued to be forcibly recruited by the SPLM/A, despite the fact that the SPLM/A had informed UNICEF that it would demobilize all child soldiers in its forces and end the recruitment of children. In the past, the SPLM/A had maintained large camps of boys separate from their families and tribes, given them some education and military training, and, from these camps, drawn fresh recruits. The SPLM/A assured the head of UNICEF, Carole Bellamy, that they would demobilize everyone under the age of eighteen and all SPLM/A commanders would follow instructions not to recruit anyone under that age. However, the UN Special Rapporteur of the Situation of Human Rights in Sudan, Gerhart Baum, reported that he had received information that forcible recruitment by the SPLM/A was continuing, despite an SPLM/A program for demobilizing child soldiers.

The GoS has also been accused of forcibly recruiting underage boys 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 in the widespread military conscription of young men, underage boys were often drafted. Human Rights Watch reported that children were being abducted in the streets of Khartoum and forcibly recruited into the Popular Defense Forces. The street children's camp often became a convenient reservoir from which to draw army conscripts. The army also forcibly drafted underage Southerners in garrison towns to fight against their fellow Southerners in the SPLM/A. However, the boys were given the right to decline to volunteer for the army.

l. Slavery

Some children have been captured in military raids on their villages and taken into household slavery by their captors. Dinka and Nuba children have predominated among those seized and exploited in this way. Human Rights Watch has claimed that this practice is conducted almost entirely by “government-backed and armed militia of the Baggara tribe in western Sudan”—*Murahaleen*—and that it is directed mainly at the Dinka population of the Southern region of Bahr El Ghazal. The GoS has stated that the situation described as slavery actually are a matter of rival tribes engaging in hostage-taking, over which they have little control. While adamantly refuting allegations of slavery, the GoS did acknowledge that civilian abduction had occurred during the course of the war.

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 have 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. Thus, the *murahaleen* are acting on behalf of custom and advance desertification and not in retaliation against the South. Consequently, the *murahaleen*'s actions cannot be equated to the government.

Sudan has laws to protect against abductions, yet there is no specific prohibition of slavery. However, the GoS points to its own legislation criminalizing enticement (Article 161), abduction (Article 162), forced labor (Article 163), unlawful confinement (Article 164), unlawful detention (Article 165) of the 1991 Criminal Code as enough to prosecute those enslaving others. In fact, Sudan has ratified the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. Moreover, in May 1999, the GoS created the Committee for the Eradication of Abduction of Women and Children (CEAWC), which has been charged with efforts in Northern Sudan to identify, retrieve and return abducted persons. Furthermore, in November 2001, Sudan's Minister of Justice announced that special local courts would be created to prosecute persons responsible for abductions, yet, due to financial restraints, the courts have not been yet established.

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 the *Murahaheen* 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 does not take responsibility for acts committed by militias and other forces.

m. Women

There were widespread reports of sexual abuse, including sexual slavery, rape and forced pregnancies. Rape was used as a tactic of war by both the GoS and the SPLM/A to dehumanize and humiliate civilians in the conflict zone. However, because of the taboos and stigma attached to rape, reports were rare. There were frequent reports of women being abducted while collecting firewood or water and being forced to carry heavy loads of goods looted from ransacked villages. They were also used as bonded labor and forced to clean, cook and provide domestic services to soldiers in barracks and camps.

There were periodic reports of intertribal abductions of women and children in the South, primarily in the Eastern Upper Nile. The abductions were part of traditional warfare in which the victor took women and children as a bounty and frequently tried to absorb them into their own tribe. The capturing and abduction of women and children as slaves and their transport to other parts of the country continued. There were reports of abductions of women and children by PDF and *Murahaheen* militias and their use as domestic servants, forced labor, or sex slaves.

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. The tribunals were not set up nor were administrative procedures promulgated. However, the GoS has established the CEAWAC that has pledged to end abduction and slavery and has resulted in the return of approximately 300 abducted individuals. The GoS has not identified publicly the abductors or forced labor owners and chose not to prosecute them.

Insurgent forces were responsible for a number of civilian injuries and for raping women. In early 2002, SPLM/A-affiliated forces attacked a camp that contained approximately 18,000 internally displaced persons at Mbiya, killing a tribal leader and raping numerous women. According to Human Rights Watch, there were instances of rape and other abuses in Raga, Western Bahr el-Ghazal. The U.S. State Department stated that there were continuing reports that the SPLM/A forcibly recruited Sudanese refugees in Northern Uganda for service in their forces.

In accordance with Shari'a, a Muslim woman has the right to hold and dispose of her own property without interference. Furthermore, women were assured an inheritance from their parents. Although a Muslim man may marry a non-Muslim, a Muslim woman cannot marry a non-Muslim unless he converted to Islam; however, this prohibition was not observed or enforced in areas of the South or among Nubans. Laws prohibited women from traveling abroad without the permission of their husbands or male guardians; however, this prohibition was not enforced strictly. Despite Sudan's Constitution and its ratification of international and regional human rights instruments which prohibit discrimination on the basis of sex, in January 2001, the President was reported as saying that Sudan would not sign the UN Women's Convention because it was contrary to Sudanese family values. Also, the GoS amended the Labor Law by decree to prohibit women from working in physically demanding jobs. 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.

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. No form of FGM was illegal under the Criminal Code; however, the health law forbade doctors and midwives from performing infibulation. The GoS does not support FGM, and it has introduced information about FGM in some public education curriculums.

n. Refugees and Internally Displaced Persons (IDPs)

All parties to the conflict have utilized a strategy of “asset-stripping” raids. This plunder has caused economic collapse in the South by destroying the subsistence base of the economy. Farmers have lost access to their land and cattle herds have been destroyed. In addition, all sides have restricted or diverted humanitarian aid intended for civilians. As a result, when famine hit Bahr el Ghazal, Upper Nile, and other regions in the late 1980s and early 1990s, Southerners were forced to move North in search of food. Massive and prolonged displacement has resulted in near-complete dependence on humanitarian aid. Rural Southerners have no means or the requisite skills to earn income in the cities where they have sought refuge. Yet, ongoing conflict prevents the displaced from going home.

Since the mid-1980s, government-armed militias have traveled South to Bahr El Ghazal to raid cattle, burn crops and villages, and kidnap women and children. The SPLM/A has contributed equally to death and dislocation in the South by stealing relief food to feed troops and calling on local chiefs to support soldiers at the expense of their most vulnerable civilians. In the contested oil-rich areas of Upper Nile and Southern Blue Nile, tens of thousands of inhabitants fled attacks by government and rebel forces. With their relatives dead or injured, homes and crops destroyed, and cattle stolen or killed, many were unable to support themselves.

Making the situation worse, combatants have regularly manipulated the massive amounts of humanitarian relief sent to Sudan. The government officials have placed tight controls on aid deliveries, often blocking food shipments to needy populations often in response to the fact that many rebel commanders have regularly confiscated a percentage of food relief distributed in the South. There were credible reports of SPLM/A 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. During the year, there were reports that SPLA-allied forces attacked international relief organizations, which jeopardized relief operations. In addition, there were reports that the Sudan Relief and Rehabilitation Association diverted humanitarian food to the SPLM/A or its allied forces and that humanitarian food was diverted in general. Making things worse for civilians, the US Department of State reported during 2002 that the SPLM/A forcibly recruited Sudanese refugees in Northern Uganda for service in their forces.

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. 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.

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. The Khartoum state government planned to upgrade conditions in some camps, requiring the movement of populations to other areas so that roads may be built or enlarged and services established. The state government was in contact with foreign NGOs and U.N. agencies

concerning this effort. During 2002, displaced persons were included in a government housing development plan and were granted land in a new planned settlement area.

Earning income to support families is a struggle for displaced women in and around Khartoum. There is little economic life in the camps and settlements and women who might find work as housekeepers live far from where those jobs are available. Many women have found that brewing alcohol is the only reliable source of income. However, under Islamic law, brewing is punishable.

4. MAIN OBJECTIVES

- The GoS agrees to the referendum that would only include the South within its 1956 boundaries but disagrees with including the Nuba Mountains, the Eastern Southern Blue Nile, and Abyei in the referendum.

Acceptable minimum—limit the referendum to the South as defined by the 1956 boundaries.

- The GoS is willing to share the revenues and taxes with the South, but it is unwilling to hand over fifty percent of the profits.

Acceptable minimum—Within the federal framework, oil revenues and other natural resources as well as debt sharing should be handled nationally, with an agreed percentage then disbursed to the South. A Petroleum Commission would oversee revenues coming from the oil fields of Southern Sudan.

- The GoS would prefer a stronger national government with powers devolved from the center to the states. The parties have agreed in principle that the national government include a bicameral legislature. The GoS proposes a 33.3 per cent representation for Southerners throughout the various levels of government—except the Upper House.

Acceptable Minimum—unwilling to compromise on the issue of whether the capital should be secular. The GoS is willing to give strong powers for the Southern states that equal those of the Northern states.

- The GoS's troops will not withdraw from the South and hand over their camps and equipment to the rebel forces after a peace accord.

Acceptable minimums—the GoS is unwilling to withdraw its troops from the South; however, it would agree to reduce its forces in accordance with the security arrangements of the final peace agreement.

- The GoS sees the humanitarian issues as important but is at the same time moderately opposed. They prefer to discuss issues such as demobilization and economics above for example refugee and IDP rights and protection.

Acceptable minimums—the GoS agrees to and has set up a National Commission on the Application of International Humanitarian Law, which would be responsible for revising existing laws in line with international humanitarian law and would also be required to set up implementation mechanisms.

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>

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>

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

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).